



**CITY OF NEWPORT  
PLANNING COMMISSION MEETING  
NEWPORT CITY HALL  
MARCH 12, 2015 – 6:00 P.M.**

Chairperson:	Anthony Mahmood	City Administrator:	Deb Hill
Vice-Chair:		Executive Analyst:	Renee Eisenbeisz
Commissioner:	Matt Prestegaard	Planner:	Sherri Buss
Commissioner:	Kevin Haley	Council Liaison:	Tom Ingemann
Commissioner:	Marvin Taylor		
Commissioner:	David Tweeten		

**AGENDA**

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. NOMINATION AND APPOINTMENT OF CHAIRPERSON AND VICE-CHAIRPERSON FOR 2015**
- 4. APPROVAL OF PLANNING COMMISSION MINUTES**
  - A. Planning Commission Minutes of December 11, 2014
  - B. Planning Commission Minutes of February 12, 2014 Workshop
- 5. APPOINTMENTS WITH COMMISSION**
  - A. **Public Hearing** – To consider an application from Paul Haagenon for Approval of a Variance for Property Located at 95 7th Avenue
    1. Memo from Sherri Buss
    2. Application
    3. Resolution No. P.C. 2015-1
  - B. Discussion Regarding Amending Section 1325, Antennas and Towers
- 6. COMMISSION & STAFF REPORTS**
- 7. NEW BUSINESS**
- 8. ANNOUNCEMENTS**
  - A. Upcoming Meetings and Events:

1. City Council Meeting	March 19, 2015	5:30 p.m.
2. City Council Meeting	April 2, 2015	5:30 p.m.
3. Planning Commission Meeting	April 9, 2015	6:00 p.m.
4. City Council Meeting	April 16, 2015	5:30 p.m.
- 9. ADJOURNMENT**



**City of Newport  
Planning Commission Minutes  
December 11, 2014**

**1. CALL TO ORDER**

Chairperson Lund called the meeting to order at 6:00 P.M.

**2. ROLL CALL -**

Commissioners present – Dan Lund, Anthony Mahmood, Susan Lindoo, Matt Prestegaard, Kevin Haley

Commissioners absent –

Also present – Deb Hill, City Administrator; Renee Eisenbeisz, Executive Analyst; Sherri Buss, TKDA Planner; Tom Ingemann, Council Liaison

**3. APPROVAL OF PLANNING COMMISSION MINUTES**

**A. Planning Commission Minutes of November 13, 2014**

**Motion by Mahmood, seconded by Haley, to approve the November 13, 2014 as presented. With 5 Ayes, 0 Nays, the motion carried.**

**4. APPOINTMENTS WITH COMMISSION**

**A. Public Hearing – To consider an application from Sicon Motors for Approval of a Conditional Use Permit for Property Located at 2030 Hastings Avenue**

Sherri Buss, TKDA Planner, presented on this item as outlined in the December 11, 2014 Planning Commission Packet. The Planning Commission received the attached written comments prior to the meeting.

**Kevin Haley** - The last thing you said, that it'll be inspected a year after it's established, I'd like to see it be inspected at any time. None of us want to see the junk that we see at other locations.

**Chairperson Lund** - My draft says that it will be inspected as needed. Why do we have the one year term?

**Ms. Buss** - It's a typical timeframe so that they can get the business established. The intent is that we'll inspect it within the first year. This is a standard condition.

**Susan Lindoo** - The letter that we got, I think you addressed practically everything, the one thing that wasn't in there was the snow removal. Where do all of the businesses put snow?

**Admin. Hill** - They have to arrange that because they can't push it out on the street.

**Susan Lindoo** - The other thing that I thought of is in the past when there have been businesses that have caused problems and oftentimes residents don't understand the steps that the City has to go through with complaints. I think it would be good to talk about the steps at a Council meeting or something so citizens have a better understanding of it.

**Admin. Hill** - Usually what happens is they clean them up in that timeframe but then they start doing it again.

**Kevin Haley** - The other thing with us approving the CUP is that it can be taken away if they violate the conditions.

**Susan Lindoo** - I'm not thinking about this one at all, just in general. I think it would be useful to talk about.

**The Public Hearing opened at 6:13 p.m.**

**Bill Sumner, 737 21st Street** - I heard the comment made that they would be selling new and used cars, is that true?

**Riwa, Sicon Motors** - Only used.

**Ms. Buss** - Yes, but this use allows both new and used cars so we include new cars as well in case they decide to start selling new vehicles.

**Chairperson Lund** - Is it normal to require the trash and recycling be in an enclosed structure as opposed to fully screened?

**Ms. Buss** - Yes, that's straight from our ordinance.

**Chairperson Lund** - Is the building set up for it?

**Kevin Haley** - Sort of, they need to do some improvements to it to make it fully enclosed.

**Chairperson Lund** - Oh, ok, I thought they would need to build a shed or put a roof on it.

**Ms. Buss** - No, it just needs to be screened.

**Chairperson Lund** - I don't think we need to limit them to these hours and I don't want them to have to come back if they want to extend their hours.

**Ms. Buss** - It's what they asked for. They can ask for extended hours.

**Riwa, Sicon Motors** - Yes, we would like extended hours until 9:00 p.m.

**Chairperson Lund** - I wouldn't have a problem to extend it until 9:00 p.m. Monday - Saturday.

**Ms. Buss** - We can do 9:00 to 9:00 Monday - Saturday.

**Riwa, Sicon Motors** - Sometimes we might park cars with a flat tire for up to 24 hours, is that a problem?

**Ms. Buss** - No, we don't want to have something that sits there for weeks and months.

**Chairperson Lund** - As long as you're in the business of selling vehicles it's not a problem.

**Ms. Buss** - And you're not doing a lot of repairs.

**Riwa, Sicon Motors** - We're doing repairs at our location in Maplewood.

**Matt Prestegaard** - Will you be doing any fencing?

**Riwa, Sicon Motors** - Not yet.

**Ms. Buss** - These guys aren't required to fence.

**Susan Lindoo** - Do you have alarms with the cars?

**Riwa, Sicon Motors** - Some of the cars come with alarms but we're hoping they won't go off.

**The Public Hearing closed at 6:20p.m.**

**Chairperson Lund** - We need to make changes to item #4 to make it 20th Street and the hours to 9:00 to 9:00.

**Motion by Prestegaard, seconded by Mahmood, to approve Resolution No. P.C. 2014-18 as amended recommending that the City Council approve a conditional use permit for property located at 2030 Hastings Avenue. With 5 Ayes, 0 Nays, the motion carried.**

**B. Public Hearing – To consider amendments to the Zoning Code, Section 1330 and Section 1350**

Sherri Buss, TKDA Planner, presented on this item as outlined in the December 11, 2014 Planning Commission Packet.

**The Public Hearing opened at 6:25 p.m.**

**The Public Hearing closed at 6:26 p.m.**

**Motion by Prestegaard, seconded by Lindoo, to approve Resolution No. P.C. 2014-19 as presented. With 5 Ayes, 0 Nays, the motion carried.**

## **5. COMMISSION AND STAFF REPORTS**

**Executive Analyst Eisenbeisz** - We didn't get any applications for the January meeting and there aren't any zoning amendments for it so we're recommending that we cancel the meeting.

**Ms. Buss** -And part of that is because we might not have new members until February.

**Chairperson Lund** - How many applications have you received?

**Executive Analyst Eisenbeisz** - We've received three so far and it's open until they are filled.

**Admin. Hill** - That would give us time to do some orientation with the new members too.

**Vice-Chair Mahmood** - Sounds good to me.

**Chairperson Lund** - It sounds like the January meeting won't happen.

**Admin. Hill** - On behalf of the City, I'd like to thank Dan Lund for his time as he will be moving to the City Council. I'd also like to thank Susan Lindoo for her 15 years of service to the Planning Commission. We really appreciate your service.

## **6. NEW BUSINESS**

## **7. ANNOUNCEMENTS**

**Chairperson Lund** - There's a City Council meeting next Thursday, December 18.

**8. ADJOURNMENT**

**Motion by Haley, seconded by Mahmood, to adjourn the Planning Commission Meeting at 6:32 p.m. With 5 Ayes, 0 Nays, the motion carried.**

Signed: \_\_\_\_\_  
Dan Lund, Chairperson

Respectfully submitted,

Renee Eisenbeisz  
Executive Analyst

December 8, 2014

City of Newport  
Attn: Planning Commission  
596 7<sup>th</sup> Ave  
Newport, MN 55055

To Whom it May Concern,

We will not be able to attend the December 11<sup>th</sup> meeting that will be discussing the conditional use permit for Sicon Motors but would like you to consider and talk about the following points:

1. We are wondering where the parking of cars will be for both the business and the customers. Our concerns are that there will be cars that may not be considered "in good condition" parked behind or on the side of the building causing the area to become "junky" looking in the back/side. Will there be junk laying around outside of the building and if there is will the city be in contact with Sicon to clean this up? An instance of the lack of watching for this has been junk cars sitting for extended periods of time, sometime months, in car lots around town in view of the public. A good example of this not being taken care of was the car business that was on the corner of Ford and Hastings which was allowed to have broken down vehicles, junked vehicles partially covered by tarps in the lots facing Hastings Ave, garbage sitting outside, mattresses, used tires outside the building and weeds and uncut grasses. Since this was on a main street, just as Sicon will be, why was this property allowed to look like this for a couple of years? Our hope is that this will not happen again and ask that Sicon be aware of the need to keep their property looking nice.
2. Where will the snow removal of the lot be taken to? Will it be up in the back of the building and if so this would cause the alleyway to be closed and potential water to run into adjoining lots after the spring thaw. If it is to be taken to the empty lot on 20<sup>th</sup> street how will this be done? Will the snow be moved onto the street and then onto the lot or through the alleyway? We have tried keeping the alleyway mowed, clean and looking nice during our years we have lived here. During this time we have had people drive down leaving ruts, oil, hitting our fence, etc. and so we are concerned about the snow removal process and where this will be put.
3. Where will Sicon be storing items other than cars? In their building? We hope this is the case and that they will not be doing so behind or next to the business. There are already items stored in the alleyway that make it look unpleasant and hardly ever moved.
4. How the lighting for the building and surrounding area will be lit. Hopefully this lighting does not come into our yard. We have a problem right now with an adjoining property shining their outside light from their building into our yard and it also shines into two other properties across the street from ours.
5. If there will be outside speakers on the building will the location of these be in the front and street facing side and not in the back of the building so that not to disrupt the neighborhood?
6. Please address with Sicon that the alley way that runs between the businesses and along the adjoining people's properties is not abandoned so they know that these alleyways should be kept open for utilities, fire, etc if they would need to get down them.

It is not our intention that the permit is given or not given but to make sure that Sicon knows and abides by the rules that the commission and city have so that the neighborhood and surrounding area becomes a better place. Newport needs consider how our city is being portrayed with all its businesses (not just Sicon) so that people see it as a nice small town to live and do business, especially along main routes where we are the most visible.

Thank you,

Tim & Bonnie Hugley  
748 21<sup>st</sup> Street  
Newport, MN 55055



**City of Newport  
Planning Commission Minutes  
February 12, 2015**

**1. CALL TO ORDER**

Vice-Chair Mahmood called the meeting to order at 6:00 P.M.

**2. ROLL CALL -**

Commissioners present – Anthony Mahmood, Matt Prestegaard, Kevin Haley, Marvin Taylor, David Tweeten

Commissioners absent –

Also present – Deb Hill, City Administrator; Renee Eisenbeisz, Executive Analyst; Sherri Buss, TKDA Planner; Tom Ingemann, Council Liaison

**3. OVERVIEW OF PLANNING COMMISSION ROLE AND UPCOMING TASKS**

Sherri Buss, TKDA Planner, presented on this item as outlined in the February 12, 2015 Planning Commission Workshop packet.

**4. ADJOURNMENT**

Signed: \_\_\_\_\_  
, Chairperson

Respectfully submitted,

Renee Eisenbeisz  
Executive Analyst



444 Cedar Street, Suite 1500  
Saint Paul, MN 55101  
651.292.4400  
tkda.com

## Memorandum

<b>To:</b>	City of Newport Planning Commission	<b>Reference:</b>	VEGO Properties Variance Request
<b>Copies To:</b>	Deb Hill, City Administrator Renee Eisenbeisz, Executive Analyst Paul C. Haagenson, VE Gray and Sons, VEGO Properties LLC	<b>Project No.:</b>	15472.001
<b>From:</b>	Sherri Buss, RLA AICP, Planner	<b>Routing:</b>	
<b>Date:</b>	March 2, 2014		

**SUBJECT:** VEGO Properties Variance Request for Structure Expansion

**MEETING DATE:** March 12, 2015

**LOCATION:** 95 7<sup>th</sup> Avenue North

**APPLICANT:** Paul C. Haagenson  
VE Gray and Son Contracting

**OWNER:** VEGO Properties LLC  
95 7<sup>th</sup> Avenue North

**ZONING:** I-1 (Light Industrial) District

**60-DAY PERIOD:** April 10, 2015

**ITEMS REVIEWED:** Application Form, narrative, sketch plan

### BRIEF DESCRIPTION OF THE REQUEST

The applicant is requesting a variance from the required 20-foot side yard setback in the Light Industrial District to expand an existing storage building. He is requesting a 10-foot setback from the western property line for the expanded structure. The expansion also requires a variance from the ordinance requirements for expansion of nonconforming structures. The parcel size is .55 acres. The owner's property includes three adjacent parcels totally approximately 1.3 acres.

## **BACKGROUND**

The applicant is requesting a variance to expand an existing storage building on the property at 95 7<sup>th</sup> Avenue. The storage building is used by V.E. Gray and Son Contracting for storage of equipment and materials for their business. The applicant and owner are requesting to expand the structure by an additional 16 feet toward the south. The expansion is proposed to permit more of the applicant's equipment to be stored inside, and to improve the appearance of the property. The garage structure will be placed on an area that is currently used for parking.

The survey provided with the application indicates that the existing structure does not meet the required 20-foot side setback in the I-1 District, and will not meet the side setback on the west side if expanded as proposed. It is a nonconforming structure, because it does not meet the current setback requirements in the zoning ordinance. The ordinance section on the expansion of nonconforming structures states that nonconforming buildings may not be expanded, unless the expansion meets all setback, lot coverage, building height and lot dimension standards. The proposed structure does not meet the all setback requirements, and therefore requires a variance from the ordinance to permit the proposed expansion and the proposed side-yard setback.

Expansion to the south is the best alternative on the site due to the narrow, triangular lot and surrounding uses, such as railroad tracks, in the area where the existing building is located. Expansion to the rear (north) or to the sides would encroach further into the existing setbacks. The existing building is 10' from the western parcel boundary and 19' from the eastern parcel boundary. Expansion to the south maintains the existing west side and rear setbacks, and does not encroach into the front setback.

## **EVALUATION OF THE REQUEST**

### ***Comprehensive Plan***

The property at 95 7<sup>th</sup> Avenue is located in the Light Industrial (I-1) Zoning District. The District goals and policies support the continuation of industrial uses and related accessory uses in the I-1 District where the use is located. The Comprehensive Plan includes the following goals related to Industrial land uses that apply to this request:

- Maintain the existing Industrial use and character of the Light Industrial District at the south end of 7<sup>th</sup> Avenue.
- Ensure industrial areas have attractive buildings and grounds including no visible outside storage.

The expansion of the existing use in the I-1 District to provide additional storage within the building to replace outside storage is consistent with the goals in the Comprehensive Plan.

### ***Development Code Requirements: Lot sizes and Setbacks***

The minimum lot size in the I-1 Zoning District is currently 2 acres. The applicant's lot is .55 acres in size, and existed before the current zoning ordinance was adopted; it is therefore a legal, nonconforming lot in the I-1 District.

The setback requirements in the I-1 Zoning District for parcels that are not adjacent to Residential land uses are as follows:



- Front yard setback, all structures: 20 feet
- Side yard setback for garages: 20 feet
- Rear yard setback for garages: 20 feet

The applicant is requesting a variance to expand the structure. The side yard setback (west side) will be 10 feet, rather than the required 20 feet. The proposed expansion will meet the front and rear setback requirements, and the side setback requirement on the east side. The proposed structure requires a variance from the western side yard setback, and meets the other setback requirements.

The analysis of the variance request based on the critical included in State Statutes and Newport's Zoning Ordinance is included in this staff report.

### ***Number and Size of Accessory Structures***

The zoning ordinance does not limit the number or size of accessory structures in Industrial Districts. The three parcels owned by VEGO properties include 7 buildings. The existing storage building that is proposed for expansion is 832 square feet in area. The proposed expansion includes 416 square feet.

The total number and size of accessory structures meets the ordinance requirement.

### ***Building Height and Materials***

The ordinance permits buildings in the I-1 District to be a maximum height of 40 feet. The existing storage building is approximately 20 feet in height. The expansion will match the height of the existing building. The structure height meets the ordinance requirement.

The zoning ordinance requires "All subsequent additions, exterior alterations and accessory structures, built after the construction of the original building, shall be of the same materials as those used in the original building" and conform to the same general appearance. The building expansion is proposed to be similar in design and materials to the existing storage building, and therefore meets the ordinance requirement.

