



**CITY OF NEWPORT  
PLANNING COMMISSION MEETING  
NEWPORT CITY HALL  
APRIL 10, 2014 - 6:00 P.M.**

|               |                  |                     |              |
|---------------|------------------|---------------------|--------------|
| Chairperson:  | Dan Lund         | City Administrator: | Deb Hill     |
| Vice-Chair:   | Anthony Mahmood  | Executive Analyst:  | Renee Helm   |
| Commissioner: | Susan Lindoo     | Planner:            | Sherri Buss  |
| Commissioner: | Matt Prestegaard | Council Liaison:    | Tom Ingemann |
| Commissioner: | Kevin Haley      |                     |              |

**AGENDA**

**1. CALL TO ORDER**

**2. ROLL CALL**

**3. APPROVAL OF PLANNING COMMISSION MINUTES**

- A. Planning Commission Minutes of March 12, 2014

**4. APPOINTMENTS WITH COMMISSION**

- A. **Public Hearing** – To consider amendments to the Zoning Code, Chapter 1300, Section 1330 General District Regulations, Section 1350 Non-residential Districts, and Section 1370.09 River Redevelopment Overlay District and Amending the Zoning Map
1. **Resolution No. P.C. 2014-4** - Recommending the City Council Approve a Zoning Amendment to Section 1330 General District Regulations, Section 1350 Non-Residential Districts, and Section 1370.09 River Redevelopment Overlay District and Amending the Zoning Map
- B. Application from David Sullivan for Approval of a Rezoning and Conditional Use Permit for Property Located on 7th Avenue between 3rd and 6th Streets
1. **Resolution No. P.C. 2014-1** - Recommending the City Council Approve a Rezoning from B-1 to B-2 for Property Located on 7th Avenue between 3rd and 6th Streets
  2. **Resolution No. P.C. 2014-2** - Recommending the City Council Approve a Conditional Use Permit for Property Located on 7th Avenue between 3rd and 6th Streets for a Automobile Repossession Business Use

**5. COMMISSION & STAFF REPORTS**

**6. NEW BUSINESS**

- A. Discussion Regarding Lot Coverage

**7. ANNOUNCEMENTS**

- A. Upcoming Meetings and Events:

|                                |                |           |
|--------------------------------|----------------|-----------|
| 1. City Council Meeting        | April 17, 2014 | 5:30 p.m. |
| 2. Park Board Meeting          | April 24, 2014 | 7:00 p.m. |
| 3. City Council Meeting        | May 1, 2014    | 5:30 p.m. |
| 4. Planning Commission Meeting | May 8, 2014    | 6:00 p.m. |

**8. ADJOURNMENT**



**City of Newport  
Planning Commission Minutes  
March 12, 2014**

**1. CALL TO ORDER**

Chairperson Lund called the meeting to order at 7:00 P.M.

**2. ROLL CALL -**

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

Commissioners absent – Kevin Haley

Also present – Deb Hill, City Administrator; Renee Helm, Executive Analyst; Sherri Buss, TKDA Planner; Jon Herdegen, City Engineer

**3. APPROVAL OF PLANNING COMMISSION MINUTES**

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

**Motion by Mahmood, seconded by Prestegaard, to approve the February 13, 2014 minutes as presented. With 4 Ayes, 0 Nays, 1 Absent, the motion carried.**

**4. APPOINTMENTS WITH COMMISSION**

**A. Public Hearing – To consider an application from David Sullivan for Approval of a Rezoning and Conditional Use Permit for Property Located on 7th Avenue between 2nd and 6th Streets**

Sherri Buss, TKDA Planner, presented on this item as outlined in the March 12, 2014 Planning Commission Packet.

**Chairperson Lund** - We specifically exclude barbed wire fence. We just passed that within the last few months.

**Executive Analyst Helm** - It lists that barbed wire is allowed in the industrial districts but it doesn't list anything regarding barbed wire in any of the other districts.

**Ms. Buss** - We did look it up and it allows other materials as approved by the Zoning Administrator so that would be a discussion for you tonight.

**Chairperson Lund** - Can you look it up?

**Executive Analyst Helm** - Yes. What was approved was you had replaced barbed wire with electric fences in the residential and mixed-use districts but you don't say specifically that it is not allowed.

**Chairperson Lund** - What about Section 1330.05, Subd. 15, item C?

**Executive Analyst Helm** - That is for industrial districts, Subd. 21 is for residential and mixed-use districts and that does say anything regarding barbed wire.

**Ms. Buss** - It has a list of allowed materials and says the City can approve other things.

**Chairperson Lund** - So it applies to the business district but not the mixed-use districts?

**Executive Analyst Helm** - Yes.

**Susan Lindoo** - So you can't have barbed wire in the B-1 District but you can in the mixed-use districts?

**Chairperson Lund** - We didn't look at it in the mixed-use.

**Ms. Buss** - Yes, and because there's that clause in there that says other materials can be approved you need to discuss if you want to recommend approving barbed wire.

**The Public Hearing opened at 7:20 p.m.**

Chairperson Lund read the below from Pauline Schottmuller, 97 10th Street. Ms. Schottmuller sent the attached emails to Admin. Hill to include during the public hearing.

**Chairperson Lund** - "Dear Planning Commission Members, I am out of town tonight but I wanted to get my 2 cents in about the rezoning request for the Knauff property. As most of you know, I was a Newport City councilmember for 12 years. I sat on the council that first rezoned this property to mixed use. I'd like you to know some of that history as it is pertinent to the discussion tonight.

The rezone of the 7th Ave. neighborhood to mixed use was very controversial with the residents of that neighborhood. We did a lot of rezoning at that time but the vast majority of my time was spent with the 7th Ave. neighborhood addressing their concerns. The reality is that 7th Ave. is both business and residential and MX was the only zone that addressed both uses. The residents' concerns were that 7th Ave. should be treated primarily as a residential neighborhood and any business needs to blend in and compliment. They would point to Kiss's and say that was an okay business. They would point to Bill's Auto Parts and say "look what we have to live with". They were not trusting that City Hall would make sure that any new business would be a better neighbor than Bill's Auto Parts. We promised that we would. Now it is up to you to make good on that promise.

I have looked over the proposal and recognize that there is much to recommend it. This property has been an eyesore for decades and is a brownfield. Mr. Sullivan is offering to clean this property up if Newport does not get grant money. That is a real plus.

So is the recommendation for curbing, the trees, how trash containers must be handled, the holding ponds, etc. That helps blend the business into this residential neighborhood. The CUP needs to go farther. Please keep in mind that Bill's Auto Parts operated under a CUP but that CUP was so poorly written that the business was an eyesore despite being in compliance. When residents would complain we could only sympathize. There was no compliance issues to enforce. CUPs need to be very well thought out, very detailed and, I believe, the burden needs to be on the business to be an asset, not on the neighborhood to adjust and put up with a business next door.

- The old warehouse needs to come down. Build a new cement block one with a brick facade. That would go a long way towards making the business an asset instead of an eyesore. It would also insure that this business generates some property taxes.
- Chain link fence with the slats always, always, always goes to hell. Nor does it block the view. Just look at the chain link fence with slats in front of the property now. You can see every bit of junk back there. How about the new no maintenance fencing panels? I'd personally love to see a 6 foot high brick wall. But the fence needs to truly be "a no see through it at all" type of fence. The barbed wire does not belong in a district with housing. No prison, this isn't a safe neighborhood feel to the fencing.
- Barbed wire is meant to keep people out so is Mr. Sullivan telling us criminals will be coming to Newport attempting to rob his business? If so, do we really want this business in Newport? Our police have enough on their plate. This concern is asked in all sincerity. When the check cashing business asked to locate to Newport we

had the police investigate to make sure we weren't inviting trouble into town. Have the police done the same type of investigation with impound lots?

- When the city requires homeowners to clean up their properties it needs to have a leg to stand on. I wish I could play for you the hundreds of times a resident would point to Bill's Auto Parts and say to clean up that place before coming after them. And I believe that to be a valid point. By now the city administration and council should have some inkling as to how sick and tired residents are of yards full of derelict cars and other junk. But now we are entertaining letting in a business that deals with just that? If this request is approved the CUP better be written so that we don't have to look at 5 plus acres of cars and other stuff. A chain link fence doesn't fit the bill.
- So this begs the question: with all the clean land available in Cottage Grove. why is Mr. Sullivan looking to purchase a brownfield in Newport? Maybe other cities don't see his business as a desirable one.
- I think the city and Mr. Sullivan should explore having all traffic enter and exit off of 2nd Street. I know this will involve the refinery's property but since you are waiting through 2 grants cycles there is time to work a deal with the refinery. The 1997 or 1998 resolution to keep trucks off of 7th Ave. should be honored. Again this is mostly a residential neighborhood. I know there are drainage ponds in that area but drainage ponds can be moved while still in the drawing board phase.

Newport needs every available acre to be put to its highest use and to generate sufficient taxes to bring down our historically high property taxes. Newport needs to improve its image. We need to be a cleaner, neater city. I wonder what the chances would be of a B-1 appropriate business coming in if the city were to buy the Knauff property and offer it free to such a business. The city has certainly spent enough buying up homes on Cedar Lane and now the Johnson property (for \$130,000.00?). Buying the Knauff property should not be that much of a stretch.

I personally would not rezone. The second best position would be to write the CUP in such a way that this business will look and behave first class.

Thank-you for the opportunity to voice my concerns. I know that the fence around the Knauff property has 3 strands of barbed wire on the top. Some may argue that that sets a precedent or proves that barbed wire is okay for the neighborhood. Those people never had the conversations with all the people who have pointed at Bill's Auto Parts and said "clean that place up!" Whatever business is allowed to go in there must look better, much better, than Bill's Auto Parts. Chain link with barbed wire has to go. The old warehouse has to go. And if Mr. Sullivan is not willing to invest the money in aesthetics than he needs to go. Thanks Deb, Pauline."

**David Sullivan, Applicant** - We are asking to open a repossession company and store cars here. This business is not like something that you would have seen on television and it's not like what you would normally think of. The repossession business has become much more regulated and professionalized. Ourselves, we don't deal with the junk vehicles, these are newer models. I never saw what the Knauff's had, I understand that it was a salvage yard and it must have looked pretty bad. These cars will be parked for three to five days. About 25% of people that get their cars repossessed get them back so they would make an appointment to come pick them up at the old body shop. I appreciate some of the concerns that were read in the email and will be happy to answer any questions.

**Chairperson Lund** - We'll bring you back.

**Ev Acker, 615 4th Street** - I'm right down the street. A couple of things that I was looking at, they'll be using two acres for storage, how many vehicles and how long will they be there? There was some comment about the headlights going down 4th Street, I know when you look at the exit, the lights will go right down that street on to my house and when they turn on to 7th Avenue the lights will be going right into people's bedrooms. I understand there will be around 20 trucks running round trips with 50 cars, is that per day? The six foot fence, with five strands, will look like a gulag over there. I don't know if Newport needs that.

**Ed Voss, 596 6th Street** - I'm concerned about the trucks running 24 hours a day. Garbage trucks come on Friday and they wake everyone up. We did look at Bill's junk yard for 20 years and we're not looking forward to looking at another

lot full of cars. If they have to have a barbed wire fence what type of people will it be attracting that you need to keep them out. I'm not really happy about the extra noise. Plus is there any extra income for the City on this? Are we charging them a fee per car? Is there any limit as to how long the car can sit there? Are there any rules that you'll have on them or will it be another Bill's junk yard in a year? Is the special use permit a time-wise thing or will he get it for life or will it need to be reviewed in six months or a year to see if he's living up to it?

**Ms. Buss** - The Conditional Use Permit is ongoing, the City can have some requirements for an annual review. If he's not complying with any of the conditions, the City can start a process to take the permit away. It's a long process similar to this with public hearings. If he doesn't comply, the City has the ability to take it away, otherwise it is ongoing and runs with the land.

**Mr. Voss** - There's no way we can control what goes on over there?

**Ms. Buss** - The only way to do that is by having strong conditions and monitoring it and if he's not abiding by it then the Council can take action to take it away.

**Mr. Voss** - I think it should be controlled very closely so we don't have another Bill's junk yard. I'm not crazy about the noise 24 hours, it is a residential area.

**Fred Leimbek, 603 7th Avenue** - My concern is the truck business. I think if this permit is required, the City should up the fines on trucks that are overweight and going the wrong way. I don't want to pay for another paving job on this road. I think the last one should last longer.

**Tim Little, KW Commercial Real Estate** - I worked with the Knauff's for a while trying to market their property for them. It was a difficult sell and during the time that we were trying to sell they had to keep paying taxes without having a business there to generate an income from. We worked very hard on this to get Dave here, to take the property in the condition it's in, and to be put under the strict conditions by the City to clean it up or he'll have to leave. I've been around junk yards for a while, I've been in places like Bill's and it was bad. Dave's operation will not resemble that any way, shape or form. He will be bringing in cars that will be whole and in excellent condition. They won't be taking apart cars. We won't have that eyesore that Bill had over there for many years. From that perspective, that will be a clean operation. There is a picture on the screens of one of Dave's partner's operations in Texas. They run a clean operation. The insurance companies have strict rules that he'll need to abide by. Let's try to give Dave a chance to bring some business to Newport.