### ***Lot Coverage***

The zoning ordinance allows a maximum 40% lot coverage by all buildings in the I-1 District. The planner estimated that the existing lot coverage on the parcel where the proposed building expansion is located is approximately 21%, based on the aerial photo and building dimensions submitted by the applicant. The building expansion would increase the lot coverage by buildings to 23%. The proposed building expansion meets the lot coverage requirement.

### ***Stormwater Management***

The proposed garage expansion will occur onto an existing impervious area. The expansion will not create additional impervious surface. No additional stormwater practices are needed to meet the ordinance requirements.

## **ORDINANCE REQUIREMENTS FOR EVALUATING A VARIANCE REQUEST**

Section 1310.11 of the Zoning Ordinance states that the City may approve variances if they meet the following criteria:



- Granting the variance is consistent with the Comprehensive Plan, and in harmony with the general purposes and intent of the zoning ordinance.
- Strict enforcement of the zoning ordinance would result in “practical difficulties, “ which are defined as follows:
  - The property owner is proposing to use the property in a reasonable manner that is not permitted by the Zoning Ordinance.
  - The plight of the landowner is due to circumstances unique to the property and not created by the landowner.
  - Granting the variance will not alter the essential character of the locality.
  - Economic conditions alone shall not constitute the practical difficulties.
  - Granting the variance will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of public streets, or increase the danger of fire, or endanger public safety, or substantially diminish or impair property values within the neighborhood.
  - The requested variance is the minimum action required to eliminate the practical difficulty.
  - Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

### ***Findings***

The following are the Planner’s findings based on the request and the conditions for approving a variance:

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

The Comprehensive Plan and Zoning Ordinance state that the purpose of the Light Industrial District is to provide areas for a variety of manufacturing, warehousing, and related uses that are non-polluting, not excessively noisy or dirty, limited traffic producers, and do not produce hazardous wastes. The existing use is consistent with the goals of the I-1 District. The proposed storage building expansion will allow for storage of equipment and business property within the structure rather than outside, which is consistent with the goals for the Industrial District in the Comprehensive Plan and with the performance standards in the Zoning Ordinance for the I-1 District. The requested variance is therefore consistent with the goals of the Comprehensive Plan and in harmony with the general purposes of the Zoning Ordinance.

- *The proposed use is reasonable.*

The existing use and structures are a legal, nonconforming use in the I-1 Zoning District. Therefore, the proposed use is a reasonable use.

- *The request is due to circumstances that are unique to the property, and were not created by the landowner.*

The practical difficulties related to the expansion of the storage structure are the result of the location of the existing structure, narrow, unusual shape of the existing parcel, and



location of adjacent railroad tracks, which do not permit expansion of the parcel. The existing structure could not be expanded to meet the setback requirements. The applicant did not create the practical difficulties, and they are unique to the parcel.

- *The variance, if granted, will not alter the essential character of the area.*

The property is located in an existing industrial area that is surrounded by other industrial, railroad and business uses. Other properties in the area have similar accessory structures. The proposed expansion will not alter the essential character of the area.

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

The variance request is based on practical difficulties related to the location of the existing storage building, the unusual shape of the parcel, and location of railroad tracks that limit the direction in which the building can be expanded. Due to the existing situation, the building cannot be expanded to meet the setback requirements. The request is not based on economic considerations alone.

- *The proposed variance will not impair an adequate supply of light and air to adjacent properties, substantially increase the congestion of public streets, increase the danger of fire or endanger public safety, or substantially diminish or impair property values within the neighborhood.*

The expansion of the storage in the proposed location will not impair the supply of light or air to adjacent properties, increase street congestion, increase the danger of fire or endanger public safety, or impair property values within the neighborhood.

- *The requested variance should be the minimum action required to eliminate the practical difficulty.*

The expansion is proposed in the direction that will maintain the widest setbacks among the options available, based on the shape of the existing parcel and adjacent uses. The expansion will maintain a 10' side setback the west side, and meet other required setbacks. The building is separated from nearby uses by a roadway and railroad tracks, and the variance from the required setback will not negatively impact other uses. The variance is the minimum action required to eliminate the practical difficulty.

- *Practical difficulties include, but are not limited to inadequate access to direct sunlight for solar energy systems.*

Granting the variance request will not affect access to direct sunlight for solar energy systems.

The findings support granting the variance. The Planning Commission should listen to comments at the public hearing on March 12, discuss the Planner's findings, and make its recommendation to the Council regarding the variance request.



## **ACTION REQUESTED**

The Commission can recommend to the City Council:

1. Approval
2. Approval with conditions
3. Denial with findings
4. Table the request, if additional information is needed to make a decision

## **PLANNING STAFF FINDINGS AND RECOMMENDATIONS**

The Planner recommends that the Planning Commission recommend to the City Council approval of a variance from the side setback requirement and requirements for expansion of nonconforming structures to permit expansion of an existing storage structure that would be located a minimum of 10 feet from the side lot line on the parcel at 95 7<sup>th</sup> Avenue.

The Planner finds the following:

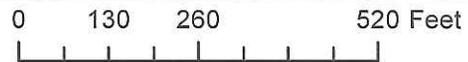
1. The variance request is consistent with the Comprehensive Plan's goals to maintain the existing Industrial use and character of the Light Industrial District at the south end of 7<sup>th</sup> Avenue and ensure industrial areas have attractive buildings and grounds and no visible outside storage.
2. The storage building is a reasonable use in the I-1 District.
3. The practical difficulties are unique to the parcel, and are the result of the location of the existing structure, narrow, unusual shape of the existing parcel, and adjacent railroad tracks. The owner did not create the practical difficulties.
4. Granting the variance will not alter the essential industrial character of the area.
5. The variance request is based on the practical difficulties related to location of the existing structure, existing parcel shape, and location of adjacent railroad tracks, and not on economic considerations alone.
6. The proposed entry addition will not impair the supply of light or air to adjacent properties, increase street congestion, increase the danger of fire or endanger public safety, or impair property values within the neighborhood.
7. The proposed variance is the minimum that will permit expansion of the existing structure. The existing structure could not be expanded in any direction to meet the setback requirements. The proposed location maintains the widest possible setbacks. The building is separated from nearby uses by a roadway and railroad tracks, and will not negatively impact other uses.
8. Granting the variance will not affect access to direct sunlight for solar energy systems.

The Planner recommends the following conditions for approval of the variance:



1. The proposed structure expansion shall conform to the plan submitted to the City on February 9, 2015. The minimum structure setback from the side lot line shall be 10 feet.
2. The applicant shall obtain a building permit for the proposed structure expansion.
3. The expanded structure shall be no taller than the principal structure.
4. The structure expansion shall be compatible with the existing structure in terms of design, roof style, color and exterior finish materials.
5. The applicant shall pay all fees and escrow associated with this application.





MAP FOR REFERENCE ONLY  
NOT A LEGAL DOCUMENT

This drawing is the result of the compilation and reproduction of land records as they appear in various Washington County offices. The drawing should be used for reference purposes only. Washington County is not responsible for any inaccuracies.

# City of NEWPORT Planning Request Application

Newport City Hall ♦ 596 7<sup>th</sup> Avenue ♦ Newport ♦ Minnesota ♦ 55055 ♦ Telephone 651-459-5677 ♦ Fax 651-459-9883

Application Date: 01/16/15 Public Hearing Date 03/12/15

## Applicant Information

Name: Paul C. Haagenon (VE Gray & Sons) Telephone: (612) 685-2488  
Mailing Address: 95 7th Ave No Telephone: (651) 459-4611  
City/State/Zip: Newport, Mn 55055

## Property Owner Information

Name: VEGO Properties, LLC (PCH) Telephone: (612) 685-2488  
Mailing Address: 95 7th Ave No Telephone: \_\_\_\_\_  
City/State/Zip: Newport, Mn. 55055

## Project Information

Location of Property: 95 7th Ave, Newport

Legal Description of Property (Must match description on the Deed) and P.I.D. #: \_\_\_\_\_

PIN-01.027.22.24.0001 - Block 1 Lot 1 Div #1  
St. Paul Park Lots 1-11 Block ENT Except To RR Div #1  
St Paul Park

- Zoning District: \_\_\_\_\_ Flood Plain: **AE 0.2% Annual Chance Flood Hazard**
- |  |   |
|--|---|
| <input type="checkbox"/> Comprehensive Plan Amendment          | \$500 or Actual Cost plus \$50 for Additional Staff Hours (10 Hr Min)   |
| <input type="checkbox"/> Rezoning                              | \$500 plus Escrow   |
| <input type="checkbox"/> Zoning Amendment                      | \$500   |
| <input checked="" type="checkbox"/> Variance                   | \$300 plus Escrow- <u>\$1,000 Escrow</u>  |
| <input type="checkbox"/> Conditional Use Permit                |   |
| <input type="checkbox"/> Residential                           | \$300 plus Escrow   |
| <input type="checkbox"/> Commercial                            | \$450 plus Escrow   |
| <input type="checkbox"/> Subdivision Approval                  |   |
| <input type="checkbox"/> Minor Subdivision                     | \$300 plus Escrow and Parkland Dedication Fee   |
| <input type="checkbox"/> Major Subdivision                     | \$500 plus Escrow, \$50 per Lot, \$200 for Final Plat, and 10% of land value or fee for Parkland Dedication Fee |
| <input type="checkbox"/> Other: _____                          |   |
| <input type="checkbox"/> Applicable Zoning Code Chapter: _____ |   |
| <input type="checkbox"/> Review by Engineer Cost: _____        |   |
| <input type="checkbox"/> Total Cost: _____                     |   |

## Escrow Fees

The City of Newport requires that any developer or every person, company, or corporation that is seeking a planning request must first submit detailed plans to the City. The person submitting the planning request must also submit prepayment to the City to cover any expenses that the City incurs by investing extensive amounts of time reviewing these plans. All unused escrow fees will be returned to the applicant upon completion of the request. Additionally, if actual costs are above the paid escrow, the applicant will be required to pay the additional amount. The fees are as follows:

Planning Request	Escrow Fee
Rezoning	\$500
Street/Alley Vacation	\$1,000
Residential Variance	\$500
Commercial Variance	\$1,000
Residential Conditional Use/Interim Use Permit	\$750
Commercial Conditional Use/Interim Use Permit	\$1,000
Preliminary Plat Under 10 Acres	\$3,500
Preliminary Plat Over 10 Acres	\$6,500
Residential Minor Subdivision, Major Subdivision, Site Plan Review, Final Plat, and Planned Unit Development:	
8 Units or Less	\$2,000
9 to 40 Units	\$3,200
41 Units or More	\$4,500
Commercial Minor Subdivision, Major Subdivision, Site Plan Review, Final Plat, and Planned Unit Development:	
0 to 5,000 Square Foot Building	\$2,000
5,001 to 10,000 Square Foot Building	\$3,000
10,001 to 50,000 Square Foot Building	\$3,750
50,000 Plus Square Foot Building	\$4,500

Typical escrow costs include reviewing the application to ensure that State Statutes and the City Codes are followed, preparing the staff report, findings, and recommended conditions for both the Planning Commission and City Council, and communicating with the applicant as needed to complete the staff report. The average fee is \$100 per hour for the Planner and \$70 per hour for the Engineer.

Present Use of Property: Storage building of personal property  
owners of UE Gray & Bruner excavating.

It was a building used & rented by a small business  
from late 1990's to 2012 or so.

State Reason for Planning Request: \_\_\_\_\_

To Expand the storage size of the far North storage  
building by 16 feet to the south. We would like  
the extra storage to cleanup & enclose more of  
UE Gray equipment. Overall improve the look and  
function of the property.

10 foot setback from the west boundary line

ALL MATERIALS/DOCUMENTATION, INCLUDING A SITE-PLAN, MUST BE SUBMITTED WITH APPLICATION THAT IS APPLICABLE TO PLANNING REQUEST.

I HEREBY APPLY FOR CONSIDERATION OF THE ABOVE DESCRIBED REQUEST AND DECLARE THAT THE INFORMATION AND MATERIALS SUBMITTED WITH THE APPLICATION ARE COMPLETE AND ACCURATE. I UNDERSTAND THAT APPLICANTS ARE REQUIRED TO REIMBURSE THE CITY FOR ALL OUT-OF-POCKET COSTS INCURRED FOR PROCESSING, REVIEWING, AND HEARING THE APPLICATION. THESE COSTS SHALL INCLUDE, BUT ARE NOT LIMITED TO: PUBLICATION AND MAILING OF NOTICES, REVIEW BY THE CITY'S ENGINEERING, PLANNING AND OTHER CONSULTANTS; LEGALS COSTS, AND RECORDING FEES. AN ESCROW DEPOSIT TO COVER THESE COSTS WILL BE COLLECTED BY THE CITY AT THE TIME OF APPLICATION. ANY BALANCE REMAINING AFTER REVIEW IS COMPLETE WILL BE REFUNDED TO THE APPLICANT. NO INTEREST IS PAID ON ESCROW DEPOSITS

SIGNATURE OF APPLICANT: 

SIGNATURE OF OWNER (IF APPLICABLE): \_\_\_\_\_

For Office Use

Fee: \$1,300 Date Paid: 02/09/15 Receipt #: \_\_\_\_\_

Publication of Notice Date: \_\_\_\_\_

Public Hearing Date: ~~03/01/15~~ 03/12/15

P.C. Resolution #: \_\_\_\_\_

Council Action Date: \_\_\_\_\_

Council Resolution #: \_\_\_\_\_

*Vego Properties check*



# Variance Application Checklist

Variance requests are covered under Section 1310.11 of the Zoning Code. Please provide the following information with your application for a Variance.

### GENERAL REQUIREMENTS:

### INCLUDED IN SUBMITTAL

- |   |   |                             |
|---|---|-----------------------------|
| 1. Application Form, signed by Owner and Applicant  | <input checked="" type="checkbox"/> YES | <input type="checkbox"/> NO |
| 2. Fees   | <input type="checkbox"/> YES            | <input type="checkbox"/> NO |
| 3. Escrow   | <input type="checkbox"/> YES            | <input type="checkbox"/> NO |
| 4. Complete legal description and PID number of all parcels included in the request. The legal descriptions must be copied directly from the deed and provided in a word document.                | <input checked="" type="checkbox"/> YES | <input type="checkbox"/> NO |
| 5. A statement fully describing the request and the Practical Difficulties (see second page)  | <input checked="" type="checkbox"/> YES | <input type="checkbox"/> NO |
| 6. A map, aerial photo or plat showing the parcel in question and all property within five hundred (500) feet of the parcel boundaries.   | <input checked="" type="checkbox"/> YES | <input type="checkbox"/> NO |
| 7. Site Plan  | <input checked="" type="checkbox"/> YES | <input type="checkbox"/> NO |
| <ul style="list-style-type: none"> <li>• One (1) 11"x17" hard copy and/or one (1) electronic copy. The City may require a larger size plan if needed to adequately review the request.</li> </ul> |   |                             |

### Plan Sheet Requirements:

- Title block
- Name, address, phone number for owner, developer, surveyor, engineer
- Date of preparation and revision dates
- North Arrow
- Graphic scale not less than 1:100

### SITE PLAN REQUIREMENTS - EXISTING AND PROPOSED:

### INCLUDED IN SUBMITTAL

- |   |   |                             |           |
|---|---|-----------------------------|-----------|
| 1. Property lines and dimensions  | <input checked="" type="checkbox"/> YES | <input type="checkbox"/> NO |           |
| 2. Area in acres and square feet  | <input checked="" type="checkbox"/> YES | <input type="checkbox"/> NO |           |
| 3. Existing and proposed building locations and dimensions                              | <input checked="" type="checkbox"/> YES | <input type="checkbox"/> NO |           |
| 4. Existing and proposed setbacks (20')   | <input checked="" type="checkbox"/> YES | <input type="checkbox"/> NO |           |
| 5. Buildable area and area of site covered by existing and proposed impervious surfaces | <input checked="" type="checkbox"/> YES | <input type="checkbox"/> NO |           |
| 6. Driveways  | <input checked="" type="checkbox"/> YES | <input type="checkbox"/> NO |           |
| 7. Septic system and well (if applicable)   | <input type="checkbox"/> YES            | <input type="checkbox"/> NO | <i>NA</i> |
| 8. Vegetation and landscaping (if applicable to the request)                            | <input type="checkbox"/> YES            | <input type="checkbox"/> NO | <i>NA</i> |

## A REQUEST FOR A VARIANCE ON THE 95 7<sup>TH</sup> AVENUE PROPERTY

### A STATEMENT OF PRACTICAL DIFFICULTIES

On July 1<sup>st</sup>, 2014, VEGO Properties purchased the 95 7<sup>th</sup> Avenue property from R & C Properties. The primary tenant is V.E. Gray & Son Contracting. The owner of VEGO is also the owner of V.E. Gray & Son contracting.

In October 2014, Paul Haagenson of VEGO and V.E. Gray & Son Contracting began to look over the property and wanted to make some changes. Two of R & C's tenants were leaving and VEGO was going to use the available space for the V.E. Gray & Son Contracting operations. Furthermore, Paul Haagenson wanted to clean-up and better organize the property.

One way to accomplish this is to expand the back pole building. As noted on the plan, the property is basically a "triangle" and the back pole building is on the narrow point of the triangle. It was determined that a simple addition to increase the building size by 50% would give the added storage to assist in the property clean-up and reorganization. The expansion would extend to the south of the existing property. It was understood that due to the lack of space to the north, the only way to add on to the pole building was to go south and into the wider portion of the property.

The property is 1.3 acres on approximately 57,350 square feet. (See Title Survey)

#### **Recap of Property Structures and approximate square footage. (See appraisal)**

- A.) Office Building – 500.0
  - B.) VEGO Main Storage – 3,750.0
  - C.) V.E. Gray Butler Building – 2,100.0
  - D.) Kamish Repair Building – 1,400.0
  - E.) V.E. Gray Mechanical Shop/Storage – 2,900.0
  - F.) Bruhn Excavating Building – 1,150.0
  - G.) Far Back Storage Building – 800.00
  - \*Addition to far back storage – 400.0
- TOTAL: 12,600.0

The far back storage building is 32' long and 26' wide – 832 square feet.  
It is a concrete-floored pole building.  
The addition is 16' long and 26' wide – 416 square feet.

The total building structure's square footage is approximately 57,000.0.  
Approximately 23% of the property is covered by buildings/structures.

### **In review of the Practical Difficulties (A-G) on the Variance Application**

- A.) The property is between two railroad tracks and has been for 50 plus years with no issues between the railroads or property owners. However, due to the odd property location and its narrowing triangle space, building space is a challenge.  
Note: the far back pole building has been there for 50 plus years in one form or another.
- B.) As stated and noted on the survey, the property is basically a triangle. The area where the far back pole building is an issue, set-backs are difficult. The far back pole building is 19' from the east property line and approximately 10' from the west. It is all on either side of a rail line. Furthermore, the building addition is in the direction of more property. The property line on the west will be 16' with the 16' addition.
- C.) Once the addition is complete, it would be difficult to tell that there was an addition to the far back pole building. The addition will not alter the character of the property. The overall goal is to improve the look of the property.
- D.) There is not an economic concern or issue with this variance. It is to improve storage and get the lot cleaned up.
- E.) The property will not change and facet of the general public or railroads view of the property. No one will even notice the addition to the far back pole building.
- F.) The answer is yes.
- G.) Not applicable to this variance.

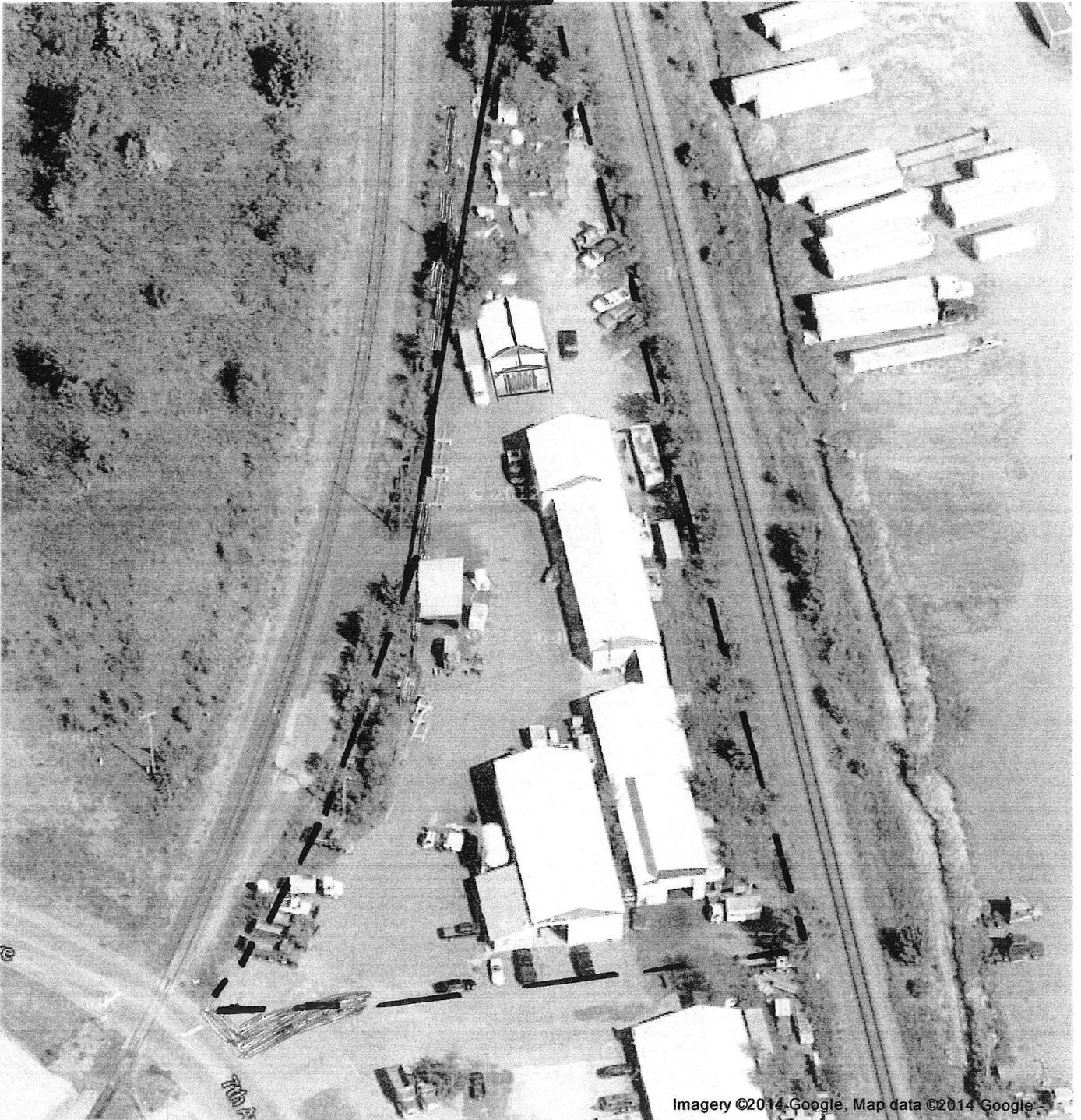
To see all the details that are visible on the screen, use the "Print" link next to the map.

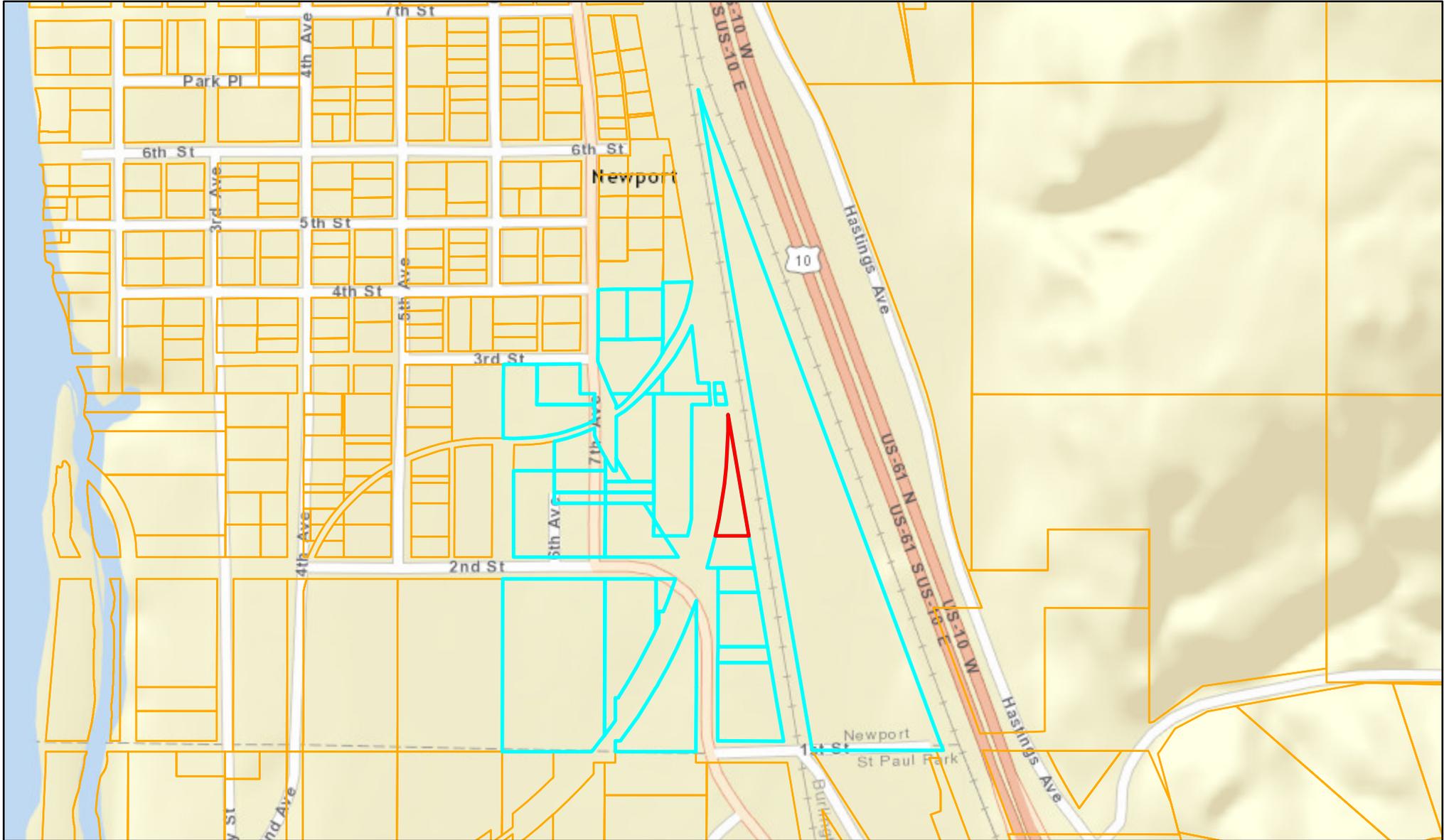


Imagery ©2014 Google, Map data ©2014 Google -



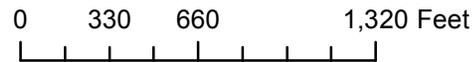
To see all the details that are visible on the screen, use the "Print" link next to the map.





Parcel ID: 0102722240001

Parcel Address:  
95 7TH AVE, CITY OF NEWPORT



**MAP FOR REFERENCE ONLY  
NOT A LEGAL DOCUMENT**

# EXHIBIT A

## LEGAL DESCRIPTION

Parcel 1:

Lots One through Thirteen, inclusive, Block One, St. Paul Park Division No. 1, according to the plat thereof on file and of record in the office of the County Recorder of Washington County, Minnesota, lying West of the Chicago Burlington & Northern Railroad right of way and lying East of the Chicago Rock Island & Pacific Railroad right of way conveyed by deeds recorded June 10, 1902, in Book 55 of Deeds, Page 152, and Book 55 of Deeds, Page 153.

AND

That part of the north half of First Avenue dedicated in the plat of St. Paul Park Division No. 1 lying between the east right of way line of 7th Avenue (dedicated as Third Street in the Plat of St. Paul Park Division No. 1) and the west line of the Burlington Northern Santa Fe Railroad right of way, vacated by Resolution filed as Document No. 3684970.

Washington County, Minnesota  
Abstract Property

Parcel 2:

Lot One, Block Fourteen, St. Paul Park Division No. 1, including therein the portion formerly occupied by Hastings Avenue now vacated, as surveyed and platted and now on file and of record in the office of the Register of Deeds of Washington County, Minnesota.

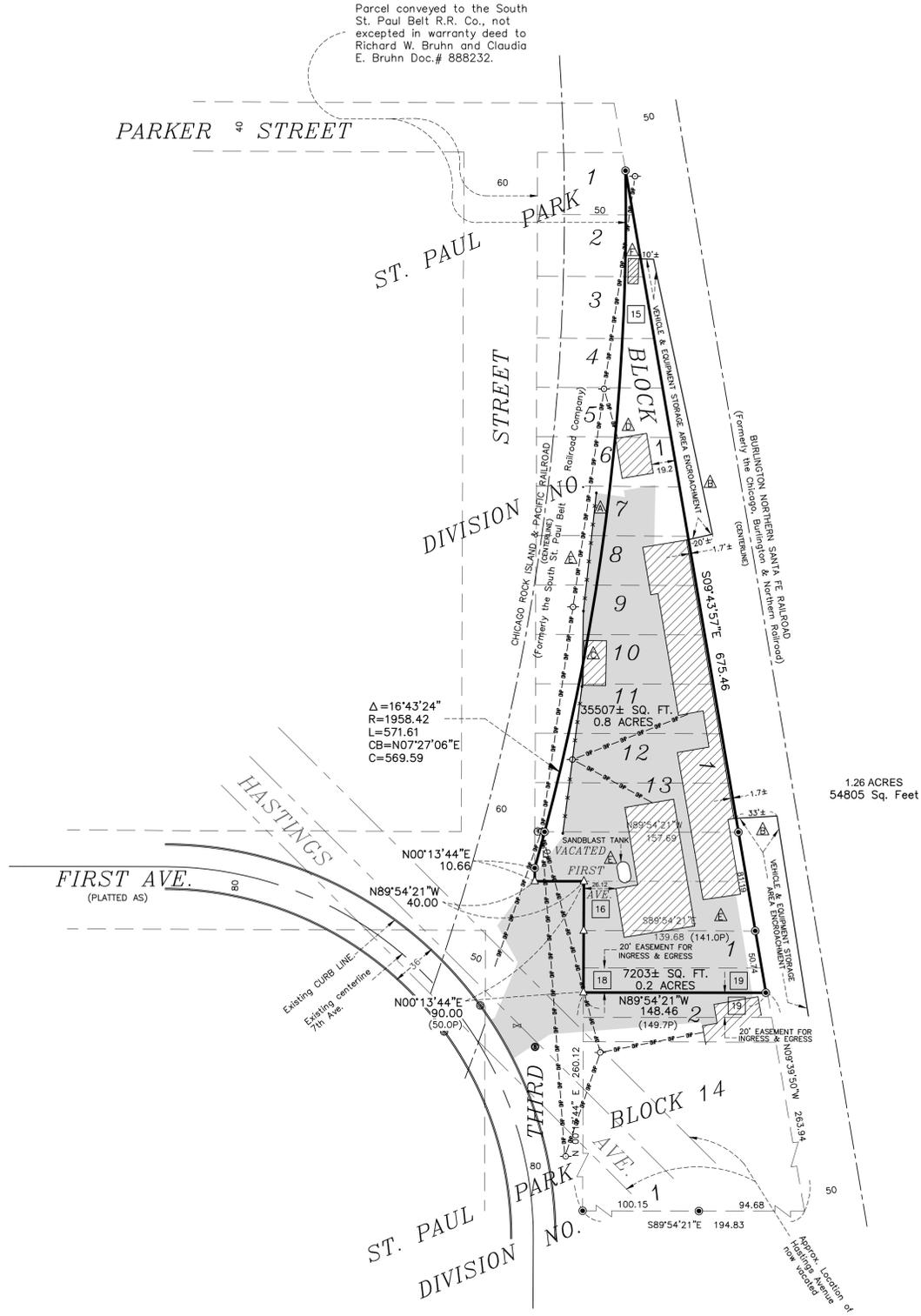
Together with an easement for ingress and egress purposes over the North 20 feet of Lot Two, Block Fourteen, of St. Paul Park Division No. 1, including therein the portion thereof formerly occupied by Hastings Avenue, now vacated.

AND

That part of the south half of First Avenue dedicated in the plat of St. Paul Park Division No. 1 lying between the east right of way line of 7th Avenue (dedicated as Third Street in the Plat of St. Paul Park Division No. 1) and the west line of the Burlington Northern Santa Fe Railroad right of way, vacated by Resolution filed as Document No. 1183505.

Washington County, Minnesota  
Torrens Property  
Torrens Certificate No. 49114

Parcel conveyed to the South St. Paul Belt R.R. Co., not excepted in warranty deed to Richard W. Bruhn and Claudia E. Bruhn Doc.# 888232.



**NOTES CORRESPONDING TO SCHEDULE B SECTION 2**

- Per Stewart Title Guaranty Company Commitment No. 38280
- 15 Easement for electric transmission line purposes, in favor of Northern States Power Company, as created in document dated April 29, 1974, filed May 22, 1974, as Document No. 322987 (Abstract). (Parcel 1) (Affects that part of subject property that lies within Lots 1, 2 and 3, Block 1 and is shown hereon)
- Assignment and Assumption of Easements to Northern States Power Company dated February 7, 2001, filed March 8, 2001, as Document No. 3145752 (Abstract).
- 16 Reservation of existing utility easements, contained in Resolution No. 2008-10, vacating street right of way, filed March 20, 2008, as Document Nos. 3684970 (Abstract) and 1183505 (Torrens). (Parcels 1 and 2) (Does not appear to have utilities on subject property)
- 17 Reservation of utility easements by the City of Newport in Notice of Vacation filed as Document No. 398031, contained in Order and Decree dated March 31, 1982, filed May 3, 1982, as Document No. 59358 (Torrens). (Parcel 2) (Does not Affect subject property)
- 18 Easement for ingress and egress purposes over the South 20 feet of Parcel 2, contained in Contract for Deed dated November 27, 1984, filed February 5, 1985, as Document No. 68554 (Torrens). (Parcel 2) (Affects subject property and is shown hereon)
- 19 Terms and conditions of Easement for ingress and egress purposes contained in Quit Claim Deed dated March 13, 1986, filed December 18, 1990, as Document No. 1006422 (Torrens). (Parcel 2) (Affects subject property and is shown hereon)

**NOTES CORRESPONDING TO TABLE A**

- 4) Gross land area = 1.26 Acres
- 11a) The location of underground utilities are approximate and are shown based on the field location of visible fixtures. *Note:* other utilities which we are unaware of may exist.