**The Public Hearing closed at 7:38 p.m.**

**Chairperson Lund** - I think, to be frank, the reason they want MX-4 is because our Code is unclear. In B-1 we list auto storage as a non-permitted use and I think it contradicts the purpose of MX-4 to be more permissive along those lines and it was probably a mistake when we were looking at the Zoning Code to not specifically list auto storage as permitted or not permitted in MX-4. If we had considered it we would have said no because we don't even allow it in B-1 which is supposed to be more industrial than MX-4. If we are going to let this go forward, I think we should talk about making it I-1 because I don't think this use is even close to consistent with what we intended for MX-4. That's my view on it, does anyone else feel the same? I think MX-4 is supposed to be more restrictive as far as businesses go than B-1 and it's a quirk in the way the Code is written that we didn't specifically list auto storage either way and I don't think auto specialty was intended to encompass auto storage.

**Ms. Buss** - Do we allow auto sales in MX-4?

**Executive Analyst Helm** - Auto sales is only allowed with a conditional use permit in MX-1.

**Chairperson Lund** - So MX-4 was not intended to be so open-ended that it included large industrial style businesses. Does anyone else think that that was the purpose of MX-4? If we are going to move forward I would suggest that we clean up the MX-4 code and talk about this from the angle of making it I-1 but I'm not so inclined to do that either. I don't think it makes logical sense to make it MX-4.

**Matt Prestegaard** - I would be interested to know what the summary statement is for MX-4.

**Executive Analyst Helm** - The Code says "The specific intent of the MX-General Mixed Use District is to provide for a mix of residential and commercial uses that provide for a long-term transition from the auto-oriented uses that exist in the district based on past frontage on Highway 61, to uses that are compatible with adjacent Mixed-Use Districts and development of the Downtown character of Hastings Avenue. The City anticipates that commercial uses will cluster on and near Hastings Avenue and the Glen Road interchange, and that over the long-term, residential uses may become more dense in this zone."

**Matt Prestegaard** - The statement that stuck out to me was the transition from auto uses.

**Ms. Buss** - From a staff perspective, the question about making it an industrial district is that then you're opening up that district to any of the uses that we allow in the industrial district.

**Chairperson Lund** - My point was that this proposed use is only consistent with an industrial district, it's not even allowed in B-1. I think that's a better representation for the character of the business but I wouldn't really support that either. This isn't what MX-4 was intended for and I think the evidence of that is that it's not even allowed in B-1.

**Vice-Chair Mahmood** - What are the car sales across the highway zoned?

**Ms. Buss** - MX-1.

**Vice-Chair Mahmood** - I think his site will look like a car lot with newer cars that will be parked nice and neat. If the car sales lot is MX-1 why can't we make this MX-1. You will eventually sell them right?

**Mr. Sullivan** - Yes, but not here. We bring it to an auction. The difference between this lot and Newport Auto Sales is the fencing, you won't see the cars on this lot. The fence will be six feet high. The barbed wire is an insurance requirement. It's there now and Deb and the staff weren't even aware that there was barbed wire there right now. Those slats in the fence now look like they have been there a long time so they'll be freshened up and maintained. When they are new, they are difficult to see through. There are other ways to screen it but I think the slats are better.

**Susan Lindoo** - Out of curiosity, in the MX-1, where we can have car sales, do we have any conditions on the size of businesses?

**Ms. Buss** - No and they are allowed there because they're an existing use and when you zoned, you didn't want to make them non-conforming. The difference with this business is the overnight factor. In terms of how this site would look is similar to an auto sales business except there won't be a lot of customers and they won't be visible. We don't have any MX-1 on this side so then it starts to be spot zoning. There was this unidentified use, auto specialty services, so this is a question as to whether or not it fits.

**Susan Lindoo** - What we seem to be hearing is that the trucks would make noise and damage the road. The other thing is appearance and questions about the barbed wire.

**Vice-Chair Mahmood** - How heavy are the trucks?

**Mr. Sullivan** - The trucks with a single vehicle are between 6,000 and 7,000 pounds depending on the vehicle. If you have a flatbed with two vehicles, that would be 10,000 pounds. If you have one with four cars, you'll be up in the 14,000 to 16,000 pound range.

**Susan Lindoo** - Isn't that above the limit?

**Ms. Buss** - We need to know if it's a seven or ten ton road.

**Admin. Hill** - Bruce said that it was increased to a ten ton road when the highway was done because all of the trucks would use this road.

**Susan Lindoo** - How frequently would trucks be coming in?

**Mr. Sullivan** - I talked about probably 50 trips per day and that includes employees and myself. I think there would be 20 trucks per day.

**Vice-Chair Mahmood** - And most of those would be during the day?

**Mr. Sullivan** - Yes and it depends during the night. Some nights you might have none and some you might have six or seven. To answer your question about going north on 7th Avenue, I definitely agree that there should be monitoring to prevent our people from driving trucks north on 7th Avenue. It is so easy and logical to come in from the south. It's pretty easy to route our trucks in there.

**Ms. Buss** - Part of the requirement would be for you to instruct your drivers of that.

**Mr. Sullivan** - Yes and we would give those same directions to people that are coming in to pick up their vehicle. We would have trucks come in at the entrance south of the pole building and they would exit across from 4th Street. Any individual that is coming to pick up a vehicle or personal property out of their vehicle would park in front of the pole building or at the body shop. The number of 50 includes employees, myself, debtors, and trucks.

**Susan Lindoo** - How many cars would you estimate you would have at any one time?

**Mr. Sullivan** - It will start out slow. I have estimated that we'll average 150 cars per month for the first three months.

**Susan Lindoo** - How many do you expect to have on the lot in a year's time?

**Mr. Sullivan** - I would estimate that we'll be repossessing three to four hundred cars per month.

**Susan Lindoo** - What's the average time they would stay on the lot?

**Mr. Sullivan** - About five days. I've had people get it within hours of it being repossessed. They could sit there for three weeks. Some banks prefer to wait for a person's rights to lapse before they send them to the auction and that's 15 days in Minnesota.

**Vice-Chair Mahmood** - The first phase you'll put one parking lot in and then the other one in a year later?

**Mr. Sullivan** - I would anticipate that we would bring a fence halfway down. We would only expand if we got that big, I personally don't think we'll get that big. There is some thought that I would sell off these northern lots to the City. For right now, we'll put a fence up.

**Chairperson Lund** - Just to be clear, you plan to keep the fence and current buildings?

**Mr. Sullivan** - Yes. The fences are in need of repair in terms of the slats and barbed wire. The buildings, for my purposes, work just fine. I'll be fixing them up but I wouldn't want to tear them down.

**Vice-Chair Mahmood** - So you're parking the cars on grass now? You can't pave over it until it's cleaned up right? How long are the cycles for?

**Admin. Hill** - Two years.

**Vice-Chair Mahmood** - So potentially, you may not even do anything for two years until you find out about grant.

**Mr. Sullivan** - It's my understanding that we would be able to start operating until that process runs its course. We can park cars on there now and will store some vehicles and motorcycles in the warehouse.

**Vice-Chair Mahmood** - You're not concerned that the vehicles will get stuck?

**Mr. Sullivan** - No.

**Ms. Buss** - It's compacted dirt there now. Before they can put down any permanent surface it does need to be cleaned up so they'll use the compacted dirt until they can do that. They'll put in the stormwater facilities right up front.

**Mr. Sullivan** - I would like to point out that there will be a lot of jobs generated from this, clerical, lot attendants, drivers, etc. I would estimate that in three years we'll be employing between 40 and 50 people.

**Susan Lindoo** - Will they be new jobs?

**Mr. Sullivan** - Yes.

**Susan Lindoo** - Can I ask questions about the impervious stuff? What will you pave over?

**Mr. Sullivan** - I think we would pave half of it right up to that fence. We would pave

**Susan Lindoo** - When you have a situation like that and all that run-off, do those ponds capture enough of that rainwater so that they prevent flooding and regenerate the water?

**Engineer Herdegen** - Yes, the applicant has shown the stormwater modeling for the site. The typical standard is that you want to limit the amount of run-off from the existing conditions to the proposed conditions for a storm period and they have shown that with these ponds, the run-off will be limited to that.

**Susan Lindoo** - So as much water that would have gone into the ground will go into the basins and will get back into the ground?

**Engineer Herdegen** - Rate control will be at the peak of when the water is running off the site, that's the comparison. As far as recharging the aquifer, these ponds are proposed to be wet ponds and treatment basins so infiltration is not necessarily one to one. It may increase the volume that is discharged from the site so we're not getting as much infiltration because the ponds are wet.

**Susan Lindoo** - Longer time for evaporation to occur basically?

**Engineer Herdegen** - Yes but we will be discharging from these ponds.

**Ms. Buss** - There isn't a requirement for groundwater recharge. There's a certain amount of a storm event that you need to infiltrate but you don't need to do 100% of what it would have been pre-development. The dirt is pretty packed down from the previous use.

**Susan Lindoo** - Are the infiltration ponds relying on biological processes to remove the contaminants?

**Engineer Herdegen** - The idea on these ponds would be settlement. They are also using some overland swales that will remove some of those pollutants. The two ponds are connected through the swale. The larger pond on the lower half would be the primary location for most of the run-off and the site discharge will occur in the smaller pond near the entrance.

**Susan Lindoo** - This area is already contaminated because cars were sitting on it for ages. I'm assuming that if he has cars sitting on the impervious surface, a certain amount of oil from the cars will go onto it and go into the ponds. Is there ever a point when the ponds need to be cleaned?

**Engineer Herdegen** - Yes, we would recommend that the City enter into a maintenance agreement with the applicant on these ponds to ensure that they do get cleaned periodically.

**Ms. Buss** - That would be part of the developer's agreement.

**Admin. Hill** - I do believe the cars that he gets will only be there for five days.

**Susan Lindoo** - But there's always going to be cars.

**Vice-Chair Mahmood** - But they're not junk cars and won't be leaking or getting smashed.

**Susan Lindoo** - But you still have that issue with any car lot. The other question has to do with curbing and I know there's a difference of opinion regarding it. You made a reference suggesting that it's better not to have curbs. Could you expand on that?

**Dan Tilsen, G-Cubed Engineering** - Sure. I would like to step back one moment. I think Jon has done a great job explaining the stormwater plans. I would also like to say that Anthony is correct, we won't be taking apart cars and draining oil. Part of the cleanup process is digging out the dirt and hauling it to a different site. A lot of the pond material will be used to put back where the contaminated soils were. There was a mention that the ponds should get built first but the real idea is to use it as is for now. If we were to build the ponds, the water wouldn't get there anyways because it's not graded correctly. The cleanup needs to happen first and then we can build the ponds. I wanted to clarify the sequencing. In regards to curbs, I sent a response to the Engineer (see attached). There are several schools of thought and one of them is that the old ditches without curbs did a better treatment of water than the ones with curbing. The curbing concentrates the flow and we're looking at a sheet flow system where we get some filtration in the vegetation before it gets to the bottom of the pond.

**Susan Lindoo** - So you wouldn't want to have curbs on the east side of the lot because you would want the water to be sheeting off into the vegetation but I assume you would want curb on the west side because you want the water to be directing towards the pond, am I right?

**Mr. Tilsen** - When you're talking about curb and gutter, you're talking about collecting the water. You're not really collecting water on the high side. It would only serve a purpose if you like the look aesthetically, if you like to spend a lot of money. It does serve a purpose to protect the edge of the bituminous but in this case, we're paving up to a fence so they would need to run through the fence to get over the edge of the bituminous. There's really no need to have curb for this project.

**Ms. Buss** - Would the parking lot be graded so it flows towards the pond?

**Mr. Tilsen** - Yes.

**Engineer Herdegen** - I can comment on our opinion regarding the curb. The purpose of the curb is two-fold. One is to protect that pavement edge. Also in a typical commercial project where there is not fencing around the entire property, parking lots begin to grow if they don't have curb. Mr. Tilsen is correct in that the fence line protects that. We put that in our memo for discussion, it is a City requirement but it can be waived. They will also have snow storage somewhere on this site and I'm not sure what they'll do with it but it could be pushed up to the fence.

**Mr. Sullivan** - We could put the snow in the northern half where we won't have cars parked.

**Engineer Herdegen** - I do think this is an unusual lot since there will be a fence but we can't make the decision about curbing, that's your recommendation to make. Mr. Tilsen's response does outline good reasons for not having the curb.

**Mr. Sullivan** - It's about \$40,000 to do that curbing and no one would see it because of the fencing. To me it serves no purpose.

**Susan Lindoo** - One thought I have is that if we were to waive the curbing, could that be a trade-off for building a more attractive fence along 7th Avenue? I don't know if that would mean anything to the residents but it's a thought. That could make it look less like an industrial site.

**Mr. Sullivan** - My thoughts are that that's what I've seen for fencing. I'm on a national trade association and that's what you see. Every once in a while, you'll see a solid wall.

**Susan Lindoo** - I'm just thinking of fences that look a little more attractive because this is a mixed-use and is across the street from residences. I'm still trying to make sense of how this fits into a residential area and how it can be less jarring to the people that live there. I'm just thinking of the area that faces 7th Avenue.