**PROPERTY DESCRIPTION**

Per Stewart Title Guaranty Company Commitment No. 38280

Parcel 1:  
 Lots One through Thirteen, inclusive, Block One, St. Paul Park Division No. 1, lying West of Chicago Burlington & Northern Railroad right of way, and lying East of the Chicago, Rock Island and Pacific Railroad Right of Way, according to the plat thereof on file and of record in the office of the County Recorder of Washington County, Minnesota.

Washington County, Minnesota  
 Abstract Property

Parcel 2:  
 Lot One, Block Fourteen, St. Paul Park Division No. 1, including therein the portion formerly occupied by Hastings Avenue now vacated, as surveyed and platted and now on file and of record in the office of the Register of Deeds of Washington County, Minnesota.

Together with an easement for ingress and egress purposes over the North 20 feet of Lot Two, Block Fourteen, of St. Paul Park Division No. 1, including therein the portion thereof formerly occupied by Hastings Avenue, now vacated.

Washington County, Minnesota  
 Torrens Property  
 Torrens Certificate No. 49114

**LEGEND**

- FOUND IRON MONUMENT.
- △ FOUND PK NAIL WITH DISK STAMPED SURVEY MARKER.
- x - x - x - x -
- EXISTING FENCE.
- EXISTING CATCH BASIN.
- EXISTING SANITARY MANHOLE.
- EXISTING WATER VALVE.
- EXISTING POWER POLE.
- EXISTING TELEPHONE PEDESTAL.
- EXISTING OVERHEAD POWER.
- ▨ DENOTES A BUILDING.
- EXISTING BITUMINOUS.
- ( ) DENOTES A PLAT DIMENSION.

**SURVEYORS NOTES**

- △ Bituminous parking and fence are on Railroad Right of Way.
- △ Vehicle, equipment and storage area is on Railroad Right of Way.
- △ Building corner is 3± feet W'y onto Railroad Right of Way.
- △ Building corner is 0.40 feet E'y of Property line.
- △ Vacated First Avenue is not included in the Schedule A description, however, the adjoining portion would accrue to the subject property.
- △ NW'y building corner is 2± E'y of W'y Property line, and NE'y building corner is 2± W'y of E'y Property line.

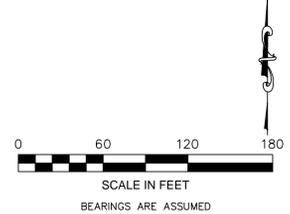
**ALTA/ACSM LAND TITLE SURVEY**  
 FOR:  
**VEGO PROPERTIES, LLC**  
 Stewart Title Guaranty Company Commitment No. 38280

The Vego Properties LLC, and Stewart Title Guaranty Company:

This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2011 Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes Items 4, 8, and 11a, of Table A thereof. The field work was completed on May 5, 2014.

Date of Plat or Map: May 27, 2014

*Mitchell A. Scofield*  
 Mitchell A. Scofield License No. 48634



	<b>JOHNSON &amp; SCOFIELD INC.</b> SURVEYING AND ENGINEERING 1112 HWY 55 SUITE 201, HASTINGS, MN 55033 (651)438-0000		<b>PROJECT ADDRESS:</b> Address: 95 7th Avenue, Newport, MN 55055		
	BK. NA PG. NA	W.O. NUMBER			
	SHEET 1 OF 1 SHEETS		DRAWING NUMBER		
			R-2618		

<b>Address/PID #</b>	<b>Owner</b>	<b>Owner's Mailing Address</b>	<b>City, State Zip</b>
901 1st Street	David Quade	905 1st Street	Newport, MN 55055
100 7th Avenue	Bam and Ram Inc	33007 355th Street	Ogema, MN 56569
100 7th Avenue	JD Holdings	100 7th Avenue	Newport, MN 55055
01.027.22.24.0018	JD Holdings	100 7th Avenue	Newport, MN 55055
101 7th Avenue	Markid Properties	10471 Barnes Avenue	Inver Grove Heights, MN 55077
251 7th Avenue	Tim Michael	15548 260th Street	Lindstrom, MN 55045
295 7th Avenue	St. Paul Park Refining Co	576 Bielenberg Dr #200	Woodbury, MN 55125
01.027.22.21.0023	St. Paul Park Refining Co	576 Bielenberg Dr #200	Woodbury, MN 55125
01.027.22.23.0003	St. Paul Park Refining Co	576 Bielenberg Dr #200	Woodbury, MN 55125
01.027.22.23.0004	St. Paul Park Refining Co	576 Bielenberg Dr #200	Woodbury, MN 55125
01.027.22.23.0005	St. Paul Park Refining Co	576 Bielenberg Dr #200	Woodbury, MN 55125
01.027.22.23.0042	St. Paul Park Refining Co	576 Bielenberg Dr #200	Woodbury, MN 55125
01.027.22.23.0043	St. Paul Park Refining Co	576 Bielenberg Dr #200	Woodbury, MN 55125
01.027.22.24.0003	St. Paul Park Refining Co	576 Bielenberg Dr #200	Woodbury, MN 55125
01.027.22.24.0004	St. Paul Park Refining Co	576 Bielenberg Dr #200	Woodbury, MN 55125
01.027.22.24.0005	St. Paul Park Refining Co	576 Bielenberg Dr #200	Woodbury, MN 55125
01.027.22.24.0006	St. Paul Park Refining Co	576 Bielenberg Dr #200	Woodbury, MN 55125
01.027.22.24.0007	St. Paul Park Refining Co	576 Bielenberg Dr #200	Woodbury, MN 55125
01.027.22.24.0008	St. Paul Park Refining Co	576 Bielenberg Dr #200	Woodbury, MN 55125
01.027.22.24.0009	St. Paul Park Refining Co	576 Bielenberg Dr #200	Woodbury, MN 55125
01.027.22.24.0013	St. Paul Park Refining Co	576 Bielenberg Dr #200	Woodbury, MN 55125
310 7th Avenue	Presidential Recovery Services	6127 Hearthstone Avenue S	Cottage Grove, MN 55016
396 7th Avenue	Presidential Recovery Services	6127 Hearthstone Avenue S	Cottage Grove, MN 55016
01.027.22.21.0018	Presidential Recovery Services	6127 Hearthstone Avenue S	Cottage Grove, MN 55016
01.027.22.21.0020	Presidential Recovery Services	6127 Hearthstone Avenue S	Cottage Grove, MN 55016

**CITY OF NEWPORT  
PLANNING COMMISSION**

**NOTICE OF PUBLIC HEARING  
TO CONSIDER A REQUEST FOR A SIDE A VARIANCE**

Notice is hereby given that the Newport Planning Commission will hold a Public Hearing on Thursday, March 12, 2015, at 6:00 p.m. or as soon thereafter, in the City Hall Council Chambers at the Newport City Hall, 596 7<sup>th</sup> Ave., Newport, MN, to consider an application from Paul Haagenson, 95 7th Avenue, Newport, MN 55055, for approval of a variance at the same location. The request is for a side yard variance.

**Said property is legally described as:**

**PID# 01.027.22.24.0001 -**

Parcel 1:

Lots One through Thirteen, inclusive, Block One, St. Paul Park Division No. 1, according to the plat thereof on file and of record in the office of the County Recorder of Washington County, Minnesota, lying West of Chicago Burlington & Northern Railroad right of way, and lying East of the Chicago, Rock Island and Pacific Railroad right of way conveyed by deeds recorded June 10, 1902, in Book 55 of Deeds, Page 152, and Book 55 of Deeds, page 153.

And

That part of the north half of First Avenue dedicated in the plat of St. Paul Park Division No. 1 lying between the east right of way line of 7th Avenue (dedicated as Third Street in the Plat of St. Paul Park Division No. 1) and the west line of the Burlington Northern Santa Fe Railroad right of way, vacated by Resolution filed as Document No. 3684970.

Parcel 2:

Lot One, Block Fourteen, St. Paul Park Division No. 1, including therein the portion formerly occupied by Hastings Avenue now vacated, as surveyed and platted and now on file and of record in the office of the Register of Deeds of Washington County, Minnesota.

Together with an easement for ingress and egress purposes over the North 20 feet of Lot Two, Block Fourteen, of St. Paul Park Division No. 1, including therein the portion thereof formerly occupied by Hastings Avenue, now vacated.

And

That part of the south half of First Avenue dedicated in the plat of St. Paul Park Division No. 1 lying between the east right of way line of 7th Avenue (dedicated as Third Street in the Plat of St. Paul Park Division No. 1) and the west line of the Burlington Northern Santa Fe Railroad right of way, vacated by Resolution filed as Document No. 1183505.

The Planning Request is governed under Chapter 13, Section 1310.11, Subdivision 1 of the City Code of Ordinance.

Information on this Application can be reviewed at the Newport City Hall. The purpose of this hearing is to provide citizens the opportunity to comment on the project either at, or in writing prior to, the Public Hearing.

Dated this 17<sup>th</sup> day of February, 2015.

Deb Hill  
City Administrator

(Publish in the Washington County Bulletin Wednesday, February 25, 2015)

**PLANNING COMMISSION  
RESOLUTION NO. P.C. 2015-1**

**A RESOLUTION RECOMMENDING CITY COUNCIL APPROVE A VARIANCE REQUESTED BY  
PAUL HAAGENSON, 95 7TH AVENUE, NEWPORT, MN 55055 FOR PROPERTY LOCATED 95 7TH  
AVENUE, NEWPORT, MN 55055**

**WHEREAS**, Paul Haagenson, 95 7th Avenue, Newport, MN 55055, has submitted a request for a Variance; and

**WHEREAS**, the property is located at 95 7th Avenue, Newport, MN 55055, and is more fully legally described as follows:

**PID# 01.027.22.24.0001 -**

Parcel 1:

Lots One through Thirteen, inclusive, Block One, St. Paul Park Division No. 1, according to the plat thereof on file and of record in the office of the County Recorder of Washington County, Minnesota, lying West of Chicago Burlington & Northern Railroad right of way, and lying East of the Chicago, Rock Island and Pacific Railroad right of way conveyed by deeds recorded June 10, 1902, in Book 55 of Deeds, Page 152, and Book 55 of Deeds, page 153.

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Parcel 2:

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And

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**WHEREAS**, The described property is zoned Light Industrial (I-1); and

**WHEREAS, Minnesota Statutes 394.27 states** that the criteria for granting a variance include that variances are permitted when they are in harmony with the general purpose and intent of the official control and are consistent with the comprehensive plan; that the request shall be reasonable under the development code; the need for the variance is due to circumstances that are unique to the property and were not created by the landowner; the variance, if granted, will not alter the essential character of the area; economic considerations alone do not constitute practical difficulties; the proposed variance will not impair an adequate supply of light and air to adjacent properties, substantially increase the congestion of public streets, increase the danger of fire or endanger public safety, or substantially diminish or impair property values within the neighborhood; the requested variance should be the minimum action required to eliminate the practical difficulties; and practical difficulties include, but are not limited to inadequate access to direct sunlight for solar energy systems; and

**WHEREAS**, Following publication, posted, and mailed notice thereof, the Newport Planning Commission held a Public Hearing on March 12, 2015; and

**WHEREAS**, the Planning Commission's findings related to the request for approval of a Variance include the following:

1. The variance request is consistent with the Comprehensive Plan's goals to maintain the existing Industrial use and character of the Light Industrial District at the south end of 7<sup>th</sup> Avenue and ensure industrial areas have attractive buildings and grounds and no visible outside storage.
2. The storage building is a reasonable use in the I-1 District.
3. The practical difficulties are unique to the parcel, and are the result of the location of the existing structure, narrow, unusual shape of the existing parcel, and adjacent railroad tracks. The owner did not create the practical difficulties.
4. Granting the variance will not alter the essential industrial character of the area.
5. The variance request is based on the practical difficulties related to location of the existing structure, existing parcel shape, and location of adjacent railroad tracks, and not on economic considerations alone.
6. The proposed entry addition will not impair the supply of light or air to adjacent properties, increase street congestion, increase the danger of fire or endanger public safety, or impair property values within the neighborhood.
7. The proposed variance is the minimum that will permit expansion of the existing structure. The existing structure could not be expanded in any direction to meet the setback requirements. The proposed location maintains the widest possible setbacks. The building is separated from nearby uses by a roadway and railroad tracks, and will not negatively impact other uses.
8. Granting the variance will not affect access to direct sunlight for solar energy systems.

**NOW, THEREFORE, BE IT FURTHER RESOLVED That** the Newport Planning Commission **Hereby Recommends Newport City Council Approval** for a Variance to Allow a Side Yard Setback of 10 feet and to permit expansion of an existing nonconforming structure with the following conditions:

1. The proposed structure expansion shall conform to the plan submitted to the City on February 9, 2015. The minimum structure setback from the side lot line shall be 10 feet.
2. The applicant shall obtain a building permit for the proposed structure expansion.
3. The expanded structure shall be no taller than the principal structure.
4. The structure expansion shall be compatible with the existing structure in terms of design, roof style, color and exterior finish materials.
5. The applicant shall pay all fees and escrow associated with this application.

Adopted this 12th day of March, 2015 by the Newport Planning Commission.

VOTE: Mahmood \_\_\_\_\_  
Prestegaard \_\_\_\_\_  
Haley \_\_\_\_\_  
Taylor \_\_\_\_\_  
Tweeten \_\_\_\_\_

Signed: \_\_\_\_\_  
, Chairperson

ATTEST: \_\_\_\_\_  
Deb Hill, City Administrator



444 Cedar Street, Suite 1500  
Saint Paul, MN 55101  
651.292.4400  
tkda.com

## Memorandum

<b>To:</b>	Newport Planning Commission	<b>Reference:</b>	Planning Commission Workshop March 12, 2015
<b>Copies To:</b>	Deb Hill, City Administrator Renee Eisenbeisz, Executive Analyst	<b>Project No.:</b>	15743.000
<b>From:</b>	Sherri Buss, RLA AICP, City Planner	<b>Routing:</b>	
<b>Date:</b>	March 4, 2015		

The Planning Commission meeting on March 12 will include items for action and discussion—the VEGO Properties Variance request, and a discussion about updating the section of the City’s Zoning Ordinance that regulates Antennas and Towers. The staff memo for the VEGO variance is included in the meeting packet. This memo provides information and discussion items for the ordinance update.

### Current Ordinance Section Regulating Antennas and Towers

Section 1325 of the Zoning Ordinance was adopted in 1996, and has not been updated. City staff are receiving questions from cellular services providers about permits that are needed to update existing equipment, or add new equipment. The existing ordinance does not provide clear direction on the permits that are needed for the typical questions staff are receiving. The section is clear that CUP’s are needed for new monopoles or towers, and are not needed for the repair of existing equipment. However, it is not clear what permit is needed, if any, to co-locate new equipment on existing towers, one of the most common questions from service providers. Most communities in the Metro Area no longer require a CUP to add new antennas or equipment to existing towers.

In general, the current section 1325 is poorly organized and staff find it difficult to use to answer questions when communications providers contact the City. Service providers have also indicated that they have a very difficult time reviewing the ordinance and trying to determine what they need to do to update their equipment. Staff are proposing to update the Ordinance so that it is clearer, and responds better to current issues. The update raises some issues and options for the Planning Commission to discuss.

### Existing Towers

There are four existing telecommunications towers in Newport. The locations and sizes are the following:

- 2233 Maxwell – 175 feet
- 1100 Bailey Road – 190 feet
- 1365 Military Road – 160 feet

- Baily School Forest – 88 feet

Planning Commissioners may want to take a look at the towers as you drive around before the meeting on March 12, to get an impression of the height of the towers and how they fit with surrounding land uses.

### **Draft Ordinance for Discussion**

The Planner reviewed Antenna and Tower ordinances from other communities in the area. Cottage Grove, Maplewood, and Woodbury have more recent ordinances that provide some good examples, and some ideas for discussion.

The Planner developed a draft new Section 1325, which is attached for your review and discussion at the meeting on March 12. Some comments and questions for the Planning Commission discussion include the following:

- The proposed ordinance puts the section that lists when permits are or are not required at the front of the ordinance, and has updated the list of the items that do and do not require a CUP and building permit. As you read Section 1325.03, is it clear when a CUP or other permit is required, and when it is not?
- Section G. of the ordinance identifies where new monopoles or towers are permitted in the City. This section is consistent with the current ordinance.
  - New towers and monopoles are permitted with a CUP in industrial or business zoning districts; in freeway corridors; on institutional land (schools, churches) in any district as long as they can meet setback requirements; in athletic complexes, parks, golf courses, and open space, and parking lots in any district as long as they can meet required setbacks.
  - Do you agree with permitting new monopoles and towers in those locations?
  - What are your thoughts on whether towers should be permitted in residential districts? Should the City permit them in residential districts? Limit lot sizes? Limit locations to churches, parking lots, etc.? The options are suggested based on other community ordinances; we should fit this to Newport.
- Section 1325.05 includes standards for monopoles, towers and related equipment. The highlighted text identifies some options for discussion based on standards in neighboring community ordinances. Some questions for the Commission include the following:
  - The city currently permits towers up to 175' tall. The maximum height that Cottage Grove permits is 150'; Woodbury and Maplewood limit the height of towers in residential districts to 75'. What height limits should be included in Newport's ordinance?
  - Do you want to include a minimum lot size in residential districts? Minimum spacing?
  - Should setbacks be flexible? The highlighted items are some flexibility elements that are included in other ordinances.
- The section on Performance Standards and those that follow have been updated based on current ordinances. Please review those sections, and identify any items for discussion or revision.



## Section 1325 Antennas and Towers

### 1325.01 Purpose and Intent

In order to accommodate the communication needs of residents and business while protecting the public health, safety and general welfare of the community, the Council finds that these regulations are necessary in order to establish predictable and balanced regulations for the siting and screening of wireless communications equipment, while protecting the public against any adverse impacts on the City's aesthetic resources and the public welfare.

### 1325.02 Objectives.

The goals in adopting this ordinance are as follows:

- A. Provide for the appropriate location and development of antennas and towers within the city;
- B. Minimize adverse visual effects of towers through uniform design and siting standards;
- C. Avoid potential damage to adjacent properties from tower failure, through structural standards and setback requirements;
- D. Utilize standard structural and setback requirements to avoid potential damage to adjacent properties from antenna and tower failure;
- E. Maximize the use of existing and approved towers and buildings for siting new antennas in order to reduce the number of new towers needed to serve the community;
- F. Encourage co-location of facilities on the same structure or same site;
- G. Require monopoles to be designed to accommodate at least two separate users, and encourage co-location of facilities on the same structure or on the same site;
- H. Utilize public land, buildings and structures for wireless communications facilities whenever possible.
- I. Prioritize the location of freestanding towers in areas outside the MUSA on property identified in the Comprehensive Plan as open space or along trail routes.

### 1325.03 Conditional Use and Building Permits

- A. Conditional use permits are not required for:
  - 1) Antennas and towers used by the city for city purposes.
  - 2) Adjustment, repair or replacement of the elements of an antenna array affixed to a tower or antenna, provided that replacement does not reduce the safety factor.
  - 3) Antennas mounted on water towers; on the sides or roof of existing structures; and on existing communications monopoles and towers; power, light or telephone poles. If the equipment would increase the height of the monopole or tower, a conditional use permit amendment is required.

- 4) Antennas and/or towers erected temporarily for test purposes or for emergency communications. Temporary antennas shall be removed within 72 hours following the termination of testing or emergency communication needs.
  - 5) Wireless telephone antennas located on the side or roof of an existing structure, shall be a permitted use in all zoning districts in the city, provided that the antennas shall not extend more than 20 feet above the structure to which they are attached. Transmitting receiving and switching equipment shall be housed within an existing structure whenever possible. If new equipment is necessary for transmitting, receiving and switching equipment, it shall be located in the side or back yard, meet setback requirements, and shall be landscaped to screen the equipment from view from residential uses.
  - 6) Antennas or towers placed in public rights-of-way where attached to, or part of, a public utility structure.
- B. Monopoles or towers are permitted in the locations identified below, with a Conditional Use Permit. Procedures for obtaining a Conditional use Permit are outlined in Section 1310.10 of the Zoning Ordinance.
- 1) As principal or accessory structures in industrial or business zoning districts;
  - 2) As principal or accessory structures in residential, parks, or mixed-use districts on parcels with a minimum size of 5 (20?) acres. The city will only consider a tower in the following residentially-zoned locations: churches or places of worship; parks and open space areas, when the city determines the facility would be compatible with the nature of the park; and city-owned property, government, utility and institutional sites and facilities.
    - a. There shall be no more than one freestanding tower at one time on a property that the city has planned for a residential use or that the city has zoned residentially.
  - 3) Within freeway development corridors in non-residential areas, when located 1,000 feet from the edge of the freeway right-of-way to the monopole.
  - 4) On government or institutional land or structures
  - 5) Within public parks, golf courses, and open space in all districts as designed in the comprehensive plan. Antennas should be located on existing structures when feasible and all facilities should be located and designed to be compatible with the nature of the site.
  - 6) Parking lots in all zoning districts may be used to locate monopoles where the monopole replicates, incorporates or substantially blends with the overall lighting standards of the parking lot.
- C. The preferred locations for wireless communications equipment shall be as follows:
- 1) Water towers or tanks
  - 2) Collocation on existing towers
  - 3) Church steeples or church structure, when camouflaged as steeples, bell towers or other architectural features

- 4) Sides and roofs of buildings or structures over two stories in height
  - 5) Existing power or telephone pole corridors
  - 6) Light poles or towers at outdoor recreation facilities
  - 7) Parking lots
- D. The following information shall be submitted with applications for Conditional Use Permits for antennas and towers:
- 1) The applicant shall provide sufficient information to indicate that construction, installation, and maintenance of the monopole or tower will not create a safety hazard or damage to the property of other persons.
  - 2) The applicant shall demonstrate by providing a coverage/interference analysis and capacity analysis that the location of the monopole or tower as proposed is necessary to meet the frequency reuse and spacing needs of the proposed communications equipment and to provide adequate personal wireless communication or portable cellular telephone coverage and capacity to areas which cannot be adequately served by existing equipment or co-location on existing equipment.
  - 3) All applications for the location of new monopoles and towers shall be accompanied by an intermodulation study which provides a technical evaluation of existing and proposed transmissions and indicates all potential interference problems.
- E. In reviewing an application for a conditional use permit for the construction and maintenance of monopoles, towers, antennas and related equipment, the City Council shall consider the following:
- The standards in this ordinance;
  - The advice and recommendations of the Planning Commission;
  - the effect of the proposed use upon the health, safety, convenience and general welfare of occupants of surrounding lands;
  - The effect of the proposed use on the comprehensive plan.
- F. This section does not apply to the use or location of private, residential citizen band radio towers, amateur radio towers, or television antennas.
- G. All new towers, monopoles, antennas and related accessory structures shall obtain a building permit, and are subject to inspection by the city building official to determine compliance with Uniform Building Code construction standards. Any deviation from the original construction for which a permit is obtained is a misdemeanor. Adjustments or modifications to existing antennas do not require a building permit.
- 1) Notice of violations will be sent by registered mail to the owner, and he/she will have thirty (30) days from the date the notification is issued to make repairs. The owner shall notify the building official that the repairs have been made, and as soon as possible thereafter, another inspection shall be made and the owner notified of the results.

- H. Building permits are not required for adjustment or replacement of the elements of an antenna array affixed to a tower or antenna, erection of temporary antennas or towers used for testing purposes, emergency communication, or for broadcast remote pick-up operations.

#### 1325.04 Existing Antennas and Towers

Antennas, towers and accessory structures in existence at the time this section is adopted which do not conform to or comply with this section are subject to the following provisions:

- A. Towers may continue in use for the purpose now used and as now existing, but may not be replaced or structurally altered without complying in all respects with this division.
- B. If such towers are damaged or destroyed due to any reason or cause whatsoever, the tower may be repaired and restored to its former use, location and physical dimensions upon obtaining a building permit therefore, but without otherwise complying with this division.

#### 1325.05 Setbacks, Height, Construction and Performance Standards

- A. All antennas, towers and accessory structures shall comply with all applicable provisions of this code and this section.
- B. No part of any tower or antenna shall be constructed, located, or maintained at any time, permanently or temporarily, in or upon any required tower setback area.
- C. Monopole, Tower or Antenna Height:
- 1) The maximum height of any freestanding monopole or tower is 150/175 feet (75' for residential areas?), including all attached antennas and equipment. (Current Newport ordinance is 175', Cottage Grove is 150', and Woodbury and Maplewood set a maximum height in residentially-zoned areas of 75'.)
  - 2) The City Council may require a twenty-five percent (25%) reduction in the maximum height limits of antennas or towers in all zoning districts if the topography of the proposed site is at a substantially higher elevation than the surrounding public roadways or residential areas. (Cottage Grove ordinance)
  - 3) Antennas, towers, and related equipment attached to existing structures shall not exceed more than twenty (20) feet above the structure to which they are attached.
  - 4) Any proposed monopole or tower over sixty feet (60') in height shall be designed for co-location of at least one additional antenna.
  - 5) Any proposed monopole or tower over one hundred feet (100') in height shall be designed for co-location of at least two (2) additional antennas.
- D) Lot size, location, and setbacks:
- 1) The minimum land area for freestanding monopoles on vacant properties in residential and mixed-use districts shall be five (5) acres (Woodbury requires 20 acres).
  - 2) Monopoles and towers shall be subject to all setback requirements, and

- 3) In all districts, monopoles and towers shall be located at least the height of the pole or tower plus twenty-five feet from the nearest residential dwelling unit.
  - 4) An antenna or tower attached to a building shall comply with the setbacks of the zoning district.
  - 5) Monopoles or towers shall not be placed in any front yard.
  - 6) Monopoles or towers shall not be placed between the principal structure and any adjoining public street or right-of-way, unless the city determines that such a location would lessen the visibility of the tower, or would lessen the negative impacts of such a facility on nearby properties.
  - 7) The minimum spacing between monopoles and towers is one-quarter (1/4 mile), except for colocation. (From Cottage Grove ordinance)
  - 8) The city may reduce or vary the required setback for a tower from a public street to allow the integration of a tower into an existing or proposed structure such as a church steeple, light pole, power line support device or similar structure.
- E) Design and Performance Standards
- 1) The tower shall be a light blue or gray, or other color that is demonstrated to the City to minimize visibility.
  - 2) Metal towers shall be constructed of, or treated with, corrosive-resistant material.
  - 3) The base of the tower shall occupy no more than 500 square feet and the top of the tower shall be no larger than the base.
  - 4) No advertising or identification visible-site shall be placed on the tower or antennas. The use of any portion of a tower, sign or antenna for signs other than warning or equipment information is prohibited.
  - 5) Monopoles and towers must be designed to allow for future rearrangement of equipment upon the structure, and to accept attachments mounted at varying heights.
  - 6) All freestanding monopoles and towers must be self-supporting without the use of wires, cables, beams or other means. The design should utilize an open framework or monopole configuration that is designed to collapse on itself in the event of structural damage. Permanent attachments, exclusive of antennas, that serve to increase off-site visibility, are prohibited.
  - 7) To prevent unauthorized entry, towers shall be provided with security fencing as needed or when required by the City. Fencing shall be six feet (6') in height or less, and shall not employ barbed wire, electricity, or any other similar security devices.
  - 8) Transmitting, receiving, and switching equipment shall be housed within an existing structure whenever possible. If a new equipment building is necessary for transmitting, receiving and switching equipment, it shall meet setback requirements and shall be designed, constructed

and screened to blend in to the surrounding environmental and adjacent land use. Equipment buildings shall utilize coniferous vegetation for required landscape screening.

- 9) Monopoles, towers and antennas should be located in areas that provide natural or existing structural screening for off-site views of the facility when feasible. Existing on-site vegetation that provides screening shall be preserved to the extent possible. The ground level perimeter of all monopoles and towers shall be screened with a dense vegetative landscaping barrier that consists of seventy-five percent (75%) coniferous plantings. Antennas and related equipment located on the side or on the roof of a building may not be screened.
- 10) Monopoles, towers and antennas shall not be illuminated by artificial means, and shall not display strobe lights, reflectors, flashers, night-time red lights or other lights unless such lighting is required by Federal or State regulations. When incorporated into the design and approved by the City, light fixtures used to illuminate ball fields, parking lots or similar areas may be attached to the tower.
- 11) No tower shall have constructed thereon, or attached thereto, in any way, any platform, catwalk, crow's nest, or like structure, except during periods of construction repair.
- 12) With the exception of necessary electronic or telephone service and connection lines approved by the City, no part of any antenna or tower nor any lines, cable, equipment, wires, or braces in connection with either shall at any time extend across or over any part of the right-of-way, public street, highway, sidewalk, or property line.
- 13) Monopoles, towers and antennas shall be designed to withstand a uniform wind loading as prescribed by the Minnesota State Building Code.
- 14) Antennas and metal towers shall be grounded for protection against direct strike by lightning to the latest practices, and shall comply with electrical wiring statutes, regulations and standards.
- 15) All signal and remote control conductors of low energy extending substantially horizontally above the ground between a tower or antenna and structure, or between towers, shall be buried underground when feasible, or placed at least eight (8) feet above the ground at all points.
- 16) The base of all AM/FM radio towers shall be surrounded with a six-foot high galvanized chain link fence with signs posted "Danger High Voltage" on all sides.

#### **1325.05 Abandoned or Unused Monopoles or Towers**

Abandoned or unused monopoles, towers or antennas shall be removed within twelve (12) months of the cessation of operations at the site, unless a time extension is granted by the Zoning Administrator. The replacement of a monopole or tower that was previously removed requires a conditional use permit amendment within 12 months of removal, or a new conditional use permit if the monopole or tower has been abandoned for more than 12 months.

#### **1325.06 Interference**

No new or existing monopole, tower, antenna or related equipment shall interfere with public safety communications. Before the introduction of new services or changes in existing services, equipment

providers shall notify the City at least ten (10) calendar days in advance of such changes and allow the City to monitor interference levels during the testing process.

**1325.07 Radiation**

Monopoles, towers, antennas, and related equipment placed within the City shall be subject to State and Federal regulations pertaining to nonionizing radiation and other health hazards related to such facilities. If additional State and Federal restrictive standards are adopted, all such communications facilities and equipment shall be made to comply, or continued operation of the conditionally permitted facility may be restricted by the City Council. The cost of verification of compliance shall be borne by the owner and operator of the communications facilities and equipment.

**1328.08 Abrogation**

It is not the intention of this Section to interfere with, abrogate, or annul any covenant or other agreement between parties, provided, however, where this section imposes a greater restriction upon the use or premises for antennas or towers than are imposed or required by other sections, rules regulations, or permits, or by covenants or agreements, the provisions of this section shall govern.

Note: suggest updating and adding definitions similar to the Maplewood ordinance, attached.

## Section 1325 Antennas and Towers

### Section 1325-1. Purpose and Intent

In order to accommodate the communication needs of residents and business while protecting the public health, safety and general welfare of the community, the Council finds that these regulations are necessary in order to establish predictable and balanced regulations for the siting and screening of wireless communications equipment while protecting the public against any adverse impacts on the City's aesthetic resources and the public welfare.

Goals in adopting this ordinance are as follows:

- 1) minimize adverse visual effects of towers through careful design and siting standards;
- 2) avoid potential damage to adjacent properties from tower failure. through structural standards and setback requirements;
- 3) maximize the use of existing and approved towers and buildings to accommodate new wireless telecommunication antennas in order to reduce the number of towers needed to serve the community;
- 4) utilization of public land, buildings and structures for wireless communications whenever possible;
- 5) the purpose on land outside the MUSA priority will be to site free standing towers on property identified on the Comprehensive Plan as open space or along proposed trail routes;
- 6) require monopoles be designed to accommodate at least two separate users;
- 7) freestanding monopoles shall be designed to encourage co-location of facilities on the same structure or on the same site;
- 8) management cost mean the actual costs a government unit incurs in managing its public rights-of-way, and includes such costs, if incurred, as those associated with registering applicants; issuing, processing, and verifying right-of-way permit applications; inspecting job sites and restoration projects; maintaining, supporting, protecting, or moving user equipment during public right-of-way work; determining the adequacy of right-of-way restoration; restoring work inadequately performed after providing notice and the opportunity to correct the work; and revoking right-of way permits.
- 9) when selecting freestanding sites, the following preferences shall be followed: Primary land use areas for monopoles as conditional use permits.
  - Industrial
  - Freeway development corridors in non-residential areas, 1,000 feet from edge of freeway right-of-way to the monopole.

- Institution/public land or structures
- Athletic complexes
- Public parks/golf courses
- Parking lots may be used to locate monopoles where the monopole replicates, incorporates or substantially blends with the overall lighting standards of the parking lot.
- Private open space as designated on the Comprehensive Plan.

Secondary land use areas for monopoles as conditional use permits.

- Residential areas within the MUSA meeting requirements of this ordinance and on five acre parcels or larger.
- Non-identified land use areas within the metropolitan Urban Service Area as the principal land use in excess of five acres.

Secondary land use areas for monopoles as interim special use permits.

- Rural un-sewered areas

Primary structural location preference for wireless communication equipment as permitted uses.

- Water towers
- Co-location on existing telecommunication towers
- Sides or roofs of buildings over three stories
- Existing power or phone pole corridors

### **Section 1325-2. Definitions.**

The following words and terms, when used in this division, shall have the following meaning unless the context clearly indicates otherwise:

**Accessory structure** means a structure located on the tower or antenna site customarily incidental to the receiving or transmitting of radio or television programs, radio and telephone receiving wave transmit/receive antennas designed for dispatching or use with household electronic equipment, including "ham" radio equipment.

**Antenna** means that portion of any equipment located on the exterior or outside of any structure, used for transmitting or receiving radio or television waves.