**Mr. Sullivan** - We could maybe put up landscaping in front of the fence. We just put up arborvitaes at our house to block a fence that our neighbors put up, it wasn't cheap but it serves a purpose. I think they would meet your requirements.

**Ms. Buss** - That would be part of the question for you, instead of trees, you could ask for some screening vegetation.

**Mr. Sullivan** - I was also concerned about people climbing the trees if they were too close to the fencing but you can't climb an arborvitae. It would solve a couple problems here.

**Matt Prestegaard** - I'm trying to decompose this because we're talking about both the zoning and conditional use. I think there's a sequence for us to consider. There's the B-1 to MX-4 question first. I'll start that conversation off. I heard the statement about trying to transition from auto and that's a compelling statement. It makes me wonder if we can make this work as B-1 still. On the positive side of this equation, we have a vacant site that's unattractive and this seems to be an improvement to that. I feel that it's disingenuous of us to say that we're trying to transition from auto uses in the MX-4 district and then put in an auto use.

**Chairperson Lund** - I mentioned this before but I think it's an ambiguity at best and a mistake on our part at worst that we didn't specifically address auto storage in the MX-4 district and if we did address, it I can't imagine we would have allowed it since we don't in the B-1 district. I don't think specialty auto is the right use. If we said no in B-1, I can't imagine how we can say yes in MX-4.

**Ms. Buss** - You need to look at what B-1 is about and it's about warehousing, office...

**Chairperson Lund** - But MX-4 is supposed to be more compatible with residential uses and this use is not.

**Ms. Buss** - I don't know if we've said that specifically. We've said that MX-4 is a mix of residential and commercial. I think B-1 was assumed for areas in the City that might result in some office, warehouse, manufacturing sort of use and the idea was to not have a lot of small commercial sites. I wasn't here for B-1 but I think that was the thought. There's no reason to beat yourself up for not thinking about this. It's inevitable that you don't think of every use that might happen in every district. Your points are well taken. It's a question of whether or not you think this is an appropriate use in a mixed-use district. Given that we haven't defined that auto specialty use you do have the freedom to decide if you think this really fits or not. We could argue that this particular use is a good use for the B-1 district because it does use a lot of space. It's your question tonight, is this the right district or not. If it's not, you could decide that you want to amend the B-1 district to allow this use. My sense is that your hesitation is more about whether this is a good site for it right?

**Matt Prestegaard** - My hesitation is in regards to the statement about MX-4, it doesn't seem like it fits. I haven't gotten to the point about how I feel about the site in general other than it seems to be an improvement.

**Chairperson Lund** - I agree that it's an improvement. I don't think it's a reach if I say that the majority of citizens would be disappointed that it's going to keep the same fence and building. I don't think it's consistent with either B-1 or MX-4.

**Ms. Buss** - You could decide to rezone this to I-1 too.

**Admin. Hill** - Just to give you some background on this. This has been for sale for some time. Originally, they wanted residential uses here but the cleanup to residential standards is astronomical.

**Ms. Buss** - Plus the railroad doesn't work for residential uses. The City brought developers here to look at the site for residential uses. The brokers could tell you the stories of all the folks they brought here too. It's really difficult to find someone for this site with the railroad. It's not compatible for retail or office uses. The railroad and former use makes it real difficult.

**Admin. Hill** - It's also difficult to find someone to buy a brownfield. In order to get the grants, you need a project. If nothing happens, it will stay the way it is.

**Vice-Chair Mahmood** - That's what makes me excited. There's someone that's willing to come here and clean it up and make it viable. We should try to do something. Right now, it looks like our code isn't written to conform to them and that's our job to figure out what we can do to get this cleaned up.

**Susan Lindoo** - I think I'm where Matt is. It made sense to me when it went to B-1. That area is not going to be residential. I'm a little disappointed that this doesn't fit in B-1. It doesn't feel right in MX-4 and I would have expected it to fit in B-1. I like the idea that something would finally be happening to this land and it would be cleaned up. How can we make this business be compatible with the residential area? When we rezoned it last summer, we figured there would be some kind of a warehouse there and it would have some of the same things as this project like noise and lighting. It would have changed the nature of the area. I don't think we can let it stay how it is now though either.

**Ms. Buss** - If you want to make this an allowed use in the B-1 district then we would need to table this application, hold a hearing next month for making auto storage as an allowed use in B-1, and if that was approved than we could move forward with the application.

**Susan Lindoo** - B-1 is down there and not in the middle of other residential areas.

**Admin. Hill** - I would assume that the Knauff's could sell it to another salvage yard or car repair place because they are still using it as that.

**Ms. Buss** - Yes, they could continue the non-conforming use if they have truly not ended it.

**Admin. Hill** - I'd just like to make a comment on the traffics and lights. This is a Police Station also and they're going all night so that's already happening.

**Susan Lindoo** - I still think it's worth talking about how we can minimize those impacts.

**Chairperson Lund** - I wouldn't be in favor of allowing it in B-1 either. We have grand hopes for the east side of 61. Changing all of the uses seems to be a big leap versus granting a variance.

**Ms. Buss** - You cannot give a use variance per State Law.

**Susan Lindoo** - So we create another business district?

**Ms. Buss** - Is a use like this allowed in MX-2?

**Executive Analyst Helm** - The auto specialty services is allowed with a CUP and auto sales or body repair are not allowed. The specific intent of the MX-2 Commercial Mixed Use District shall be to provide areas that integrate diverse commercial and residential uses. Minimum lot sizes are larger than those in the Downtown District. Development is intended to be compatible with the scale of surrounding areas. Parking areas are restricted in this zone in order to limit the impact on the neighborhood and on areas that are visual gateways to the City.

**Ms. Buss** - Part of the issue for these is that there wasn't a lot of market information available when we did the comp plan to understand what was going to redevelop. What we're doing now is testing the waters when people come in like this. I think your decisions are: do we keep it in B-1 and try to change the allowed uses to allow this; do we change it to MX-4 and allow it under auto specialty services; do we rezone it to an industrial district; or do we create a B-2 district?

**Matt Prestegaard** - I have a feeling we all think MX-4 is the least palatable. The uses may be slightly more palatable in B-1 but not enough so it seems to leave us with creating a new district. Do we agree with that?

**Susan Lindoo** - Yes. There's no perfect answer for this but I think that would work best.

**Chairperson Lund** - It sounds like the options won't resolve it this month. Right now, I'm very skeptical of the idea but since we decided it doesn't fit in MX-4 and don't want to revamp B-1. The biggest concern is that by and large, people in Newport know that property and know that it's ugly so having a specific plan might go a long way. I'd wait to hear from the citizens again once we have that plan. Not having the same fence visible from the road and the barbed wire is offensive. We intended to address barbed wire in those areas but apparently we were only dealing with the industrial areas. It's against our intent.

**Mr. Sullivan** - Barbed wire could be a deal breaker because of the insurance.

**Chairperson Lund** - Your best hope would be to cover up that fence.

**Mr. Sullivan** - Yes, I offered the arborvitae and thought that was a good solution. I don't know what other kind of fencing.

**Susan Lindoo** - I like the idea of the arborvitae.

**Ms. Buss** - If staff brought back to you a proposed B-2 district that would allow this use and other commercial uses next month and Mr. Sullivan can bring back a revised plan for the planting idea, is that getting somewhere?

**Chairperson Lund** - I want to hear from neighbors once that's public.

**Matt Prestegaard** - I would like to ask the residents next time if they had the choice between what's there now and what's being proposed, is that an improvement?

**Ms. Buss** - I think a follow-up would be if they are willing to wait several years for another possible buyer.

**Matt Prestegaard** - Also to receive advise about the conditional use permit and constraints.

**Susan Lindoo** - Could they continue to use the Knauff property as it's being used now?

**Admin. Hill** - They're doing car repair now.

**Ms. Buss** - They could continue the car repair.

**Chairperson Lund** - I would say if we're coming back next month then we should look at a B-2 district. I think it could be identical to B-1 with the addition of auto storage.

**Vice-Chair Mahmood** - Could you email us what B-2 used to be as well?

**Ms. Buss** - Yes. You can send individual comments to Renee.

**Scott Miller, KW Commercial Real Estate** - Mr. Chair, when we initially met with the staff we asked them about the zoning and it was a suggestion to do MX-4 because it provided the best flexibility and because there are two homes, one of which Dave is buying now. The houses will be non-conforming if you make it B-2 and we can't do much to them then.

I think the conditions under the developer's agreement and the conditional use permit will address any type of specialty designation of this use. There's significant investment from Dave and his partner for this property. I think once they are done it will probably be \$600,000 to \$800,000. If they have to do the cleanup, that'll add an extra \$250,000. They're going to make sure that it's a nice looking site. I don't think they can put up new buildings at this time. I think you should work with him and be happy that he wants to come to this site. It's not going to be what it was. I think you have an opportunity to get someone in here that will create jobs and contribute to the tax base. They'll also be cleaning it up. There's a huge investment going in here. Obviously, time is of the essence so if you could come to an agreement tonight that would be great.

**Matt Prestegaard** - I appreciate that time is of the essence but I'm in no position to make a decision tonight and if asked the answer would be no.

**Chairperson Lund** - Yes, I think practically speaking, MX-4 doesn't make sense and the only way I would vote yes is if there were cosmetic changes to the plan. I would still reserve judgment to hear from citizens next month. I would like to give them the chance to review the new plan.

**Ms. Buss** - Other than the fencing and potential landscaping, can you accept barbed wire because if that's a deal breaker they should know that now.

**Chairperson Lund** - I don't know, I'm going to wait to hear from people next month.

**Susan Lindoo** - I remember being shocked to hear that people had barbed wire in downtown Newport. I think if there are arborvitae in front, I could probably accept it but I want to wait.

**Vice-Chair Mahmood** - It's not a deal breaker for me. They want to come in and cleanup an unsightly spot and who knows how many years it will be before we can do that. I know some residents won't like it but it's a polluted area and we can't do it on our own.

**Ms. Buss** - Do you want to re-notice the public hearing for this project? If we just send out the notice for the change in zoning, we won't be noticing this project.

**Chairperson Lund** - The CUP will hopefully be amended to talk about screening.

**Ms. Buss** - You had a public hearing tonight for the project.

**Chairperson Lund** - It would be a different zoning change.

**Executive Analyst Helm** - No, that public hearing for the rezoning and CUP already opened and closed.

**Chairperson Lund** - But it's a different rezoning.

**Ms. Buss** - Anyone reading that will only see that we're thinking of rezoning it from B-1 to B-2, they won't know about the project. If the intent is to hear from people for this particular use, we need to know that for the public hearing notice.

**Chairperson Lund** - Yes and you could say that it's to add auto storage as a use.

**Executive Analyst Helm** - I just want to clarify when you say auto storage because that's a different use than what we were recommending it be classified as tonight.

**Chairperson Lund** - You don't think auto storage is a better classification than auto specialty use?

**Executive Analyst Helm** - I'm not saying that, I just want to clarify that we're changing the use that it's being classified as.

**Motion by Prestegaard, seconded by Lindoo, to table Resolutions No. P.C. 2014-1 and No. P.C. 2014-2 until April 10, 2014. With 4 Ayes, 0 Nays, 1 Absent, the motion carried.**

**Ms. Buss** - Other than a screening plan, is there anything else you want them to change for next time?

**Chairperson Lund** - I thought the water plan was well done so no.

**Susan Lindoo** - If they could tell us more about the trucks coming in.

**Chairperson Lund** - Yes, maybe we can limit the number of trucks coming in at night in the conditional use permit.

**Ms. Buss** - You can certainly do that.

**Chairperson Lund** - That's up to you Mr. Sullivan, you tell us what's acceptable and that will be published.

**Mr. Sullivan** - It does vary each night.

**Chairperson Lund** - Maybe we can put a monthly limit in there.

**Ms. Buss** - We can do that if you want to think about your monthly averages and let us know.

**Chairperson Lund** - I think it would be helpful if that was available for people to view prior to the meeting.

**Executive Analyst Helm** - The packet is online a week before the meeting.

**Matt Prestegaard** - We can appreciate the flexibility that you're demonstrating. I think it's a reason that there's some optimism here.

**Ms. Buss** - Thanks for the good discussion. There have been several meetings on this site and we've been working to get a viable use for this site.

**Susan Lindoo** - Thank you for trying to make a bad situation better.

**B. Public Hearing – To consider amendments to the Zoning Code, Chapter 1300, Section 1300 General, Section 1310 Administration and Enforcement, Section 1340 Residential Districts, and Section 1350 Nonresidential Districts**

Executive Analyst Helm and Sherri Buss, TKDA Planner, presented on this item as outlined in the March 12, 2014 Planning Commission Packet. Ms. Buss spoke with other cities regarding the requirement of a conditional use permit for brew pubs. Other cities recommend a conditional use permit for brew pubs so that a condition regarding special events can be listed.

**The Public Hearing opened at 9:12 p.m.**

Ms. Buss read the below from Autumn and Derrick Lehrke. The Lehrke's sent the attached letter to the Planning Commission.

**Ms. Buss** - "Dear Planning Commission, We have reviewed the packet for this evenings meeting and would like to provide a few comments.