**Antenna, Cellular Telephone.** A device consisting of a metal, carbon fibre, or other electromagnetically conductive rods or elements, usually arranged in a circular array on a single supporting pole or other structure, and used for transmission and reception of radio waves in wireless telephone communications.

**Antenna, Microwave.** A parabolic dish or cornucopia shaped electromagnetically reflective or conductive element used for the transmission and/or reception of point to point UHF or VHF radio waves in wireless communications, and including the supporting structure thereof.

**Antenna, Radio and Television, Broadcast Transmitting.** A wire, set of wires, metal or carbon fibre rod or other electromagnetic element used to transmit public or commercial broadcast radio or television programming, and including the support structure thereof.

**Antenna, Satellite Dish.** A device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn, or cornucopia. Such device shall be used to transmit and/or receive radio or electromagnetic waves between terrestrial and/or orbital based uses. This definition is meant to include but not be limited to what are commonly referred to as satellite earth stations, TVRO's (television receive only), and satellite microwave antennas.

**Antenna, Short-Wave Radio Transmitting and Receiving.** A wire, set of wires or a device, consisting of a metal, carbon fibre, or other electromagnetically conductive element used for the transmission and reception of radio waves used for short-wave radio communications, and including the supporting structure thereof.

Tower means pole, spire, or structure, or combination thereof to which an antenna is attached and all supporting lines, cables, wires, braces, and masts.

### **Section 1325-3. Existing Antennas and Towers.**

Antennas and towers and accessory structures in existence as of Nov. 21, 1996, which do not conform to or comply with this division are subject to the following provisions:

- (1) Towers may continue in use for the purpose now used and as now existing but may not be replaced or structurally altered without complying in all respects with this division.
- (2) If such towers are damaged or destroyed due to any reason or cause whatsoever, the tower may be repaired and restored to its former use, location and physical dimensions upon obtaining a building permit therefore, but without otherwise complying with this division.

### **Section 1325-4. Interpretation.**

It is not the intention of this division to interfere with, abrogate, or annul any covenant or other agreement between parties, provided, however, where this division imposes greater restrictions upon the use or premises for antennas or towers than are imposed or required by other ordinances, rules, regulations or permits, or by covenant or agreements, the provisions of this division shall govern.

### **Section 1325-5. Inspections and violations.**

- (a) All towers, monopoles, antennas and the like must obtain a building permit and are subject to inspection by the city building official to determine compliance with UBC construction standards. Deviations from the original construction for which a permit is obtained is a misdemeanor.

- (b) Notice of violations will be sent by registered mail to the owner and he will have thirty (30) days from the date the notification is issued to make repairs. The owner will notify the building official that the repairs have been made, and as soon as possible thereafter, another inspection will be made and the owner notified of the results.

**Section 1325-6. Conditional Use Permit.**

- (a) In reviewing an application for a conditional use permit for the construction and maintenance of radio and television antennas and supporting towers, monopoles and accessory structures, the city council shall consider the advice and recommendations of the planning and zoning commission and the effect of the proposed use upon the health, safety, convenience and general welfare of occupants of surrounding lands, the effect of the proposed use on the comprehensive plan.
- (b) No person, firm or corporation shall erect a freestanding monopole, tower or accessory structure without obtaining a conditional use permit in any zoning district within the metropolitan urban Service Area. No person, firm or corporation shall erect a freestanding monopole, tower or accessory structure outside of the Metropolitan Urban Service Area in any zoning district without obtaining an Interim Conditional Use Permit. Procedures for obtaining a conditional use permit or an interim conditional use permit are the same as outlined in Section 1007-33 of the Zoning Code.
- (c) The applicant shall provide at the time of application sufficient information to indicate that construction, installation, and maintenance of the antenna and tower will not create a safety hazard or damage to the property of other persons.

(d) Conditional Use Permits are not required for:

- (1) Antennas and towers used by the city for city purposes.
- (2) Adjustment, repair or replacement of the elements of an antenna array affixed to a tower or antenna, provided that replacement does not reduce the safety factor.
- (3) Antennas and/or towers erected temporarily for test purposes, for emergency communications. Temporary antennas shall be removed within seventy-two (72) hours following the termination of testing or emergency communications needs.
- (4) Antennas mounted on water towers or on the side or on the roof of existing structures.
- (e) The fee to be paid for the conditional use permit shall be as established by resolution.

**Section 1325-7. Construction Requirements and Area, Setback and Height Restrictions.**

- (a) All antennas, towers and accessory structures shall comply with all applicable provisions of this code and this section.

- (b) No part of any tower or antenna shall be constructed, located, or maintained at any time, permanently or temporarily, in or upon any required tower setback area for the district in which the antenna or tower is to be located.
- (c) Antennas and towers shall not be erected in any zoning district in violation of the following restrictions:
  - (1) The antennas may be mounted on a single pole not to exceed one hundred seventy-five (175) feet in height, provided that the pole is located at least the height of the pole plus twenty-five feet from the nearest residential dwelling unit. Co-located monopoles shall be subject to all setback and height provisions.
  - (2) Minimum land area for freestanding monopoles on vacant properties in residential districts shall be five (5) acres.
  - (3) Metal towers shall be constructed of, or treated with corrosive resistant material.
  - (4) The use of guyed towers is prohibited. Towers must be self-supporting without the use of wires, cables, beams or other means. The design should utilize an open framework or monopole configuration. Permanent platforms or structures exclusive of antennas that serve to increase off-site visibility are prohibited.
  - (5) The base of the tower shall occupy no more than 500 square feet and the top of the tower shall be no larger than the base.
  - (6) Tower locations should provide the maximum amount of screening possible for off-site views of the facility.
  - (7) Existing on-site vegetation shall be preserved to the maximum extent practicable.
  - (8) The installation shall be designed to be compatible with the underlying site plan. The base of the tower and any accessory structures shall be landscaped where practical. Accessory structures will be designed to be architecturally compatible with principal structures on the site.
  - (9) The tower shall be a lighter blue or gray or other color that is demonstrated to minimize visibility. No advertising or identification visible off-site shall be placed on the tower or antennas.
  - (10) Antennas placed upon the tower shall be subject to state and federal regulations pertaining to non-ionizing radiation and other health hazards related to such facilities. if new, more restrictive standards are adopted the antennas shall be made to comply or continued operations may be restricted by the city council. The cost of verification of compliance shall be borne by the owner and operator of the tower.
  - (11) To prevent unauthorized entry, towers shall be provided with security fencing as needed or when required by the City.

- (12) wireless telephone antennas, where the antennas are located on an existing structure, provided that the antennas shall not extend more than twenty (20) feet above the structure to which they are attached, whichever is less, shall be permitted uses in all zoning districts of the City. Transmitting, receiving, and switching equipment shall be housed within an existing structure whenever possible. if a new equipment building is necessary for transmitting, receiving and switching equipment, it shall be situated five feet from the side or rear yard property line and shall be landscaped where appropriate.
- (d) With the exception of necessary electronic or telephone service and connection lines approved by the City, no part of any antenna or tower nor any lines, cable, equipment or wires or braces in connection with either shall at any time extend across or over any part of the right-of-way, public street, highway, sidewalk, or property line.
- (e) Towers with antennas shall be designed to withstand a uniform wind loading as prescribed by the Minnesota State Building Code.
- (f) Antennas and metal towers shall be grounded for protection against a direct strike by lightning to the latest lightning evasion practices and shall comply with electrical wiring statutes, regulations and standards.
- (g) All signal and remote control conductors of low energy extending substantially horizontally above the ground between a tower or antenna and structure, or between towers, shall be at least eight (8) feet above the ground at all points, unless buried underground.
- (h) The base of all AM/FM radio towers shall be surrounded with a six-foot high galvanized chain link fence with signs posted "Danger High Voltage" on all sides.
- (i) The requirements of this section do not apply to:
- (1) Antennas and towers used by the city for city purposes.
  - (2) Commercially used antennas and towers existing on Nov. 21, 1996.
- (j) Telecommunications equipment located on the side or on the roof of a building shall not be screened.

**Section 1325-8. Lights and Other Attachments.**

No antenna or tower shall have affixed or attached to it in any way except during time of repair or installation, any lights, reflectors, flashers, day time strobes or steady night time red lights or other illuminating devices, except as required by the Federal Aviation Agency or the Federal Communications Commission or the City, nor shall any tower have constructed thereon, or attached thereto, in any way, any platform, catwalk, crow's nest, or like structure, except during periods of construction or repair.

**Section 1325-9. Removal of Abandoned or Damaged Towers.**

Any tower and/or antenna which is not used for six (6) successive months shall be deemed abandoned and may be required to be removed in the same manner and pursuant to the same procedures as for dangerous or unsafe structures established by Minnesota Statutes, sections 463.15 through 463.26.

**Section 1325-10. Co-Location of Personal wireless Communication service Equipment.**

A proposal for a new personal wireless service tower shall not be approved unless it can be documented by the applicant to the satisfaction of the city council that the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or commercial building within one-half mile radius, transcending municipal borders, of the proposed tower due to one or more of the following reasons:

- (1) The planned equipment would exceed the structural capacity of the existing or approved tower or commercial building.
- (2) The planned equipment would cause interference with other existing or planned equipment at the tower or building.
- (3) Existing or approved towers and commercial buildings within one-half mile radius cannot accommodate the planned equipment at a height necessary to reasonable function.
- (4) The applicant has demonstrated by providing a city wide coverage/interference analysis and capacity analysis that location of the antennas as proposed is necessary to meet the frequency reuse and spacing needs of the cellular system and to provide adequate portable cellular telephone coverage and capacity to areas which cannot be adequately served by locating the antennas in a less restrictive district or an existing structure.

**Section 1325-11. Reserved.**

**Section 1325-12. Wireless Telephone Towers Proposed to be Located in the Residential Zoned Areas of the City.**

No person, firm or corporation shall erect a monopole in a residential zone within the Metropolitan Urban Service Area without obtaining a Conditional Use Permit subject to the following minimum conditions:

- (a) The applicant shall demonstrate by providing a coverage/interference analysis and capacity analysis that location of the tower as proposed is necessary to meet the frequency reuse and spacing needs of the wireless system and to provide adequate portable wireless telephone coverage and capacity to areas which cannot be adequately served by locating the antennas in a less urbanized area.
- (b) The antennas shall be located on an existing structure if possible, and shall not extend more than twenty (20) feet above the height of the structure to which they are attached.

- (c) If no existing structure which meets the height requirements for the antennas is available for mounting the antennas, the antennas may be mounted on a single pole not to exceed 175 feet in height provided that the pole is located at least the height of the tower from the nearest residential structure, unless a qualified structural engineer shall specify in writing that any collapse of the pole will occur within a lesser distance under all foreseeable circumstances and a lesser setback is agreed to by the city council.
  
- (d) Transmitting, receiving and switching equipment shall be housed within an existing structure whenever possible. If a new equipment building is necessary for transmitting, receiving and switching equipment, it shall be situated five (5) feet from the side or rear yard and shall be landscaped where appropriate.

**Section 1325-13. Proof of Non-Interference.**

Each application for a Conditional Use Permit of AM/FM radio transmission facility shall include either a preliminary or a certified statement that the construction of the tower, including reception and transmission functions, will not interfere with the radio, television, telephone, facsimile machine, computer modems, telephone answering machines, and the like that are services enjoyed by area residential and nonresidential properties. In the event only a preliminary statement is submitted with the application, a final certified statement of non-interference will be provided and approved by the city prior to issuance of a building permit. The statement shall be prepared by an engineer licensed to practice in the State of Minnesota or other professional accepted by the city. A three (3) year bond may be required as part of the Conditional Use Permit to insure non-interference equipment is provided and installed to suppress interference.

ARTICLE XI. - COMMERCIAL USE ANTENNAS AND TOWERS

FOOTNOTE(S):

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**Cross reference**— Utilities, ch. 40.

Sec. 44-1321. - Purpose; preferences for selecting sites.

- (a) To accommodate the communication needs of residents and business while protecting the public health, safety and general welfare of the community, the city council finds that this article is necessary to:
- (1) Facilitate the provision of wireless telecommunication services to the residents and businesses of the city.
  - (2) Require tower equipment to be screened from the view of persons located on properties contiguous to the site and/or to be camouflaged in a manner to complement existing structures and to minimize the visibility and the adverse visual effects of antennas and towers through careful design and siting standards.
  - (3) Ensure the operators and owners of antennas and towers design, locate and construct antennas and towers that meet all applicable code requirements to avoid potential damage to adjacent properties from tower failure through structural standards and setback requirements.
  - (4) Maximize the use of existing and approved towers and buildings for new wireless telecommunication antennas to reduce the number of towers needed to serve the community.
- (b) The following preferences shall be followed when selecting sites:
- (1) Primary structural location preference for wireless communication equipment as permitted uses shall be as follows:
    - a. Water towers or tanks.
    - b. Collocation on existing towers.
    - c. Church steeples or the church structure, when camouflaged as steeples, bell towers, or other architectural features.
    - d. Sides and roofs of buildings or structures over two stories.
    - e. Existing power or telephone pole corridors.
    - f. Light poles or towers at outdoor recreational facilities.
    - g. Parking lots may be used to locate towers where the structure replicates, incorporates or substantially blends with the overall lighting standards and fixtures of the parking lot.
  - (2) Primary land use areas for towers requiring conditional use permits shall be as follows:
    - a. Industrial and commercial.
    - b. City-owned property except water towers, other government-owned property, schools, churches or places of worship, utility, and institutional sites.
    - c. Public parks/golf courses, when compatible with the nature of the park or course.

*(Code 1982, § 36-602; Ord. No. 812, § 1(36-602), 4-23-2001)*

Sec. 44-1324. - Interpretation and applicability.

- (a) It is not the intention of this article to interfere with, abrogate or annul any covenant or other agreement between parties. However, where this article imposes greater restrictions upon the use or premises for antennas or towers than are imposed or required by other ordinances, rules, regulations or permits or by covenants or agreements, the sections of this article shall govern.
- (b) This article does not apply to the use or location of private, residential citizen band radio towers, amateur radio towers or television antennas.

*(Code 1982, § 36-603; Ord. No. 812, § 1(36-603), 4-23-2001)*

Sec. 44-1325. - Inspections and violations.

- (a) All towers, antennas and supporting structures must obtain a building permit and are subject to inspection by the city building official to determine compliance with UBC construction standards. Deviations from the original construction for which a permit is obtained, other than antenna adjustments, is a misdemeanor and, upon conviction, the person shall be punished in accordance with section 1-15
- (b) Notice of violations will be sent by registered mail to the owner, and the owner will have 30 days from the date the notification is issued to make repairs. The owner will notify the building official that the repairs have been made, and as soon as possible after that the building official will make another inspection. The owner shall be notified of the results.
- (c) Adjustments or modifications to existing antennas do not require a conditional use permit or a building permit.

*(Code 1982, § 36-604; Ord. No. 812, § 1(36-604), 4-23-2001)*

Sec. 44-1326. - Conditional use permit.

- (a) In reviewing an application for a conditional use permit for the construction of commercial antennas, towers, and accessory structures, the city council shall consider the following:
  - (1) Standards in this Code.
  - (2) Recommendations of the planning commission and community design review board.
  - (3) Effect of the proposed use upon the health, safety, convenience and general welfare of residents of surrounding areas.
  - (4) Effect on property values.
  - (5) Effect of the proposed use on the comprehensive plan.
- (b) The applicant shall provide, at the time of application, sufficient information to show that construction and installation of the antenna or tower will meet or exceed the standards and requirements of the UBC (Uniform Building Code).
- (c) Conditional use permits will not be required for the following:
  - (1) Repair or replacement or adjustment of the elements of an antenna array affixed to a tower or antenna, if the repair or replacement does not reduce the safety factor.
  - (2) Antennas mounted on water towers; on the sides or roof of existing structures; and on existing towers, power, light, or telephone poles.

- (d) The fee to be paid for the conditional use permit shall be set by city council resolution.
- (e) The applicant shall have a property acquisition specialist and a radio frequency engineer attend all city-related meetings to be available to answer questions.

*(Code 1982, § 36-605; Ord. No. 812, § 1(36-605), 4-23-2001)*

Sec. 44-1327. - Communication towers proposed in residential districts.

No person shall build or install a tower in a residential zoning district without obtaining a conditional use permit from the city council. Such a tower shall be subject to, but not limited to, the following conditions:

- (1) The city will only consider such a tower in the following residentially zoned locations or properties:
  - a. Churches or places of worship.
  - b. Parks, when the city determines the facility would be compatible with the nature of the park.
  - c. City-owned property, government, school, utility and institutional sites or facilities.
- (2) There shall be no more than one freestanding tower at one time on a property that the city has planned for a residential use or that the city has zoned residentially, unless one of the following applies:
  - a. The additional towers or antennas are incorporated into existing structures such as a church steeple, light pole, power line support device or similar structure.
  - b. The residential property is at least five acres in size.
  - c. If the proposed tower is to replace an existing tower and if the owner/user of the existing tower agrees to remove the existing tower within 30 days of the completion of the new or replacement tower.
- (3) The applicant shall demonstrate, by providing a coverage/interference analysis and capacity analysis, that location of the tower as proposed is necessary to meet the frequency reuse and spacing needs of the cellular or personal wireless communication services systems, and to provide adequate personal wireless communication or portable cellular telephone coverage and capacity to areas which cannot be adequately served by locating the antennas in a less restrictive district or on an existing structure.
- (4) If no existing structure that meets the height requirements for the antennas is available for mounting the antennas, such antennas may be mounted on a tower not to exceed 75 feet in height. The tower shall be located a distance of at least the height of the tower plus 25 feet from the nearest residential structure.
- (5) The height of a tower may be increased to a maximum of 125 feet if the tower and base area are designed and built for the collocation of at least one other personal wireless communication service provider's antennas and equipment.
- (6) Transmitting, receiving and switching equipment shall be housed within an existing structure whenever possible. If a new equipment building is necessary for transmitting, receiving and switching, the owner or operator shall locate it at least ten feet from the side or rear lot line and shall landscape and screen it. The community design review board shall review such a

building and the landscaping and screening. The owners and operators of all new equipment or utility buildings and accessory structures for towers shall design and construct such structures to blend in with the surrounding environment.