From viewing the information provided, we respectfully request that the planning commission follow the direction of St. Paul regarding brewery ordinances. As you can see, St. Paul's ordinance states "a small brewery accessory to a bar or restaurant, or brew pub, is allowed wherever restaurants or bars are allowed, including T2-4.....districts... A conditional use permit is required to exceed a floor area of 15,000 square feet."

Per page 34 of your packet (pg 7 of St. Paul's report), table 2 "Breweries in commercial or mixed use districts" this table lists seven cities (Mpls, Duluth, Dallas, Denver, Portland, Seattle, and St Paul) and only one (Dallas) requires a CUP for bars and sometimes for brew pubs or restaurants.

As you know, the site we have chosen is already doing business as a bar/restaurant and the use is not changing with the change of ownership. We plan on still serving food and liquor as the previous owners have done for decades. Changing our occupancy or CUPs can have adverse effects on building and operating requirements. Our current project cannot afford these additional, unnecessary expenses.

Another concern with the staff recommendation is the size limitations. Due to the bowling alley on site, our facility is over 12,000 sf. As a result, this recommended ordinance wouldn't even allow for our location to be sited for a brewery. Please adopt St. Paul's direction that allows breweries the flexibility to grow in Newport.

We understand there is a certain comfort level with requiring a CUP when sighting a NEW establishment that serves liquor to ensure it is in line with the city's plans. However, this is an EXISTING establishment where a CUP should not be needed. Please consider St Paul's approach to business friendly policies that encourage businesses to come in and redevelop."

**Susan Lindoo** - Their size is fine so that's not an issue and they wouldn't necessarily have any other building code things that we're aware of are there?

**Ms. Buss** - There are some building code changes that they would need to make but it has nothing to do with a CUP. I talked with Bob LaBrosse about it. It's the fact that under the definitions of the State Building Code they are changing the use of the building and as such they need to make some changes like sprinkling. Requiring a CUP or not has no impact on that at all.

**Chairperson Lund** - The only thing we could do to help them since there's no CUP for that building now would be to remove the requirement of a CUP for any establishment serving liquor correct?

**Ms. Buss** - Or when they come in and we see their plan and it's similar to what they're doing now we could make the decision that they wouldn't need to amend their CUP.

**Chairperson Lund** - They don't have a CUP at all.

**Ms. Buss** - So it's a non-conforming use. They could continue the current use and that wouldn't require a CUP. We haven't seen a plan from them yet. If they're changing the use, like adding a brew pub, they would need a CUP.

**Chairperson Lund** - Back to my original point, the only way we could help them out is not require a CUP for liquor establishments?

**Ms. Buss** - Yes.

**Susan Lindoo** - I'm not ready for that.

**Chairperson Lund** - I'd like to help them out but I don't see how we can do that other than send them through the process quickly.

**Ms. Buss** - Yes and despite some of the comments at the last meeting, there is an intent to the keep the costs of these things as low as possible and to be as efficient as possible.

**Susan Lindoo** - The clearer it is when they bring it in, the easier it is for you to finish it.

**Ms. Buss** - And that's the problem. The people that end up complaining are the ones who give us partial applications and sketches that have no scale or information so it takes longer to review those.

**Susan Lindoo** - And it should.

**Councilman Sumner, 737 21st Street** - I support the work that you're doing to bring new development into Newport. We had one applicant earlier this evening and I think you took the appropriate steps. I would hope that you do what you can to support the potential development of this exciting new business in Newport. Having a brew pub in Newport would be nice. Keep up the good work and thanks for your work.

**The Public Hearing closed at 9:19 p.m.**

**Motion by Prestegaard, seconded by Lindoo, to approve Resolution No. P.C. 2014-3 as presented. With 4 Ayes, 0 Nays, 1 Absent, the motion carried.**

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

**Admin. Hill** - I got a call from the HRA, they have been working on the transit station. They hired a marketer for the area and she's asking for three people from Newport to spend some time later this month to get some ideas from. I was wondering if any of you would be willing to do that.

**Ms. Buss** - They've interviewed a lot of developers for this area to see how development works and how they see that area. I think it would be interesting for you to hear.

**Vice-Chair Mahmood** - What's the date?

**Admin. Hill** - Nothing has been set.

**Vice-Chair Mahmood** - I'd be willing to do that.

**Matt Prestegaard** - I'd be willing but don't want to prohibit others from going.

**Susan Lindoo** - Can it only be three?

**Admin. Hill** - No.

**Susan Lindoo** - I think that would be great for the Planning Commission.

**Admin. Hill** - Great. We've met with a developer for market rate housing north of the transit station.

**Ms. Buss** - They have an idea for a two phase development that would be aimed at working individuals.

**Admin. Hill** - I'm still talking with the island guy.

**Ms. Buss** - Someone from the Star Trib also called me up regarding the Cedar Lane properties and how it connects with the transit station.

**Chairperson Lund** - If we could secure rights to the island it sounds like there's a long list of resources to turn it into a park.

**Admin. Hill** - Yes.

**Matt Prestegaard** - On the first topic that was before us tonight, if we don't have an overwhelming response from the public at next month's meeting, I'll have a hard time denying it. I just wanted to let you know and invite the public to come out.

**Susan Lindoo** - I want to make it as good as it can be.

**Chairperson Lund** - I'm still on the fence. I'll probably spend some time down there in the next month.

**Admin. Hill** - Yes, it was surprising to hear that there was barbed wire fence on there already. We've never noticed it.

**Susan Lindoo** - Yes, I was surprised to hear that some properties along Hastings Avenue had it as well. My first reaction was no but there is this insurance deal and that puts another light on it. The arborvitae will be nice but deer are attracted to it.

**Ms. Buss** - I think we could just give them some species to choose from if an arborvitae doesn't work.

**Chairperson Lund** - I would like us to take a visit to our Code regarding fence standards because I don't think that was our intent. I would also like to look at the uses and to the extent that we list it for the mixed-use districts, I would like to list it for the industrial and business districts too. I think they should be consistent all the way through.

**Ms. Buss** - The general assumption is that if it's not listed, it's not allowed.

**Matt Prestegaard** - You're just asking for a comprehensive review?

**Chairperson Lund** - The more clarity the better because we don't want people investing their resources if the answer is going to be no.

**Ms. Buss** - It's hard for me reading it knowing that you allow auto sales in MX-1 to know that your intent is no auto uses in the other MX districts.

**Matt Prestegaard** - It was that summary statement that did it for me.

**Susan Lindoo** - We can never think of everything.

**Ms. Buss** - No you can't and if someone comes with a use that you never thought of you need to think of a use that it's most similar to.

**Chairperson Lund** - It seemed like a stretch.

**Ms. Buss** - When we looked at it, he has the houses on the lot and wants them to be residential so do we make those non-conforming.

**Chairperson Lund** - In fairness, the property owner came to us and asked us to rezone it to B-1.

**Susan Lindoo** - Would we allow those houses in B-2?

**Ms. Buss** - No they would become non-conforming which would mean that they can't expand too much. I think he wants employees living in those houses.

**Executive Analyst Helm** - Do you want that at the next meeting?

**Chairperson Lund** - No.

**Matt Prestegaard** - You're pretty much saying that we should look at all of the uses and say yes or no for each district?

**Chairperson Lund** - Yes. Does everyone agree that we should look at fences again? I thought we talked about it already.

**Executive Analyst Helm** - You did. What you did was replaced barbed wire fences with electric fences in the RE District.

**Chairperson Lund** - But where we said no barbed wire, it didn't apply to residential, which I think was our intent.

**Susan Lindoo** - But it would be allowed in B-1?

**Ms. Buss** - No, you only wanted it in the industrial districts.

**Susan Lindoo** - That's interesting because I could see it as allowed in the business districts.

## **6. NEW BUSINESS**

## **7. ANNOUNCEMENTS**

### **A. Upcoming Meetings and Events:**

- |                                |                |           |
|--------------------------------|----------------|-----------|
| 1. City Council Meeting        | March 20, 2014 | 5:30 p.m. |
| 2. City Council Meeting        | April 3, 2014  | 5:30 p.m. |
| 3. Planning Commission Meeting | April 10, 2014 | 6:00 p.m. |
| 4. City Council Meeting        | April 17, 2014 | 5:30 p.m. |

## **8. ADJOURNMENT**

**Motion by Prestegaard, seconded by Lindoo, to adjourn the Planning Commission Meeting at 9:38 P.M. With 4 Ayes, 0 Nays, 1 Absent, the motion carried.**

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

Respectfully submitted,

Renee Helm  
Executive Analyst

## Renee Helm

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**From:** Deb Hill  
**Sent:** Tuesday, March 11, 2014 8:11 AM  
**To:** Sherri A. Buss (sherri.buss@tkda.com); tingemann@comcast.net  
**Cc:** Renee Helm; davesmrb@yahoo.com  
**Subject:** FW: Comment on rezoning request for the Knauff property.

fyi

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**From:** Pauline Schottmuller [REDACTED]  
**Sent:** Monday, March 10, 2014 7:50 PM  
**To:** Deb Hill  
**Subject:** Comment on rezoning request for the Knauff property.

Dear Planning Commission Members,

I am out of town tonight but I wanted to get my 2 cents in about the rezoning request for the Knauff property. As most of you know, I was a Newport City councilmember for 12 years. I sat on the council that first rezoned this property to mixed use. I'd like you to know some of that history as it is pertinent to the discussion tonight.

The rezone of the 7th Ave. neighborhood to mixed use was very controversial with the residents of that neighborhood. We did a lot of rezoning at that time but the vast majority of my time was spent with the 7th Ave. neighborhood addressing their concerns. The reality is that 7th Ave. is both business and residential and MX was the only zone that addressed both uses. The residents' concerns were that 7th Ave. should be treated primarily as a residential neighborhood and any business needs to blend in and compliment. They would point to Kiss's and say that was an okay business. They would point to Bill's Auto Parts and say "look what we have to live with". They were not trusting that City Hall would make sure that any new business would be a better neighbor than Bill's Auto Parts. We promised that we would. Now it is up to you to make good on that promise.

I have looked over the proposal and recognize that there is much to recommend it. This property has been an eyesore for decades and is a brownfield. Mr. Sullivan is offering to clean this property up if Newport does not get grant money. That is a real plus.

So is the recommendation for curbing, the trees, how trash containers must be handled, the holding ponds, etc. That helps blend the business into this residential neighborhood. The CUP needs to go farther. Please keep in mind that Bill's Auto Parts operated under a CUP but that CUP was so poorly written that the business was an eyesore despite being in compliance. When residents would complain we could only sympathize. There was no compliance issues to enforce. CUPs need to be very well

thought out, very detailed and, I believe, the burden needs to be on the business to be an asset, not on the neighborhood to adjust and put up with a business next door.

\*The old warehouse needs to come down. Build a new cement block one with a brick facade. That would go a long way towards making the business an asset instead of an eyesore. It would also insure that this business generates some property taxes.

\* Chainlink fence with the slats always, always, always goes to hell. Nor does it block the view. Just look at the chain link fence with slats in front of the property now. You can see every bit of junk back there. How about the new no maintenance fencing panels? I'd personally love to see a 6 foot high brick wall. But the fence needs to truly be "a no see through it at all" type of fence. The barbed wire does not belong in a district with housing. No prison, this isn't a safe neighborhood feel to the fencing.

\* Barbed wire is meant to keep people out so is Mr. Sullivan telling us criminals will be coming to Newport attempting to rob his business? If so, do we really want this business in Newport? Our police have enough on their plate. This concern is asked in all sincerity. When the check cashing business asked to locate to Newport we had the police investigate to make sure we weren't inviting trouble into town. Have the police done the same type of investigation with impound lots?

\* When the city requires homeowners to clean up their properties it needs to have a leg to stand on. I wish I could play for you the hundreds of times a resident would point to Bill's Auto Parts and say to clean up that place before coming after them. And I believe that to be a valid point. By now the city administration and council should have some inkling as to how sick and tired residents are of yards full of derelict cars and other junk. But now we are entertaining letting in a business that deals with just that? If this request is approved the CUP better be written so that we don't have to look at 5 plus acres of cars and other stuff. A chain link fence doesn't fit the bill.

\* So this begs the question: with all the clean land available in Cottage Grove. why is Mr. Sullivan looking to purchase a brownfield in Newport? Maybe other cities don't see his business as a desirable one.

\* I think the city and Mr. Sullivan should explore having all traffic enter and exit off of 2nd Street. I know this will involve the refinery's property but since you are waiting through 2 grants cycles there is time to work a deal with the refinery. The 1997 or 1998 resolution to keep trucks off of 7th Ave. should be honored. Again this is mostly a residential neighborhood. I know there are drainage ponds in that area but drainage ponds can be moved while still in the drawing board phase.

Newport needs every available acre to be put to its highest use and to generate sufficient taxes to bring down our historically high property taxes. Newport needs to improve its image. We need to be a cleaner, neater city. I wonder what the chances would be of a B-1 appropriate business coming in if the city were to buy the Knauff property and offer it free to such a business. The city has certainly spent enough buying up homes on Cedar Lane and now the Johnson property (for \$130,000.00?). Buying the Knauff property should not be that much of a stretch.

I personally would not rezone. The second best position would be to write the CUP in such a way that this business will look and behave first class.

Thank-you for the opportunity to voice my concerns.

Pauline Schottmuller  
97 10th Street, Newport.

## Renee Helm

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**From:** Deb Hill  
**Sent:** Wednesday, March 12, 2014 9:20 AM  
**To:** Sherri A. Buss (sherri.buss@tkda.com); Renee Helm  
**Cc:** danieltlund@hotmail.com; davesmrb@yahoo.com  
**Subject:** FW: one last comment on Knauff property

fyi

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**From:** Pauline Schottmuller [REDACTED]  
**Sent:** Wednesday, March 12, 2014 8:58 AM  
**To:** Deb Hill; Susan Lindoo  
**Subject:** one last comment on Knauff property

Please include this in my remarks:

I know that the fence around the Knauff property has 3 strands of barbed wire on the top. Some may argue that that sets a precedent or proves that barbed wire is okay for the neighborhood. Those people never had the conversations with all the people who have pointed at Bill's Auto Parts and said "clean that place up!" Whatever business is allowed to go in there must look better, much better, than Bill's Auto Parts. Chain link with barbed wire has to go. The old warehouse has to go. And if Mr Sullivan is not willing to invest the money in aesthetics than he needs to go.

Thanks Deb. Pauline

# *G-Cubed Engineering, Surveying and, Planning*

285 Westview Drive  
West St. Paul MN 55118  
office 651-288-1100, fax 651-455-4948

March 6, 2014

Re: Imperial Recovery Services – Response to MSA Plan Review

City of Newport  
Deb Hill, City Administrator  
Jon Herdegen, City Engineer MSA

This letter is in response to the Memo dated February 25, 2014 by Jon Herdegen.

## General Plan Comments:

1. Ok – we will note on final construction plans.
2. Ok – we will note on final construction plans.
3. Ok – signed documents and plans will be provided prior to construction.
4. See separate site cleanup and remediation plans.
5. Driveway apron is in place. Concrete perimeter curbing is requested not to be required and the project is designed as sheet flow as recommended BMP's by PCA and SWWD, see below.

We are requesting an exception to ***City Zoning Code 1330 General District Regulations Section 1330.05 Subd. 7 Paving and Curbing***: requiring the periphery of all parking areas to be constructed with poured-in-place concrete curbing. We are requesting that concrete curb and gutter not to be required under the city code for the following reasons;

- a. This is a unique parking area and is not open to the public.
- b. Only professional employees/drivers are allowed to operate vehicles in that area.
- c. We are proposing a security fence one foot from the edge of parking so vehicles will not be able to drop off the edge of the parking area alleviating the concern of deterioration of the hard surface edge.
- d. The request is controlled by the city if the use were to change under the conditions of the CUP.
- e. Current BMP's (Best Management Practice) for both the MnPCA (Minnesota Pollution Control Agency) and SWWD (South Washington Watershed District) encourage and the eliminations of curb and gutter where practicable and encourage sheet flow design for the treatment of storm water. This project is a good example of using sheet flow to accomplish storm water treatment. In order to use sheet flow curb and gutter is not consistent with recommended BMP's and thus a practical difficulty to comply.

- f. References and source: link <http://www.pca.state.mn.us/index.php/view-document.html?gid=7427>
- g. From the MnPCA link above **MODEL STORMWATER ORDINANCE**
  - B. Storm water Management Performance Standards and Design Criteria
    - 7. Minimize impervious surface area and maximize infiltration
      - g. Eliminate curb and gutter where practicable, and use vegetated swales or equivalent.
      - h. Look for vegetated areas that can filter sheet flow, removing sediment and other pollutants, and increasing the time of concentration.
- h. South Washington Watershed District Standards Manual Volume 1 section 2.12 references MnPCA 2005 Minnesota Storm water Manual recommendations.

Storm water Comments:

- 6. OK – Permits will be obtained as required.
- 7. OK – Water Quality Modeling will be provided as required.
- 8. Ok – we will note on final construction plans, in SWPPP and, NPDES Permit.
- 9. Ok – we will provide details with final construction plans.
- 10. Ok – we will provide with the storm water management plan.
- 11. Ok – we will note on final construction plans.
- 12. The fence is chain link fence where water can pass through.
- 13. Ok – we will add fence to the plans as noted.
- 14. Ok – we will note on final construction plans.
- 15. Ok – a maintenance agreement will be provided.
- 16. Storm water management
  - a. Water table was measured at 28ft-33ft below existing ground
  - b. Minimal stockpiling is anticipated, protection is noted on the plans
  - c. Additional Erosion Control Will be added with the final plans
  - d. Construction dates TBD
  - e. Requirement of Performance Bond – Noted
  - f. Dewatering treatment noted – dewatering not anticipated
  - g. Plans note all Downstream storm drain inlets to be protected

Thank you,

Daniel Tilsen  
G-Cubed Inc.  
651-283-7546 cell

Enclosed is my application, and resume. Thank You for your time and consideration.

Sincerely,

Daniel J. Tilsen



February 13, 2014

Dear Planning Commission,

We have reviewed the packet for this evenings meeting and would like to provide a few comments.

From viewing the information provided, we respectfully request that the planning commission follow the direction of St. Paul regarding brewery ordinances. As you can see, St. Pauls ordinance states “a small brewery accessory to a bar or restaurant, or brew pub, is allowed wherever restaurants or bars are allowed, including T2-4.....districts... A conditional use permit is required to exceed a floor area of 15,000 square feet.”

Per page 34 of your packet (pg 7 of St. Pauls report), table 2 “Breweries in commercial or mixed use districts” this table lists seven cities (Mpls, Duluth, Dallas, Denver, Portland, Seattle, and St Paul) and only one (Dallas) requires a CUP for bars and sometimes for brew pubs or restaurants.

As you know, the site we have chosen is already doing business as a bar/restaurant and the use is not changing with the change of ownership. We plan on still serving food and liquor as the previous owners have done for decades. Changing our occupancy or CUPs can have adverse effects on building and operating requirements. Our current project cannot afford these additional, unnecessary expenses.

Another concern with the staff recommendation is the size limitations. Due to the bowling alley on site, our facility is over 12,000 sf. As a result, this recommended ordinance wouldn't even allow for our location to be sited for a brewery. Please adopt St. Pauls direction that allows breweries the flexibility to grow in Newport.

We understand there is a certain comfort level with requiring a CUP when sighting a NEW establishment that serves liquor to ensure it is in line with the city's plans. However, this is an EXISTING establishment where a CUP should not be needed. Please consider St Pauls approach to business friendly policies that encourage businesses to come in and redevelop.

Thank you for your consideration.

Derrick & Autumn Lehrke

Opinion Brewing Company, LLC.



# MEMO

TO: Newport Planning Commission  
Deb Hill, City Administrator

FROM: Renee Helm, Executive Analyst

DATE: April 3, 2014

SUBJECT: April 10, 2014 Planning Commission Items

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Please find attached the following for the Appointments with Commission items:

- Memo from Sherri Buss regarding a zoning amendment to add a B-2 General Business District and a request from Imperial Recovery Services for a rezoning and conditional use permit
- Red-lined versions of Sections 1330 and 1350 to add a B-2 General Business District
- Draft Zoning Map
- Resolution No. P.C. 2014-4 - Recommending the City Council approve a zoning amendment to Sections 1330, 1350, and 1370.09 and amending the Zoning Map
- Items from David Sullivan
  - Business/Operations Plan
  - Fence Example
  - Plan for the building located at 310 7th Avenue
  - Site Plan
- Resolution No. P.C. 2014-1 - Recommending the City Council approve a rezoning from B-1 to B-2 for property located on 7th Avenue between 3rd and 6th Streets
- Resolution No. P.C. 2014-2 - Recommending the City Council approve a conditional use permit to allow for a vehicle storage lot use/automobile repossession business for property located on 7th Avenue between 3rd and 6th Streets
- Information memo from the League of Minnesota Cities on Land Use Conditional Use Permits

Please note that the application and other submittals from David Sullivan have not changed from the March 12 meeting and as such I have not included them in this month's packet. They are still available online for you to view.

The Planning Commission will be discussing the above items at its April 10 meeting. Below is the order that the Planning Commission will need to follow in regards to the public hearing and resolutions:

- Presentation from Sherri Buss regarding her memo and the items up for discussion
- Open the public hearing to consider the amendments to Sections 1330, 1350, and 1370.09 and the Zoning Map
- Close the public hearing
- Take action on Resolution No. P.C. 2014-4
- Take action on Resolution No. P.C. 2014-1
- Take action on Resolution No. P.C. 2014-2



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

## Memorandum

**To:** Newport Planning Commission  
**Reference:** Imperial Recovery Services-- Rezoning and CUP

**Copies To:** Deb Hill, City Administrator  
Renee Helm, Executive Analyst  
David Sullivan, Applicant  
Leisa Knauff, Owner  
Jon Herdegen, MSA, City Engineer  
**Project No.:** 15481.001

**From:** Sherri Buss, RLA AICP, City Planner  
**Routing:**

**Date:** April 2, 2014

**SUBJECT:** Imperial Recovery Services, LLC  
Application for Rezoning and a Conditional Use Permit (CUP)

**MEETING DATE:** April 10, 2014

**LOCATION:** 478 7<sup>th</sup> Avenue

**APPLICANT:** David Sullivan  
6127 South Hearthstone Avenue  
Cottage Grove, MN 55016

**OWNER:** Leisa Knauff  
478 7<sup>th</sup> Avenue  
Newport, MN 55055

**CURRENT ZONING:** B-1 (Business Park/Office/Warehouse)

**120-DAY PERIOD:** June 13, 2014

**ITEMS REVIEWED:** Application, plans, Drainage report and Storm Water Pollution Prevention Plan (SWPPP), submitted February 12, 2014 and additional applicant information submitted March 31, 2014.

**This memo includes additional information for review of the application based on the Planning Commission discussion on March 12, 2014 and additional information**

**submitted by the applicant. The section titled Rezoning Request has been replaced in this memo to reflect the discussion at the PC meeting on March 13.**

## **BRIEF DESCRIPTION OF THE REQUEST**

The applicant, David Sullivan, has submitted an application to develop a new business, Imperial Recovery Services LLC, at 478 7<sup>th</sup> Avenue. His application includes a request for rezoning and a Conditional Use Permit (CUP) for the proposed use at the site. The proposed use is an automobile repossession business.

## **REZONING REQUEST**

### **BACKGROUND AND MARCH 12 PLANNING COMMISSION DISCUSSION**

Imperial Recovery Services initially requested a rezoning of fourteen parcels from B-1 (Business Park/Office/Warehouse) to MX-4 (General Mixed Use), based on a staff recommendation. Staff considered the following in that recommendation: 1) the site and adjacent areas were classified as MX-4 until June 2013; 2) similar uses, such as auto sales and rental, and an undefined use called “Automotive services, car specialty services” are allowed in some MX districts, but not in the B or I districts; 3) MX-4 permits residential uses, and classification in a B or I district would make the homes on the parcels nonconforming uses; and 4) MX-4 was recreated to allow a wide range of business, office and residential uses. Staff recommended that the proposed auto repossession use be identified as an “Automotive services, car specialty services use,” which is permitted in the MX-4 District with a CUP.

The Planning Commission reviewed the staff analysis at its meeting on March 12, and requested that staff create a new zoning district, B-2, to include the proposed use, rather than rezoning the parcels to MX-4. The Commission suggested that the use fits a B district better than an MX district, but the purpose of the existing B-1 district is not suited to the proposed use.

The Commission also suggested that the use may be more similar to Auto Storage than “Automotive services, car specialty services.” The Auto Storage, Automotive Services, and Auto Sales, Rental” uses are not defined in the Zoning Ordinance, so the ordinance itself provides no guidance about whether the proposed use fits any of the current “Auto” uses that are identified in the Ordinance, or which use it may fit best. The Commission requested that staff create a new description for the B-2 District, and update the ordinance to include appropriate dimensional standards and use tables, including auto uses, in the B Districts.

The revised discussion of the rezoning request that follows includes three sections:

- City’s process for Use determination
- Options for Use and definition of use
- Revised analysis of the Rezoning request

### **NOTE ON THE CITY’S PROCESS FOR USE DETERMINATION**

The zoning ordinance specifies the following process when a proposed use is not identified on the land use classification chart Section 1330.04: “If a use is not identified in the following land use classification chart, the Zoning Administrator (City Administrator) shall issue a statement of clarification, finding that the use is or is not substantially similar in character and impact to a use



regulated in the land use classification chart. If the use is not substantially similar to any other use regulated in the land use classification chart, the Zoning Administrator shall refer the matter to the City Council for determination.”

In this case, due to the lack of definitions for Auto-related uses in the Zoning Ordinance, and resulting lack of clarity regarding which use, if any, might include the proposed auto repossession use, staff decided to request that the Planning Commission discuss which classification is appropriate for the auto repossession use, as part of the requested rezoning. The next section provides some options for updating the code with new use definitions for auto uses, to assist with the discussion. The Commission’s recommendation will be provided to the Council, for their decision on the use classification.