- (7) Towers shall not be located between a principal structure and a public street, unless the city determines that such a location would lessen the visibility of the tower or would lessen the negative impacts of such a facility on nearby properties.
- (8) The city may reduce or vary the required setback for a tower from a public street to allow the integration of a tower into an existing or proposed structure such as a church steeple, light pole, power line support device or similar structure.
- (9) Towers shall be built at least ten feet from side and rear property lines, unless the site is next to a residential property line or next to a property that the city is planning for a residential use. If the tower would be next to a residential property line or next to a property that the city is planning for a residential use, the tower must be located at least the height of the tower plus 25 feet from the nearest residential structure. The owner or operator shall locate ground equipment and accessory structures at least ten feet from side and rear property lines.
- (10) The owner or operator of any tower shall screen ground-mounted equipment from view by suitable vegetation, except where a design of nonvegetative screening better reflects and complements the character of the surrounding neighborhood.
- (11) Tower locations should provide the maximum amount of screening possible for off-site views of the facility and to lessen the visibility of the tower.
- (12) The existing on-site vegetation shall be preserved to the maximum practicable extent.
- (13) The community design review board (CDRB) shall make recommendations on the plans for towers, utility, equipment or accessory buildings, site plans and proposed screening and landscaping.
- (14) Towers with antennas shall be designed and constructed to withstand a uniform wind loading as prescribed by the UBC (Uniform Building Code).

*(Code 1982, § 36-606; Ord. No. 812, § 1(36-606), 4-23-2001; Ord. No. 910, 12-13-2010)*

#### **Editor's note—**

Ord. No. 910, adopted Dec. 13, 2010, changed the title of § 44-1327 from "Communication towers proposed in residential zoning districts" to "Communication towers proposed in residential districts". This historical notation has been preserved for reference purposes.

Sec. 44-1328. - Construction requirements, setback and height restrictions in zoning districts or locations other than residential.

No person, firm or corporation shall erect a tower in a location other than residential without first obtaining a conditional use permit from the city council. Such a tower shall be subject to but not limited to the following conditions:

- (1) No part of any tower or antenna shall be constructed, located or maintained at any time, permanently or temporarily, in or upon any required setback area for the district in which the antenna or tower is to be located.

- (2) All antennas, towers and accessory structures shall meet all applicable sections of this Code and this article.
- (3) Antennas and towers shall meet the following requirements:
  - a. The antennas may be mounted on a single pole or tower not to exceed 175 feet in height. The pole or tower shall be set back at least the height of the pole or tower plus 25 feet from any residential lot line.
  - b. Metal towers shall be constructed of or treated with corrosive-resistant material.
  - c. The use of guyed towers is prohibited.
  - d. Tower locations should provide the maximum amount of screening possible for off-site views of the facility and to lessen the visibility of the tower.
  - e. Existing on-site vegetation shall be preserved to the maximum practicable extent.
  - f. The installation shall be designed to be compatible with the underlying site plan. The owner or operator shall landscape the base of the tower and any accessory structures. Accessory structures and equipment buildings shall be designed to be architecturally compatible with any principal structures on the site. All new equipment or utility buildings and accessory structures for towers shall be designed and constructed to blend in with the surrounding environment. The community design review board shall review the design plans for towers, utility, equipment or any accessory structures, site plans and proposed screening and landscaping.
  - g. Towers shall be a light blue or gray or other color shown to reduce visibility. No advertising or identification visible off site shall be placed on the tower or buildings.
  - h. Antennas placed upon the tower shall comply with all state and federal regulations about nonionizing radiation and other health hazards related to such facilities.
  - i. Wireless telephone or personal wireless communication service antennas, where located on an existing structure, shall not extend more than 25 feet above the structure to which they are attached. Such antennas are a permitted use in all zoning districts of the city. The city council, after a recommendation from the community design review board, must approve the plans for all sets of antennas on a building after the second personal wireless communication service provider has installed its antennas on the building.
  - j. Towers with antennas shall be designed and constructed to withstand a uniform wind loading as prescribed by the UBC (Uniform Building Code).
  - k. Telecommunications equipment located on the side of an existing structure or on a roof of a structure shall not be screened.
  - l. Towers shall not be located between a principal structure and a public street unless the city determines that such a location would lessen the visibility of the tower or would lessen the negative impacts of such a facility on nearby properties.
  - m. The city may reduce or vary the required setback for a tower from a public street to allow the integration of a tower into an existing or proposed structure such as a church steeple, light pole, power line support device or similar structure.
  - n. Towers shall be set back at least ten feet from side and rear property lines unless the site

is next to a residential lot line. If the tower would be next to a residential property line or next to a property that the city is planning for a residential use, the tower must be located at least the height of the tower plus 25 feet from the nearest residential structure. The owner or operator shall locate ground equipment and accessory structures at least ten feet from side and rear property lines.

- o. The owner or operator of a tower shall screen ground-mounted equipment from view by suitable vegetation, except where a design of nonvegetative screening better reflects and complements the character of the surrounding neighborhood.
- p. Tower locations should provide the maximum amount of screening possible for off-site views of the facility and to lessen the visibility of the tower.
- q. The existing on-site vegetation shall be preserved to the maximum practicable extent.
- r. The community design review board (CDRB) shall make recommendations on the plans for towers, utility, equipment or accessory buildings, site plans and proposed screening and landscaping.

*(Code 1982, § 36-607; Ord. No. 812, § 1(36-607), 4-23-2001)*

Sec. 44-1329. - Lights, signs and other attachments.

- (a) No antenna or tower shall have affixed or attached to it in any way any lights, reflectors, flashers, daytime strobes or steady nighttime light or other illuminating devices except:
  - (1) Those needed during time of repair or installation.
  - (2) Those required by the Federal Aviation Administration, the Federal Communications Commission or the city.
  - (3) For towers in parking lots, lights associated with the parking lot lighting.
- (b) In addition, no tower shall have constructed thereon or attached thereto, in any way, any platform, catwalk, crow's nest, or like structure, except during periods of construction or repair.
- (c) No antenna or tower shall have signage, advertising or identification of any kind visible from the ground or from other structures, except necessary warning and equipment information signage required by the manufacturer or by federal, state or local authorities.

*(Code 1982, § 36-608; Ord. No. 812, § 1(36-608), 4-23-2001)*

Sec. 44-1330. - Removal of abandoned or damaged towers.

Any tower and/or antenna that is not used for one year shall be deemed abandoned and shall be removed in the same manner and pursuant to the same procedures as for dangerous or unsafe structures established by Minn. Stats. §§ 463.15—463.26.

*(Code 1982, § 36-609; Ord. No. 812, § 1(36-609), 4-23-2001; Ord. No. 910, 12-13-2010)*

Sec. 44-1331. - Collocation of personal wireless communication service equipment.

- (a) The city shall not approve a request for a new personal wireless service tower unless it can be documented by the applicant to the satisfaction of the city council that the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or commercial building within one-half mile radius, transcending municipal borders, of the proposed tower due to one or more of the following:

- (1) The planned equipment would exceed the structural capacity of the existing or approved tower or commercial building.
  - (2) The planned equipment would cause interference with other existing or planned equipment at the tower or building.
  - (3) Existing or approved structures and commercial buildings within a one-half-mile radius cannot or will not reasonably accommodate the planned equipment at a height necessary to function.
  - (4) The applicant must demonstrate, by providing a citywide coverage/interference and capacity analysis, that the location of the antennas as proposed is necessary to meet the frequency reuse and spacing needs of the communication service system and to provide adequate coverage and capacity to areas that cannot be adequately served by locating the antennas in a less restrictive district or on existing structure.
- (b) Additional submittal requirements. Besides the information required elsewhere in this Code, all conditional use permit applications for towers also shall include the following information:
- (1) A letter of intent committing the tower owner and his successors to allow the shared use of the tower if an additional user agrees to meet reasonable terms and conditions for shared use.
  - (2) The applicant shall demonstrate that the proposed facility is necessary to fill a significant existing gap in users' coverage or to accommodate system capacity needs. This documentation shall include the following:
    - a. Coverage maps of all the applicant's or the provider's existing antenna sites within one mile of the proposed facility.
    - b. A map showing all existing personal wireless communication service antenna sites within one mile of the proposed facility.
  - (3) The proposal is the least intrusive method of achieving the necessary coverage or additional system capacity in the area and other alternatives will not work.
  - (4) The equipment planned for the proposed tower cannot be accommodated at any existing tower or antenna facility. The city may find that a collocation site cannot accommodate the planned equipment for the following reasons:
    - a. The planned equipment would exceed the structural capacity of the preferred collocation site and the preferred collocation site cannot be reinforced, modified or replaced to accommodate the planned equipment or its equivalent at a reasonable cost, as certified by a qualified radio frequency engineer;
    - b. The planned equipment would significantly interfere with the usability of existing or approved equipment at the preferred collocation site and the interference cannot be prevented at a reasonable cost, as certified by a qualified radio frequency engineer;
    - c. A preferred collocation site cannot accommodate the planned equipment at a height necessary to function reasonably, as certified by a qualified radio frequency engineer; or
    - d. The applicant, after a good-faith effort, is unable to lease, purchase or otherwise secure space for the planned equipment at an existing antenna location.

The city may require the applicant to hire or pay for a study or other research by a qualified radio frequency engineer to determine the need for the proposed tower.

- (5) Materials or documentation demonstrating to the city that the applicant has made a good-faith effort to collocate on existing towers, but he could not reach an agreement to collocate on an existing tower.
- (6) Design information and documentation showing how the applicant, owner or operator of the tower has designed structurally, electrically and in all respects the tower to accommodate both the applicant's antennas and the antennas for at least two additional users if the tower is equal to or more than 100 feet in height in all locations or for at least one additional user if the tower is equal to or more than 75 feet in height. The applicant and owner must design and install a new tower to allow for the maximum future arrangement of antennas on the tower, to accept antennas mounted at varying heights and to accommodate the equipment and other needs of future users.
- (7) Photo-illustrations or similar-styled artist's renderings of the proposed tower and base site that show the appearance of the proposed tower and the proposed ground equipment or buildings after the contractor completes them.

*(Code 1982, § 36-610; Ord. No. 812, § 1(36-610), 4-23-2001)*

Sec. 44-1332. - Interference with public safety telecommunications.

All new or existing telecommunications service and equipment shall meet or exceed all Federal Communication Commission (FCC) standards and regulations and shall not interfere with public safety telecommunications.

*(Code 1982, § 36-611; Ord. No. 812, § 1(36-611), 4-23-2001)*

Sec. 44-1333. - Additional submittal requirements.

Besides the information required elsewhere in this Code, building permit applications for towers shall include a report and plans from a qualified and registered engineer or others that:

- (1) Describes the tower height and design including a cross section and elevation.
- (2) Documents the height above grade for all potential mounting positions for collocated antennas and the minimum separation distances between antennas.
- (3) Describes the tower's capacity, including the number and type of antennas that it can hold.
- (4) Includes an engineer's stamp and registration number, if applicable.
- (5) Includes all other information necessary for the city to evaluate the request.

*(Code 1982, § 36-612; Ord. No. 812, § 1(36-612), 4-23-2001)*

Sec. 44-1334. - Variances.

- (a) The city council may grant variances to the requirements of this article. All variances must follow the requirements provided in Minnesota State Statutes.
- (b) The applicant for a variance shall submit, with the variance application and any other required materials, a statement showing how the proposal would meet the findings for variance approval.

*(Code 1982, § 36-613; Ord. No. 812, § 1(36-613), 4-23-2001; Ord. No. 924, § 1, 6-25-2012)*

**11-4-7: ELECTROMAGNETIC COMMUNICATION FACILITIES (EMCF):**

- A. Purpose: The purpose of this section is to establish regulations for the siting, construction and maintenance of electromagnetic communication facilities within Cottage Grove that protect the public health, safety and general welfare of the community.
- B. Objectives: The regulations and requirements of this section are intended to:
1. Provide for the appropriate location and development of antennas and towers within the city.
  2. Minimize adverse visual effects of EMCFs through uniform design and siting standards.
  3. Utilize standard structural and setback requirements to avoid potential damage to adjacent properties from antenna and tower failure.
  4. Maximize the use of existing approved structures for siting new antennas in order to reduce the number of new towers needed to serve the community. (Ord. 635, 9-18-1996)
- C. Accessory Use: Within all zoning districts, EMCFs which are accessory to the principal use are subject to the established height and setback requirements for the principal structure. (Ord. 635, 9-18-1996; amd. 2000 Code)
- D. Conditional Use: EMCFs are a conditional use within all zoning districts subject to the following performance standards:
1. Permit Required; Exemptions; Applications:
    - a. It shall be unlawful for any person, firm, or corporation to erect, construct in place, place, replace, or structurally repair any EMCF without first making application to the Building Inspection Division and securing permit approval.
    - b. Building permits are not required for adjustment or replacement of the elements of an antenna array affixed to a tower or antenna, erection of temporary antennas or towers utilized for testing purposes, emergency communication, or for broadcast remote pick-up operations.
    - c. The applicant shall demonstrate by providing a coverage/interference analysis and capacity analysis that the location of the antenna as proposed is necessary to meet the frequency reuse and spacing needs of the proposed EMCF and to provide

adequate coverage and capacity to areas which cannot be adequately served by locating the antenna in a less restrictive district.

- d. All applications for the location of new EMCFs or service shall be accompanied by an intermodulation study which provides a technical evaluation of existing and proposed transmissions and indicates all potential interference problems.

2. Permitted Locations:

- a. Church sites when architecturally camouflaged as steeples, bell towers, or similar architectural features and attached to the principal structure.
- b. Parks and public open space sites when located on existing structures and designed to be compatible with the nature of the site.
- c. Government, school and public utility structures.
- d. Principal structures in commercial, industrial and agricultural zoning districts.
- e. Accessory structures within industrial districts.
- f. Freestanding EMCFs in agricultural and industrial zoning districts.

3. Spacing: The minimum spacing between EMCFs is one-quarter ( $\frac{1}{4}$ ) mile, except for co-location.

4. Setbacks: Setback requirements for EMCFs are as follows:

- a. An EMCF attached to a building shall comply with the setbacks of the zoning district.
- b. Freestanding EMCFs shall not be placed in the front yard.
- c. Freestanding EMCFs shall not be placed between the principal structure and any adjoining public right of way.
- d. Freestanding EMCFs shall be set back three feet (3') from any property line for each one foot (1') of structure height.

5. Height: Height calculations are determined by measuring the vertical distance between the grade around supporting structures for EMCFs, and the highest point on the freestanding or mounted facility. Individual EMCF height must comply as follows:

- a. EMCFs attached to existing structures shall not exceed fifteen feet (15').
- b. The maximum height of any freestanding EMCF is one hundred fifty feet (150').
- c. The City Council may require a twenty five percent (25%) reduction in the maximum height limits of EMCFs in all zoning districts if the topography of a proposed EMCF site is at a substantially higher elevation than the surrounding public roadways or residential areas.

6. Architectural Design: All proposed EMCFs shall be designed to blend in to the surrounding environment through the use of color and camouflaging architectural treatment, except where color is dictated by Federal or State regulations.
7. Structural Design: The structural design of EMCFs must comply with the following:
  - a. Any proposed EMCF over sixty feet (60') shall be designed for co-location of at least one additional EMCF.
  - b. Any proposed EMCF over one hundred feet (100') in height shall be designed for co-location of at least two (2) additional EMCFs.
  - c. EMCFs must be designed to allow for future rearrangement of equipment upon the structure, and to accept attachments mounted at varying heights.
  - d. All freestanding EMCFs must be self-supporting without the use of wires, cables, beams or other means. The design should utilize an open framework or monopole configuration that is designed to collapse in on itself in the event of structural damage. Permanent attachments, exclusive of antennas, that serve to increase off-site visibility, are prohibited.
8. Screening: EMCFs should be located in areas that provide the maximum amount of natural or existing structural screening for off-site views of the facility. The ground level perimeter of all EMCFs shall be screened with a dense vegetative landscaping barrier that consists of seventy five percent (75%) coniferous plantings.
9. Lighting: EMCFs shall not be illuminated by artificial means, and shall not display strobe lights unless such lighting is required by Federal or State regulations. When incorporated into the design of the EMCF, light fixtures used to illuminate ball fields, parking lots or similar areas may be attached to the EMCF.
10. Signs: The use of any portion of an EMCF for signs other than warning or equipment information is prohibited.
11. Fencing: All facility fencing shall be six feet (6') in height or under, and shall not employ barbed wire, electricity or any other similar security devices. Plastic, fabric, mesh or other opaque fencing insert materials are prohibited.
12. Enclosed Mechanical And Electrical Equipment: EMCF mechanical and electrical equipment that is sited within ten feet (10') of the ground shall be enclosed in a structure.
13. Utility Structures: All utility buildings and structures accessory to an EMCF shall meet the minimum setbacks of the zoning districts, and be architecturally designed, constructed and screened to blend in to the surrounding environment and architectural character of the adjacent land use. Ground mounted structures shall utilize coniferous vegetation for required landscape screening.
- X 14. Commercial EMCFs: All commercial EMCFs erected, constructed, or located within the City shall not be approved unless the City Council finds that the equipment planned for the proposed EMCF cannot be accommodated on an existing or approved tower,

building or structure within a one mile search radius of the proposed tower due to one or more of the following reasons:

- a. The planned equipment would exceed the structural capacity of the existing or approved structure, as documented by a qualified and licensed professional engineer, and the existing or approved structure cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.
  - b. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified and licensed professional engineer, and the interference cannot be prevented at a reasonable cost.
  - c. Existing or approved EMCFs and buildings within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer.
  - d. Existing structures are not located within an area that meets the frequency reuse and spacing needs of the proposed EMCF.
  - e. Other unforeseen reasons that make it infeasible to locate the planned equipment upon an existing or approved structure.
15. Safety; Effects On Others: All construction, installation, wiring and maintenance of EMCFs shall not create a safety hazard or damage to the property of others.
16. Encroachment Over Public Ways: With the exception of necessary electric and telephone service and connection lines approved by the issuing authority, no part of any antenna or tower nor any lines, cable, equipment or wires or braces, in connection with either, shall at any time extend across or over any part of the right of way, public street, highway, sidewalk, or property line.
17. Signal And Remote Control Conductors: All signal and remote control conductors of low energy extending substantially horizontally above the ground between a tower or antenna and a structure, or between towers shall be at least eight feet (8') above the ground at all points, unless buried underground.

E. Change In Zoning: When the property is rezoned and the new zoning classification does not permit an EMCF in conformance with provisions of this Code, any existing EMCF shall be removed prior to preliminary plat approval or building permit issuance, whichever occurs first.

F. Abandoned, Unused EMCFs: Abandoned or unused EMCFs shall be removed within twelve (12) months of the cessation of operations at the site, unless a time extension is granted by the Director of Community Development. Unused portions of EMCFs above a manufactured connection shall be removed within six (6) months of the time of the

antenna relocation. The replacement of portions of a EMCF previously removed requires a conditional use permit amendment.

- G. Interference: No new or existing EMCF service shall interfere with public safety communications. Before the introduction of new services or changes in existing services, EMCF providers shall notify the City at least ten (10) calendar days in advance of such changes and allow the City to monitor interference levels during the testing process.
- H. Radiation: EMCFs placed within the City shall be subject to State and Federal regulations pertaining to nonionizing radiation and other health hazards related to such facilities. If additional restrictive standards are adopted, the EMCFs shall be made to comply, or continued operation of the conditionally permitted facility may be restricted by the City Council. The cost of verification of compliance shall be borne by the owner and operator of the EMCF.
- I. Existing EMCFs: All EMCFs that are in existence as of September 18, 1996, may continue in use for the purpose now used and as now existing, but may not be replaced or structurally altered without complying in all respects with this Section.
- J. Abrogation And Greater Restrictions: It is not the intention of this Section to interfere with, abrogate, or annul any covenant or other agreement between parties, provided, however where this Section imposes a greater restriction upon the use or premises for antennas or towers than are imposed or required by other sections, rules, regulations, or permits, or by covenants or agreements, the provisions of this Section shall govern. (Ord. 635, 9-18-1996)

#### **11-4-8: SATELLITE RECEIVE-ONLY ANTENNAS (SROA):**

- A. Permitted Accessory Use: Satellite receive-only antennas (SROA) shall be a permitted accessory use in all districts, subject to the standards of this Section. (1971 Code § 28-36.2)
- B. Freestanding SROAs:
1. In districts R-2.5, R-3, R-4, R-5 and R-6, no SROA shall be placed within any required front yard. (1971 Code § 28-36.2; amd. Ord. 640, 12-4-1996; 2000 Code)

2. In all districts, SROAs shall be subject to the same setback requirements in rear or side yards which would apply to other accessory structures within the district.
3. No antenna shall be placed less than twenty feet (20') from a public street right of way. All such antennas shall be securely anchored.

C. Roof-Mounted SROAs: Every SROA mounted on a roof shall be subject to the normal height limits of the zoning district in which it is located and shall comply with any applicable requirements of the Uniform Building Code.

D. Additional Provisions:

1. In business and industrial districts, every exterior display of four (4) or more SROAs for sale shall be considered an open sales lot and shall be subject to regulations for open sales lots applicable to that zoning district.
2. Advertising shall not be placed on satellite antennas. (1971 Code § 28-36.2)

WOODBURY

## DIVISION 4. - ANTENNAS AND TOWERS

## Sec. 24-314. - Purpose and intent.

In order to accommodate the communication needs of residents and business while protecting the public health, safety and general welfare of the community, the council finds that these regulations are necessary in order to establish predictable and balanced regulations for the siting and screening of wireless communications equipment while protecting the public against any adverse impacts on the city's aesthetic resources and the public welfare.

Goals in adopting this division are as follows:

- (a) Minimize adverse visual effects of towers through careful design and siting standards;
- (b) Avoid potential damage to adjacent properties from tower failure through structural standards and setback requirements;
- (c) Maximize the use of existing and approved towers and buildings to accommodate new wireless telecommunication antennas in order to reduce the number of towers needed to serve the community;
- (d) Utilization of public land, buildings and structures for wireless communications whenever possible;
- (e) The purpose on land outside the MUSA priority will be to site freestanding towers on property identified on the comprehensive plan as open space or along proposed trail routes;
- (f) Require monopoles be designed to accommodate at least two separate users;
- (g) Freestanding monopoles shall be designed to encourage co-location of facilities on the same structure or on the same site;
- (h) When selecting freestanding sites, the following requirements shall be followed:
  - (1) Locations for wireless communication antennas as permitted uses.
    - Water towers.
    - Co-location on existing telecommunication monopoles or towers.
    - Roofs of buildings over three stories.
    - Sides of buildings over two stories.
    - Existing power or phone pole corridors.
    - Public streets and rights-of-way where attached to, or part of a public utility structure.
  - (2) Land uses for monopoles as interim conditional uses.
    - Residential parcels above 20 acres in size.
    - Public parks and open spaces above 20 acres in size.
    - Public/semi-public.
    - Existing monopoles as of November 12, 2008.

Commercial planned unit developments.

- (3) Locations for monopoles as conditional uses  
Steeple, bell towers or like structures.

*(Ord. No. 1863, § 1863.02, 10-24-2012)*

Sec. 24-315. - Existing antennas and towers.

Antennas and towers and accessory structures in existence as of November 12, 2008, which do not conform to or comply with this division are subject to the following provisions:

- (a) Towers may continue in use for the purpose now used and as now existing but may not be replaced or structurally altered without complying in all respects with this division.
- (b) If such towers are damaged or destroyed due to any reason or cause whatsoever, the tower may be repaired and restored to its former use, location and physical dimensions upon obtaining a building permit.

*(Ord. No. 1863, § 1863.02, 10-24-2012)*

Sec. 24-316. - Interpretation.

It is not the intention of this division to interfere with, abrogate, or annul any covenant or other agreement between parties; provided, however, where this division imposes greater restrictions upon the use or premises for antennas or towers than are imposed or required by other ordinances, rules, regulations or permits, or by covenants or agreements, the provisions of this division shall govern.

*(Ord. No. 1863, § 1863.02, 10-24-2012)*

Sec. 24-317. - Reserved.

Sec. 24-318. - Interim conditional use permit.

- (a) In reviewing an application for an interim conditional use permit for the construction and maintenance of radio and television antennas and supporting towers, monopoles and accessory structures, the city council shall consider the advice and recommendations of the planning and zoning commission and the effect of the proposed use upon the health, safety, convenience and general welfare of occupants of surrounding lands, the effects on property values of property in surrounding areas, and the effect of the proposed use on the comprehensive plan.
- (b) No person, firm or corporation shall erect a freestanding monopole, tower or accessory structure in any zoning district without obtaining an interim conditional use permit. Procedures for obtaining an interim conditional use permit are the same as outlined in article 2, division 3 of the Zoning Code.
- (c) The applicant shall provide at the time of application sufficient information to indicate that construction, installation, and maintenance of the antenna and tower will not create a safety hazard or damage to the property of other persons.
- (d) Interim conditional use permits are not required for:
  - (1) Antennas and towers used by the city for city purposes.
  - (2) Adjustment, repair or replacement of the elements of an antenna array affixed to a tower or antenna, provided that replacement does not reduce the safety factor.

- (3) Antennas and/or towers erected temporarily for test purposes, for emergency communications. Temporary antennas shall be removed within 72 hours following the termination of testing or emergency communications needs.
  - (4) Antennas mounted on water towers or on the side or on the roof of existing structures.
  - (5) Co-location on existing telecommunication towers.
  - (6) Roofs of buildings over three stories.
  - (7) Sides of buildings over two stories.
  - (8) Existing power or phone pole corridors.
  - (9) Public streets and rights-of-way where attached to, or part of a public utility structure.
- (e) The fee to be paid for the interim conditional use permit shall be established by resolution.  
(Ord. No. 1863, § 1863.02, 10-24-2012)

Sec. 24-319. - Construction requirements and area, setback and height restrictions.

- (a) All antennas, towers and accessory structures shall comply with all applicable provisions of this Code and this section.
- (b) No part of any tower or antenna shall be constructed, located, or maintained at any time, permanently or temporarily, in or upon any required tower setback area for the district in which the antenna or tower is to be located.
- (c) Antennas and towers shall not be erected in any zoning district in violation of the following restrictions:
  - (1) The antenna may be mounted on a single pole not to exceed 75 feet in height, provided that the pole is located at least the height of the pole plus 25 feet from the nearest residential dwelling unit. Co-located monopoles shall be subject to all setback and height provisions.
  - (2) Minimum land area for freestanding monopoles on vacant properties in residential districts shall be 20 acres.
  - (3) Metal towers shall be constructed of, or treated with, corrosive-resistant material.
  - (4) The use of guyed towers is prohibited. Towers must be self-supporting without the use or wires, cables, beams or other means. The design should utilize an open framework or monopole configuration. Permanent platforms or structures exclusive of antennas that serve to increase off-site visibility are prohibited.
  - (5) The base of the tower shall occupy no more than 500 square feet and the top of the tower shall be no larger than the base.
  - (6) Tower locations should provide the maximum amount of screening possible for off-site views of the facility.
  - (7) Existing on-site vegetation shall be preserved to the maximum extent practicable.
  - (8) The installation shall be designed to be compatible with the underlying site plan. The base of the tower and any accessory structures shall be landscaped where practical. Accessory structures will be designed to be architecturally compatible with principal structures on the site.
  - (9) The tower shall be a lighter blue or gray or other color that is demonstrated to minimize visibility. No advertising or identification visible off-site shall be placed on the tower or

antennas.

- (10) Antennas placed upon the tower shall be subject to state and federal regulations pertaining to non-ionizing radiation and other health hazards related to such facilities. If new, more restrictive standards are adopted, the antennas shall be made to comply or continued operations may be restricted by the city council. The cost of verification of compliance shall be borne by the owner and operator of the tower.
  - (11) To prevent unauthorized entry, towers shall be provided with security fencing as needed or when required by the city.
  - (12) Wireless telephone antennas, where the antennas are located on an existing structure, provided that the antennas shall not extend more than 20 feet above the structure to which they are attached, whichever is less, shall be permitted used in all zoning districts in the city. Transmitting, receiving, and switching equipment shall be housed within an existing structure whenever possible. If a new equipment building is necessary for transmitting, receiving and switching equipment, it shall be situated five feet from the side or rear yard property line and shall be landscaped where appropriate.
- (d) With the exception of necessary electronic or telephone service and connection lines approved by the city, no part of any antenna or tower nor any lines, cable, equipment or wires or braces in connection with either shall at any time extend across or over any part of the right-of-way, public street, highway, sidewalk, or property line.
  - (e) Towers with antennas shall be designed to withstand a uniform wind loading as prescribed by the Minnesota State Building Code.
  - (f) Antennas and metal towers shall be grounded for protection against a direct strike by lightning to the latest lightning evasion practices and shall comply with electrical wiring statutes, regulations and standards.
  - (g) All signal and remote control conductors of low energy extending substantially horizontally above the ground between a tower or antenna and structure, or between towers, shall be at least eight feet above the ground at all points, unless buried underground.
  - (h) The base of all AM/FM radio towers shall be surrounded with a six-foot high galvanized chain link fence with signs posted "Danger High Voltage" on all sides.
  - (i) The requirements of this section do not apply to:
    - (1) Antennas and towers used by the city for city purposes.
    - (2) Commercially used antennas and towers existing on April 10, 1985.
  - (j) Telecommunications equipment located on the side or on the roof of a building shall not be screened.

*(Ord. No. 1863, § 1863.02, 10-24-2012)*

#### Sec. 24-320. - Lights and other attachments.

No antenna or tower shall have affixed or attached to it in any way except during time of repair or installation, any lights, reflectors, flashers, daytime strobes or steady nighttime red lights or other illuminating devices, except as required by the Federal Aviation Agency or the Federal Communications Commission or the city, nor shall any tower have constructed thereon, or attached thereto, in any way,

any platform, catwalk, crow's nest, or like structure, except during periods of construction or repair.

*(Ord. No. 1863, § 1863.02, 10-24-2012)*

Sec. 24-321. - Removal of abandoned or damaged towers.

Any tower and/or antenna which is not used for six successive months shall be deemed abandoned and may be required to be removed in the same manner and pursuant to the same procedures as for dangerous or unsafe structures established by Minn. Stats. §§ 463.15 through 463.26.

*(Ord. No. 1863, § 1863.02, 10-24-2012)*

Sec. 24-322. - Co-location of personal wireless communication service equipment.

A proposal for a new personal wireless service tower shall not be approved unless it can be documented by the applicant to the satisfaction of the city council that the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or commercial building within one-half-mile radius, transcending municipal borders, of the proposed tower due to one or more of the following reasons:

- (a) The planned equipment would exceed the structural capacity of the existing or approved tower or commercial building.
- (b) The planned equipment would cause interference with other existing or planned equipment at the tower or building.
- (c) Existing or approved towers and commercial buildings within one-half-mile radius cannot accommodate the planned equipment at a height necessary to reasonable function.
- (d) The applicant has demonstrated by providing a city wide coverage/interference analysis and capacity analysis that location of the antennas as proposed is necessary to meet the frequency reuse and spacing needs of the cellular system and to provide adequate portable cellular telephone coverage and capacity to areas which cannot be adequately served by locating the antennas in a less restrictive district or an existing structure.

*(Ord. No. 1863, § 1863.02, 10-24-2012)*

Sec. 24-323. - Wireless telephone towers proposed to be located in residential zoned areas.

No person, firm or corporation shall erect a monopole in a residential zone within the metropolitan urban service area without obtaining an interim conditional use permit subject to the following minimum conditions:

- (a) The applicant shall demonstrate by providing a coverage/interference analysis and capacity analysis that location of the tower as proposed is necessary to meet the frequency reuse and spacing needs of the wireless system and to provide adequate portable wireless telephone coverage and capacity to areas which cannot be adequately served by locating the antennas in a less urbanized area.
- (b) The antennas shall be located on an existing structure if possible, and shall not extend more than 20 feet above the height of the structure to which they are attached.

- (c) If no existing structure which meets the height requirements for the antennas is available for mounting the antennas, the antennas may be mounted on a single pole not to exceed 75 feet in height provided that the pole is located at least the height of the tower from the nearest residential structure, unless a qualified structural engineer shall specify in writing that any collapse of the pole will occur within a lesser distance under all foreseeable circumstances and a lesser setback is agreed to by the city council.
- (d) Transmitting, receiving and switching equipment shall be housed within an existing structure whenever possible. If a new equipment building is necessary for transmitting, receiving and switching equipment, it shall be situated 75 feet from the side or rear yard and shall be landscaped where appropriate.

*(Ord. No. 1863, § 1863.02, 10-24-2012)*

Sec. 24-324. - Proof of noninterference.

Each application for an interim conditional use permit of AM/FM radio transmission facility shall include either a preliminary or a certified statement that the construction of the tower, including reception and transmission functions, will not interfere with the radio, television, telephone, facsimile machine, computer modems, telephone answering machines, and the like that are services enjoyed by area residential and nonresidential properties. In the event only a preliminary statement is submitted with the application, a final certified statement of noninterference will be provided and approved by the city prior to issuance of a building permit. The statement shall be prepared by an engineer licensed to practice in the State of Minnesota or other professional accepted by the city. A three-year bond may be required as part of the interim conditional use permit to insure noninterference equipment is provided and installed to suppress interference.

*(Ord. No. 1863, § 1863.02, 10-24-2012)*

Secs. 24-325—24-400. - Reserved.