### **USE CLASSIFICATION FOR AUTO REPOSSESSION**

One of the difficulties in determining the appropriate zoning classification for the proposed auto repossession use is that it is unclear whether it fits within any of the existing “auto” related classifications in the Zoning Ordinance. Most zoning ordinances include definitions for uses, but Newport’s ordinance lacks definitions for many uses. Newport’s current ordinance includes uses such as “Auto storage,” “Auto sales, rental,” and “Automotive services, car specialty services,” but the uses have no definition in the ordinance.

Some ordinances, such as Saint Paul’s zoning ordinance, include Auto Sales and Rental and Auto Storage as the same use (the definition would probably include the repossession use as well). However, Newport’s ordinance separates the Auto Storage and Auto Sales uses, and permits them in different districts. So those who wrote the Newport ordinance in the past determined there was a distinction between those uses for zoning purposes. The Planning Commission discussion on March 12 also indicated that the Commission does not view the auto repossession use as a use that is similar to the Auto Sales and Rental use, but that it might fit under the “Auto Storage” use.

The Planner reviewed ordinances from other cities to identify those that made a distinction between the auto storage use and the auto sales and rental use, and identified a use for auto repossession. Some ordinances identified auto repossession in a “Vehicle Storage Lot” use that includes towed vehicles as well as repossessed vehicles. Those ordinances have a separate use and definition for Vehicle Sales, Display and Service. The use definitions are as follows:

- A Vehicle Storage Lot is “a facility for the storage of vehicles that have been towed, repossessed, or are otherwise in the care and custody of the operator of the lot.”
- Vehicle Sales, Display and Service is “a facility for the display, service, and retail sale of new or used automobiles, boats, trucks, motorcycles, motor scooters, recreational vehicles, or trailers.”

The Zoning Ordinance should be updated to include definitions for the auto uses that will be included in the use tables. The Planning Commission could consider one of the following approaches to include the auto repossession use in a definition, and distinguish it from the Auto Sales, Rental use:

- Remove the Auto Storage use from the use tables, and adopt 2 new definitions for Vehicle Storage Lot and for Vehicle Sales, Display and Service, which could be similar to the samples shown above; or



- Adopt a definition for the Auto Storage use, which could include the Auto repossession use if desired; and adopt a definition for the Auto Sales, Rental use to distinguish it from Auto Storage.

The attached revised Section 1350 includes the Vehicle Storage Lot and Vehicle sales, Display and Services uses. The proposed use would be a Vehicle Storage Lot use, which is permitted with a CUP in the B-2 District in the revised Section 1350.

*The Vehicle Storage Lot Use—Typical Performance Standards*

The ordinances from other communities that include the Vehicle Storage Lot use or something similar, it was generally permitted by right in Industrial Districts, and required a CUP or Special Use Permit in Commercial Districts.

Other communities regulate this use with the following performance standards:

- No servicing of vehicles or sales of vehicles or parts is permitted for this use.
- The use must have a visual screen at least 6 feet in height.
- Access through the screen must be provided by a gate equaling the height of the screening that is at least 20 feet back from the street curb, and must remain closed except when in use.
- No stacking, crushing, dismantling or repair of vehicles is permitted.
- A landscape plan is required for new or expanded use.
- A paved surface must be provided.

## **REVISED ANALYSIS OF THE REZONING REQUEST**

The subject property includes 14 parcels that are located near City Hall, between 7<sup>th</sup> Avenue and an existing major rail line to the east. The current owner's family operated an auto salvage and recycling business on most of the parcels for decades. The parcels include existing auto body shop and warehouse buildings. The total area of the parcels is approximately 5.5 acres.

The site was included in the MX-4 District until June, 2013, when the owner of the parcels, Leisa Knauff, requested a rezoning to the B-1 District. The rezoning was proposed to accommodate a proposed use that was not allowed in the MX-4 District, but would have been allowed in the B-1 District (warehouse/showroom). However, the potential buyer for the warehouse use did not purchase the site.

David Sullivan, the applicant, is proposing to purchase the Knauff parcels for Imperial Recovery Services, an automobile repossession business. The B-1 District is intended for larger-scale office and warehouse uses, and does not include auto-related uses similar to the proposed use. Therefore, the Planning Commission proposed rezoning the area that includes the parcels to a new district, B-2, which could include the proposed use. Staff have proposed classifying the use as Vehicle Storage Lot and adding this use as a permitted use in the B-2 District with a Conditional Use Permit.

The applicant and the City have been attempting to market the parcels for a use that would be appropriate for the site for the past several years. It has been difficult for the City to identify the appropriate zoning classification for the parcels, given their location adjacent to a variety of other uses--railroad tracks, industrial uses, and residential uses--and the existing pollution on the site. Discussions with developers have indicated that there is little or no potential for



development of residential or retail uses at this location, and that some type of commercial use may be a better fit. The site is too small to accommodate most warehouse uses, and larger-scale manufacturing and industrial uses may not be compatible with the adjacent residential uses. The proposed creation of the B-2 District and inclusion of the parcels in that district recognizes the unique nature of the site, and that some auto-related uses are still likely to find locations along Highway 61 in Newport to be desirable.

Based on the Planning Commission discussion on March 12, the applicant is requesting to change the zoning from B-1 (Business Park/Office/Warehouse) to B-2 (General Business). Section 1310.02, Subd. 3 of the City's Zoning Ordinance addresses rezoning applications. Rezoning requests are evaluated based on the following:

- Existing and proposed land uses on and around the site
- How the proposed zoning would fit in with the general zoning pattern of the neighborhood and city
- The conservation of property values
- Advantages to the entire City
- No change shall be recommended unless it is in the interest of public health, safety and welfare, and is compatible with the comprehensive plan.

The next sections include the staff evaluation of the proposed rezoning based on the criteria in the ordinance listed above.

#### Existing uses on and around the site

The existing zoning of areas around the Knauff site includes the following:

- The previous use on the site has been Auto Salvage/Recycling/Storage and an Auto Body Shop. Those uses have been discontinued, are not permitted in the B-1 District, and would be permitted if the area is rezoned to B-2.
- Parcels to the north and west of the Knauff parcels are zoned MX-4. They include a mix of residential and commercial uses, as well as the City Hall site and a historic railroad building.
- The parcels to the east of the Knauff property are zoned B-1. The area includes railroad properties and Highway 61, which separate the property from the B-1 uses on the east side of Highway 61.
- Properties to the south of the Knauff parcels are zoned B-1 and I-1 (Light Industrial). The parcels are owned by the adjacent refinery, and are a required buffer area between the refinery and other uses.

The proposed uses on the site and rezoning to B-2 would be compatible with the adjacent B-1 and I-1 zoning. The proposed establishment of the B-2 district on this parcel recognizes the unique character of the parcel, and its adjacency to industrial as well as residential uses. The ordinance includes performance standards that specify how uses in the Business Districts should be designed and operated to be compatible with adjacent residential uses in the MX-4 District to the west, such as requirements for screening and hours of operation.

#### Fit with the City's General Zoning Pattern

A change to B-2 zoning on the Knauff parcels will be compatible with the general zoning patterns of the City. It will be compatible with the B-1 zoning classification that currently exists on the adjacent areas to the east and south of the parcels proposed for rezoning. Most of the



area along Highway 61 is included in either business or mixed use districts to permit a variety of redevelopment options.

The proposed Vehicle Storage Lot use would need to be designed and operated to be compatible with the existing residential uses to the west and north. The City would need to enforce its design and performance standards for Nonresidential Uses through the CUP process, so that proposed uses would be operated to be compatible with adjacent residential uses. Performance standards that will be considered in the CUP process include:

- Standards for exterior appearance and materials
- Requirements for landscaping
- Prohibition or screening of outdoor storage and utility equipment
- Loading and service areas should not face the road or adjacent residential uses
- Noise limitations, particularly during night time hours
- Lighting requirements
- Traffic
- Restrictions on hours and other operating conditions
- Parking location and requirements

#### Conservation of Property Values

The change to the B-2 zoning and redevelopment with a new use is likely to enhance property values on the Knauff parcels, by permitting redevelopment that could include the cleanup of the existing pollution on the Knauff parcels.

#### Advantages for the Whole City

Newport is actively trying to redevelop several sites in the City, including the Knauff site. Rezoning and redevelopment has the potential to increase property values, provide jobs, and improve the image of the City.

#### Compatibility with the Comprehensive Plan

The Comprehensive Plan update adopted in 2010 noted that the City's vision for the area was to redevelop the areas that were occupied by auto-oriented uses related to Highway 61 over the long-term, and encourage redevelopment of the areas along Highway 61 with a mix of residential and commercial uses.

However, neither the 2000 nor the 2010 Comprehensive Plan included a market analysis of the areas along Highway 61 as the zoning maps were developed. The recession occurring during the 2010 Comprehensive Plan update would have made such an analysis extremely difficult. Efforts to market the Knauff property have provided information about the types of uses that may be marketable on the property, and compatible with the adjacent railroad use to the east, residential and commercial uses to the west, and industrial uses to the east. While the City has had a desire to include a wider diversity of uses along the Highway 61 corridor, the location and access are still likely to be attractive to auto-related uses, and some auto-oriented uses are allowed in the proposed B-2 district. The proposed B-2 zoning classification allows for a broad range of commercial and residential uses, in order to provide options for redevelopment within the District that respond to market demand as well as address the goals for redevelopment that provides new employment opportunities and increases property values.



## FINDINGS FOR THE REZONING REQUEST

1. The proposed rezoning from the B-1 District to the B-2 District is consistent with the goals and policies in the Comprehensive Plan that encourage redevelopment of the portions of the City along Highway 61 with a mix of residential and commercial uses.
2. The proposed zoning is compatible with many of the existing uses around the site. The surrounding areas include a diverse mix of uses, including railroads, commercial, residential, and light industrial uses. The performance standards in the zoning ordinance can be applied so that the uses allowed in the B-2 district are compatible with the residential and commercial uses in the MX-4 District.
3. The proposed zoning fits the general pattern of zoning in the City. Most of the land along Highway 61 has been zoning for Business or Mixed Use.
4. The proposed rezoning will allow for redevelopment of the property with new uses that have a higher value than the existing and past uses of the site. Redevelopment is likely to have a positive impact on the value of adjacent properties. The rezoning is likely to conserve or improve property values in the City.
5. The proposed rezoning will allow for redevelopment of the property and cleanup of existing pollution on the site. The redevelopment and cleanup will result in positive impacts for the entire City. The cleanup of pollution on the site and redevelopment with a new use are in the interest of public health, safety and welfare.

The Planner's findings for the proposed rezoning indicate that the proposed rezoning to the B-2 use is compatible with Comprehensive Plan and meets the other ordinance criteria for rezoning.

## PROPOSED ORDINANCE AMENDMENTS TO ACCOMMODATE REZONING TO B-2

The proposed ordinance updates to add a B-2 General Business Zoning District are attached, based on the discussion at the Planning Commission meeting on March 12.

- Section 1330 adds the new district to the list of districts in the City.
- Section 1350 adds a purpose statement. The statement includes PC comments at the last meeting, and content from the definitions that neighboring cities use for their General Business classification.
- Section 1350.15 Dimensional requirements—proposes that the requirements in the B-2 District be the same as the B-1 District.
- Section 1350.14 Uses—proposes uses for the B-2 District. New uses were added to the table for the B and I districts that might fit in B-2 District based on the Commission discussion on March 12, including the new Vehicle uses discussed above.

**CONDITIONAL USE PERMIT REQUEST—The updates to this section from the previous memo are shown in bold type.**

## BACKGROUND AND SITE HISTORY

The applicant is requesting a Conditional Use Permit to operate an automobile repossession business on the parcels shown on the site plan. The proposed plan includes the use of existing buildings and fencing on the site, and the addition of a significant area of impervious surface that will be used for parking automobiles. The previous business on the property was Bill's Auto



Salvage/Bill's Auto Parts. The soils on the site were contaminated by the previous use, and the contamination will need to be cleaned up before new impervious surfaces or structures can be added for a new use.

The City and the property owner (Leisa Knauff) have been are working together to obtain grant funds for site cleanup. The City completed a Phase I Environmental Site Investigation and a Phase II Investigation Report & Response Action Plan (RAP) (October 18, 2012) to meet MPCA requirements. The RAP spells out the actions that need to be taken to clean up the pollutants on the site. In 2013, the City sought a Contamination Cleanup Grant from the Minnesota Department of Employment and Economic Development (DEED) to assist with the costs of cleanup, but was not successful in obtaining the grant. The City's action was a lower prior than other applications because a new use that would create a positive economic impact had not been identified for the site.

Dave Sullivan, the applicant, is willing to continue to cooperate with the City to obtain grant funds to clean up the site. The next application is due in May, 2014, and city staff hope that having a potential use for the site will improve the City's ranking for grant funds. The applicant and City are proposing that the City will seek funding through a maximum of two **years** (4 grant cycles) for site cleanup. If the City is not successful in obtaining a grant after 2 **years**, the applicant will be responsible for the cost of cleanup. The site plan includes a phased approach to development that assumes cleanup of each area before the new impervious surfaces and **stormwater facilities** are added to the site. The proposed conditions include items that address responsibilities for site cleanup.

## **EVALUATION OF THE REQUEST:**

### **1. Zoning District and CUP Standards**

The proposed amendments to the Zoning Ordinance state that the intent and primary use of the B-2 General Business District is to "provide the opportunity for diverse businesses to take advantage of the City's location and access to major roadway corridors. The district is intended to provide locations for businesses that serve local and regional needs, and may include retail businesses, highway or automobile-oriented businesses, and quasi-industrial and wholesale enterprises that do not need an industrial setting, and can be designed or managed to be compatible with surrounding districts."

Section 1310.10 of the code indicates that the city may grant a CUP when the use is consistent with the Zoning Ordinance and Comprehensive Plan, and the City may impose conditions and safeguards to protect the health, safety and welfare of the community. Criteria for evaluating the proposed uses and developing conditions for the CUP include the following:

1. The proposed use is designated in Section 1330 of the development code as a conditional use in the appropriate zoning district.
2. The proposed use is consistent with the Newport Comprehensive Plan.
3. The proposed use will not be detrimental to or endanger the public health, safety or general welfare of the City, including the factors of noise, glare, odor, electrical interference, vibration, dust, and other nuisances; fire and safety hazards; existing and anticipated traffic conditions and parking facilities on adjacent streets and land.



4. The potential effects of the proposed use on surrounding properties, including valuation, aesthetics and scenic views, land uses, and character and integrity of the neighborhood.
5. The potential impacts of the proposed use on governmental facilities and services, including roads, sanitary sewer, water and police and fire.
6. The potential impacts on sensitive environmental features including lakes, surface and underground water supply and quality, wetlands, slopes, flood plains and soils.
7. The City may also consider whether the proposed use complies or is likely to comply in the future with all standards and requirements set out in other regulations or ordinances of the City and other governmental bodies having jurisdiction in the City.
8. In permitting a new conditional use, the City may impose additional conditions which it considers necessary to protect the best interest of the surrounding area or community as a whole.

This staff report evaluates the request for a Conditional Use Permit for the property located at 478 7<sup>th</sup> Avenue based on the City's zoning ordinance and related standards.

## **2. Proposed Use—Vehicle Storage Lot**

The Newport Code does not have a specific use category for the automobile repossession use that is proposed at this site. **Staff have proposed that the City adopt a new use called Vehicle Storage Lot that would include the proposed use, and that the use be permitted in the B-2 District with a Conditional Use Permit.**

The applicant described the proposed use as follows in the application:

- Repossessed vehicles will be brought to the site by truck.
- The majority of vehicles will be stored on the two acres of land to the south, east, north and northeast of the existing warehouse building shown on the site plan. Some repossessed property will be stored within the warehouse building as well.
- The proposed business hours are 9 a.m. to 4:30 p.m. The public may come to the site during those hours to retrieve personal property and collateral from the old repair shop building.
- The applicant will direct traffic to come to the facility from the south, taking the 70<sup>th</sup> Street exit from Highway 61
- The business will include bringing repossessed cars and trucks to the site “after hours”, routing the vehicles into the storage yard via the gate just south of the warehouse, and exiting the yard via the gate north of the yellow house. The route is proposed to avoid having trucks backing up on the site and the noise from “backup beepers.” Exiting via the north gate will direct headlights to 4<sup>th</sup> Street and away from homes. The Planner has included proposed conditions to manage site access, traffic flow, and noise.
- Office staff will work in the warehouse and in the old “paint and auto repair shop” building

The CUP should include conditions to prohibit automobile painting and body work, manage traffic, and address other potential impacts to surrounding properties.

## **3. Comprehensive Plan**

The Comprehensive Plan supports development of a mixture of commercial, office and residential uses in the areas adjacent to Highway 61. It supports the development of new



business to improve the City's tax base and expand employment. The plan discusses goals to The proposed use is generally consistent with the land use goals and map included in the 2030 Comprehensive Plan.

#### **4. Dimensional Standards, Setbacks, and Requirements**

The dimensional standards and setbacks for the B-2 district that apply to the proposed uses and plan include the following:

- Minimum lot area: 15,000 square feet
- Minimum lot depth: 150 feet
- Minimum lot width: 100 feet
- Maximum lot coverage (buildings): 30%
- Structure setbacks: Front yard: 20 feet; side yard 10 ft.; Rear yard, 20 ft.
- Parking setbacks: Front yard: 20 feet; side and rear yard: 5 ft.
- Maximum building height: 40 feet
- Public utilities required, including sewer

The applicant is maintaining the existing residential and commercial buildings on the site. The existing buildings are legal, nonconforming structures. The existing buildings meet the setback and height requirements.

The applicant is proposing to expand the parking area on the site. The plans indicate that the proposed parking meets the setback requirements for parking in the B-2 District.

**The applicant will need to combine the parcels that will be occupied by the business in order to meet the minimum lot size requirements.**

The sections that follow analyze the application in relation to criteria #3-6 in the zoning ordinance for evaluating Conditional Use Permit applications.

#### **5. Traffic**

The site plan indicates that Imperial Recovery Services is proposing that traffic will enter the site at the south end, across from 3<sup>rd</sup> Street, and exit the site across from 4<sup>th</sup> Street. Both locations currently have driveway access to 7<sup>th</sup> Avenue.

The applicant estimated that approximately 20 trucks will make round trips to and from the business each day (typically wrecker and rollback trucks), and approximately 50 cars will make round trips to and from the site. The existing roadways that serve the area are adequate to handle the traffic expected at the site. The City Engineer's comments on the application noted that 7<sup>th</sup> Avenue is a 7-ton design road, and is posted as such in spring. **However, the City's Public Works Supervisor's records indicate that 7<sup>th</sup> Avenue was designed and built as a 9-Ton road to serve construction traffic during the reconstruction of Highway 61. Based on the roadway design, there can be no heavier trucks servicing the facility, year round. The Planner has included a condition that the maximum truck loads serving the facility may not exceed 9 tons in weight year-round.**

#### **6. Parking Requirements and Driveways**



Parking Requirements. Section 1330.06 of the Zoning Ordinance includes standards for parking for a variety of uses, though none is similar to the proposed use. Standards for other uses with employees and customers require that there be 1 space for each 2 employees on the largest shift, and 1 space for each 250 square feet of gross floor area for services uses.

The applicant estimated that the total number of employees on the site will be approximately 25; therefore 13 spaces are required for employee parking. The gross floor area of non-residential buildings on the site is 4000, which requires 16 spaces. The proposed parking that is planned for this use is more than adequate to meet the code requirements.

Pavement and Driveways. The Zoning Ordinance requires that all parking areas and drives be constructed of concrete, blacktop or similar durable hard surface free of dust, and that the periphery of all parking areas and drives shall be constructed with poured-in-place concrete curbing unless otherwise approved by the City.

The applicant is proposing two phases of parking lot construction, and the use of asphalt pavement for the parking areas within the site, but is requesting that concrete curbing not be required for the lots within the site, based on the following:

- The parking area is not open to the public. It is not like typical business or commercial lots that need to control parking by the public.
- Only employees of the business will be operating vehicles in the parking areas.
- The applicant is proposing a fence approximately one-foot from the edge of the parking areas so that vehicles will not be able to go past the edge of the parking area, so that the edge of the hard surface should not deteriorate due to parking over the edge.

City staff reviewed the applicant's proposal for parking, and the City Engineer recommended that concrete curbing be required around the parking areas:

:

- The applicant shall provide a revised plan that indicates the location and detail of the driveway apron. The apron shall be concrete with a width not to exceed 32 feet (or maximum applicable City Standard). Concrete curb (minimum B612) shall be laced from the apron around the perimeter of future asphalt pavement area prior to paving.

The Engineer noted in an email to the Planner that "Getting curb on new construction has been a battle for as long as I have worked in town. I thought that we had done a good job of holding the line on this last year we required curb on the Phoenix House property. I fail to see the argument that the Repo site is any different than the group home. I would allow no curb on edges to be expanded, if the operator proposes an extension to the parking lot within 5 years."

The Engineer also recommended the following condition related to the parking areas:

- Parking for handicapped person must be provided in accordance with State and Federal regulations. The revised plan should indicate the location of visitor parking, including handicapped parking.

The Planner has included a condition that the applicant shall address the Engineer's comments in the final plans. However, the Planning Commission recommended that no curbing be required, and this exception is noted in the proposed conditions.

## **7. Building design and materials/Accessory Structures**



The applicant is proposing to use the existing buildings on the site. The performance standards in the Zoning Ordinance allow the use of metal panel buildings if the exterior surface finish is warranted to remain in good condition for 20 years, and if no more than 50% the building elevation faces a public roadway.

No new accessory structures are proposed on the site plans.

**The existing buildings are nonconforming structures that were installed for the previous use, and may therefore remain. Potential expansion of the buildings is limited by the ordinance. The applicant provided an email to City staff on March 31 that stated that “There will be a complete “facelift” to the front of the warehouse. This will include new doors and windows. The facing will, at a minimum be painted. However, we are working on a much more comprehensive plan than that. The signage (Bill’s Auto Parts) will be removed.”**

**The Planner included a proposed condition that the applicant provide the plans for the improvements to the warehouse to the City staff for approval. The plans shall include removing existing rust from the warehouse exterior, painting the entire warehouse, and removal of the existing Bill’s Auto Parts signage.**

#### **8. Exterior Storage Requirements**

Section 1350.13 requires that no materials, products or equipment be stored outside of an enclosed building except for daily display of merchandise during store hours. The Planner has included a proposed condition for the CUP that no outside storage is permitted on the site. The performance standard related to “outside storage” does not include vehicle storage, which is addressed in another section of the ordinance.

#### **9. Refuse and Recycling**

Section 1350.13 requires that all refuse and recycling containers be stored in the principle structure or a fully enclosed accessory structure, and Section 1330.05 (Subd 10) further requires that dumpsters, trash, trash handling equipment and recycling equipment shall be stored within an enclosed accessory structure of the same materials as the principal structure. The Planner has included a proposed condition for the CUP that refuse and recycling for the business shall meet the ordinance requirements.

#### **10. Screening and Fencing Requirements**

The ordinance requires that any vehicles parked for more than forty-eight hours shall be completely screened from residential uses, and screened from the eye-level view of public streets and from the public front and office sides of business and industrial uses.

The applicant indicated that the vehicles that are brought to the site may be stored for more than 48 hours. The site is screened from the land uses the east by the railroad berm, and to the south by existing trees.

Additional screening is required to screen the residential land uses to the north and west from the parking areas. The applicant is proposing to leave the existing fence (both barb wire and chain link) in place. He is proposing to repair the fence as needed, and add new screening as



part of the chain link fence. He is also proposing to add trees to provide additional screening. There are several issues related to the required fencing and screening:

- **Existing fence as a nonconforming structure.** The existing fence is a nonconforming structure--it is a structure (“anything constructed or erected, the use of which requires permanent location on the ground or attached to something having a permanent location on the ground”) that is nonconforming (any legal structure existing prior to the date that new zoning provisions were adopted making said structure inconsistent with the provisions of the newly adopted zoning chapter). Therefore, it may be continued as long as it has been in existence for more than 15 years, it does not have adverse impacts on the properties or surrounding properties, and will not hinder local plans for redevelopment. The applicant is proposing to leave the existing barb wire portion of the fence in place, and will repair the strands as needed to provide a secure fence. At the March Planning Commission meeting the applicant indicated that barb wire fence is required to obtain insurance for his business.
- **Chain link fence.** The applicant shows proposed fencing around the parking areas and indicated by phone that the fencing will be 6’ chain link fence with 5 strands of barbed wire at the top. The application originally proposed that the fence would include metal slats interwoven with the fencing (much like the existing fence) to screen the lots from adjacent residential areas, and the applicant would repair or replace the slats on the existing fence as needed to improve the appearance of the fence. The applicant recently provided photos of other options for screening materials that could be used with the chain link fence. The Planning Commission should indicate whether the slat materials or other screening materials are preferred for the chain link portion of the fence, and provide a recommendation regarding fence color.
- **Conifer screen.** The Planning Commission discussed the need for year-round vegetative screening of the fence in order to create screening that meets the ordinance requirement. **The Planner added a condition that requires that conifers be planted to meet the landscaping requirements and screen the fence from view from adjacent residential areas.**

### ***11. Utility Equipment—Screening Requirements***

The ordinance requires that all utility equipment (heating and ventilating equipment, meters, and similar equipment) shall be completely screened from eye-level view of adjacent properties and streets. If any utility equipment will be added to the structures, it must meet the ordinance requirement.

### ***12. Lighting***

The applicant submitted a plan for lighting that will be added to the site for the new use. The lighting on the site must meet the requirements of Subdivision 13 of Section 1330.05 of the ordinance to be “of a downcast, cutoff type, concealing the light source from view and preventing glare from spilling into residential areas.” The ordinance includes standards for light levels at the property lines.



The lighting plan indicates that the proposed fixtures are full-cutoff-LED luminaires that meet the ordinance requirement. The lighting plan indicates that the light levels at the site boundaries meet the ordinance requirements.

### **13. Landscaping**

Section 1330.05, Subdivision 14 includes the landscaping requirements for commercial and office uses:

- At least one over-story tree shall be provided in the front yard for each fifty feet of lot frontage
- The landscape plan materials meet the requirements for physical characteristics such as hardiness and salt-tolerance, and the required proportions of coniferous/deciduous materials.
- The proposed landscape materials meet the planting size requirements of the ordinance.
- There shall be a minimum of one tree for every 1,000 square feet of non-impervious surface area of parking lots, and parking lots for more than eight cars shall landscape 10 percent of the parking lot surface area.

The plans do not indicate proposed plantings except the seeding proposed for the stormwater pond areas. The Planner included a proposed condition that the applicant shall submit a landscape plan to the City for approval that includes a minimum of 12 over-story trees along 7<sup>th</sup> Avenue. The trees shall be species that are hardy in Minnesota and salt-tolerant. The trees shall have trunks that are a minimum 2-1/2" diameter at planting.

**The Planning Commission discussed the proposed plantings and need to screen the fence at its meeting on March 12. The Commission recommended that conifer plantings that screen the fence and automobiles from view from 7<sup>th</sup> Avenue be a condition of approval. The Planner has included a proposed condition that the applicant provide a landscape plan that includes conifers (Black Hills Spruce, *Picea glauca densata*, or similar species suitable to site conditions) to screen the portions of the fence that are visible from 7<sup>th</sup> Avenue. The trees shall be a minimum 5' in height at planting.**

### **14. Restricted Operations (noise, odor, glare, etc.)**

Based on ordinance requirements, noise, odors, smoke and particulate matter should not exceed Minnesota Pollution Control Agency standards. Any glare, direct or reflected, from spotlights or activities on the site should not be visible beyond the property boundaries.

The applicant is proposing to drop off vehicles after normal working hours, and is proposing that vehicles enter the yard via the gate just south of the warehouse, and exit the yard via the gate north of the existing house, so that headlights do not shine into homes across 7<sup>th</sup> Avenue. The planner included this traffic pattern as a proposed condition for approval of the CUP.

The applicant also noted that equipment with back-up beepers may be used at the site, and proposed the traffic pattern to avoid noise from the beepers. The Planner included a proposed condition that equipment with back-up beepers shall not be used outside the daytime working hours at the site (9 to 4:30 p.m.), and that the applicant utilize equipment with broadband alarms and a circular traffic pattern to the extent feasible to minimize the need for equipment to back up on the site.



**The Planner discussed the issue related to the use of trucks during night-time hours with the applicant, and the Planning Commission concerns related to noise and headlight impacts to homes across from the proposed exit at the north end of the site. The Planning Commission discussed potential limitations on the number of trucks accessing the site during night-time hours.**

**The applicant indicated that it is difficult to determine an average number of trucks that may be accessing the site. It may also be difficult for the City to regularly monitor activity to determine if the site is meeting a condition that specifies a maximum amount of traffic. The Planner suggest that an alternative may be to limit all entries and exists outside regular business hours to the gate south of the warehouse, where there are no homes facing the gate. The applicant indicated that this is feasible. The Planner included a potential condition that trucks entering and exiting the site between 4:30 p.m. and 9 a.m. use the gate south of the warehouse building.**

### ***15. Hours of Operation***

The applicant proposed that the hours of operation be 9 a.m. to 4:30 p.m., Monday through Friday. He indicated that they propose to allow their staff to drop off repossessed cars and trucks during other hours, and proposed routing the after-hours traffic to minimize the noise that it could generate.

The Planning Commission should discuss the proposal for after-hours drop off, and listen to public comments on the application, to determine if there are concerns about the extended hours. The Planner included a proposed condition that equipment with back-up beepers may not be used outside the daytime working hours at the site (9 to 4:30 p.m.), and that the applicant utilize equipment with broadband alarms and a circular traffic pattern to the extent feasible to minimize the need for equipment to back up on the site at all hours.

### ***16. Signs***

The application did not include locations or plans for proposed signs. A freestanding entry sign is permitted for this business. Signs must meet the ordinance requirements. The applicant should submit any plans for proposed signage to the Zoning Administrator for approval.

### ***17. Infrastructure, Public Services, Health and Welfare***

The City Engineer reviewed the site plans and indicated that adequate sewer and water services are available to serve the proposed uses at the site. The site is unlikely to generate additional needs for public services. If cleanup of existing pollution on the site occurs as a result of the new use, it will benefit the health and safety of Newport, its residents, and the physical environment.

### ***18. Environmental Issues***

As noted previously, hazardous materials exist on the site due to the previous business activities on the property. The City and the property owner (Leisa Knauff) have been working together to obtain grant funds for site cleanup. The City completed a Phase I Environmental Site Investigation and a Phase II Investigation Report & Response Action Plan (RAP) (October



18, 2012) to meet MPCA requirements. The RAP spells out the actions that need to be taken to cleanup the pollutants on the site.

Dave Sullivan, the applicant, is willing to continue to cooperate with the City to obtain grant funds to clean up the site. The applicant and City are proposing that the City will seek funding through a maximum of two more **years** for site cleanup. If the City is not successful in obtaining a grant after 2 **years**, the applicant will be responsible for the cost of cleanup. The site plan includes a phased approach to development that assumes cleanup of each area before the new impervious surfaces are added to the site.

The Planner has included the following proposed conditions for the CUP related to the environmental issues on the site:

- The owner of Imperial Recovery Services shall complete a Development Agreement for the site with the City. The Development Agreement shall address the responsibilities and phasing for the cleanup of the hazardous materials on the site in relation to the proposed development of the site.
- The applicant shall continue to work with the City to apply for grant funds to clean up the site, through grant cycles in 2014 and 2015. If the City is not awarded grant funds for cleanup, the applicant will be responsible for cleanup, and shall provide to the City a detailed plan for treatment and disposal of contaminated soils for the site that meets regulatory requirements.

### **19. Stormwater Management**

The City Engineer reviewed the stormwater plan for the site, and provided the following comments:

- The property owners must obtain any necessary permits from the South Washington Watershed District (SWWD).
- The property owners must provide the City the water quality modeling required by the SWWD (including but not limited to):
  - Total Phosphorus (TP) loading of 0.22 lbs./acre/year for the Mississippi River basin; the maintenance of existing loading will not be acceptable.
  - Total Suspended Solids (TSS) should be modeled and compared against the limits in the Mississippi River Draft Total Maximum Daily Load (TMDL) plan.
- All work shall be in conformance with Newport's MS4 permit for sediment and erosion control, including preparation of SWPPP (Stormwater Pollution Prevention Plan) and NPDES (National Pollution Discharge Elimination System) permits from the MPCA.
- The applicants must provide detailed plans for erosion and sediment control to the City Engineer for review, and provide the existing site drainage exhibit with time of concentration flow path noted.
- The applicant shall construct both the east and south basins and all stormwater BMP's as part of Phase 1 of the project.
- The applicant shall provide a detail of the proposed site fencing to show surface runoff may easily pass through the fence.
- The applicant shall provide fencing around the South Basin due to the close proximity to 7<sup>th</sup> Avenue.
- The applicant shall indicate onsite snow storage locations and a plan for protecting permanent stormwater BMP's from resulting surface runoff.



- The applicant shall provide a maintenance agreement for permanent stormwater treatment facilities for City review and consideration.
- The applicant shall provide information to meet the City's Ordinance 1371 (Storm Water Management) requirements, including: site soil information, anticipated stockpile locations; anticipated construction start and end date, information about any proposed dewatering and treatment prior to discharge; storm drain protection from erosion and tracked materials
- The applicant shall provide a performance bond and complete an agreement to construct with the City of Newport
- The applicant shall revise the stormwater plan to meet the requirements of City Ordinance 1371 Storm Water Management, and address the ordinance items identified by the engineer in his letter dated February 18, 2014.

A copy of the application was forwarded to the South Washington Watershed District for review. SWWD staff indicated that since the applicant is proposing to re-use the existing building and parking lot, the District has no comment on the CUP application.

The Engineer indicated in an email to the Planner that "the comments do not need to be addressed prior to review by the Planning Commission and approval by the Council," and recommended that they be included in the list of conditions for approval.

**The Planning Commission recommended the following at the March 12 meeting:**

- **The parking areas shall be graded to drain to the stormwater ponds.**
- **No curbing shall be required, so that sheet drainage toward the ponds is encouraged.**
- **The paving and construction of the ponds should occur after cleanup of the site.**

**FINDINGS FOR THE CONDITIONAL USE PERMIT REQUEST**

1. The proposed use is designated in Section 1330 of the development code as a conditional use in the B-2 General Business Zoning District.
2. The proposed use is consistent with the Newport Comprehensive Plan, which supports the development of a mix of residential and commercial uses in the areas along Highway 61.
3. The conditions for approval of the proposed use include requirements for development and operation of the site so that the proposed use will not be detrimental to or endanger the public health, safety or general welfare of the City, including the potential impacts of noise, glare, odor, electrical interference, vibration, dust, and other nuisances; fire and safety hazards; existing and anticipated traffic conditions and parking facilities on adjacent streets and land.
4. The redevelopment of the property with a new use and associated cleanup of existing pollution on the site will have positive impacts on surrounding properties, including valuation, aesthetics, and the character of the neighborhood.
5. The proposed use will have no negative impacts governmental facilities and services, including roads, sanitary sewer, water and police and fire.



6. The potential use and development plan will result in the cleanup of existing pollution on the site, and provide positive impacts to surface and ground waters and soils.
7. In permitting a new conditional use, the City has adopted conditions which it considers necessary to protect the best interest of the surrounding area or community as a whole.

The Planner finds that with proposed conditions, the request meets the ordinance requirements for a Conditional Use Permit.

#### **ACTION REQUESTED FOR THE REZONING AND CUP REQUEST:**

The Planning Commission can recommend:

1. Approval
2. Approval with conditions
3. Denial with findings
4. Table the request

#### **PLANNING STAFF RECOMMENDATIONS:**

The Planner recommends that the Planning Commission recommend to the City Council approval of the Imperial Recovery Services LLC request for a Rezoning of the parcels at 478 7<sup>th</sup> Avenue to the **General Business (B-2) Zoning** District.

The Planner also recommends that the Commission recommend that the Council approve a Conditional Use Permit for a **Vehicle Storage Lot Use**, not including auto body repair or major repair” at the site, with conditions. The Planner recommends the following conditions for the proposed uses:

1. The Applicant shall submit Final Site Plan(s) and Building Plans that are substantially in conformance with the plans that were submitted to the City, dated February 12, 2014. All elements of the Final Plans must meet the requirements of the zoning ordinance. **Final plans shall be submitted within 30 days of the approval of the CUP, and before the start of business operations on the site.**
2. **The applicant shall combine the parcels that will be occupied by the business in order to meet the minimum lot size requirements.**
3. The Applicant shall modify the plans for City Engineer approval, and comply with the requests of the City Engineer included in the Engineer’s memo, dated February 18, 2014, except for the requirement that concrete curbing be required for the parking area. All work shall be completed in accordance with the City of Newport’s Engineering Standards. **The plans shall be submitted within 30 days of the approval of the CUP, and before the start of business operations on the site.**
4. No concrete curb shall be required for the parking areas on the site. Parking lots shall drain to the stormwater ponds.
5. Maximum truck loads serving the site may not exceed **9** tons in weight year-round.



6. Trucks shall enter the site using the gate south of the warehouse, and shall exit the property using that gate or the gate north of the existing house near 4<sup>th</sup> Avenue **between 9 a.m. and 4:30 p.m. At all other hours, trucks shall enter and exit the site using the gate south of the warehouse. The height of the gates shall be the same as the fence, and the gates must remain closed when not in use.**
7. The applicant shall revise the plan to include a location for visitor parking and handicapped parking that meets State and Federal regulations.
8. The applicant shall provide the plans for the improvements to the warehouse to the City staff for approval. The plans shall include removing existing rust from the warehouse exterior, painting the entire warehouse and removal of the existing Bill's Auto Parts signage. **The warehouse plans shall be submitted to the City within 30 days of the approval of the CUP, and improvements to the warehouse shall be completed within 90 days of approval of the CUP.**
9. No outside storage other than vehicles stored on the parking areas is permitted on the site.
10. No servicing of vehicles, sales of vehicles or parts, auto body work or automobile painting is permitted on the site.
11. No stacking, crushing, or dismantling of vehicles is permitted on the site.
12. All trash and recycling equipment shall be stored within an enclosed structure. The materials used to construct the trash enclosure shall be the same materials used on the exterior of the principal structure.
13. Lighting shall conform to the plan submitted with the application and the ordinance requirements. Lighting fixtures shall be downcast, cutoff-type fixtures that prevent glare from spilling onto adjacent residential areas.
14. The fencing and related screening on the site shall be repaired and maintained in good condition so that the requirements of the ordinance are met. **Fencing and screening improvements shall be completed before the business begins operations at the site.**
15. Any utility equipment installed at the site must meet the ordinance requirements.
16. The applicant shall submit final plans for fence repairs and screening elements to the City staff for approval **within 30 days of the approval of the CUP.**
17. The applicant shall submit a landscape plan to the City for approval that includes a screen of conifer trees (Black Hills Spruce, *Picea glauca densata*, or equivalent) that shall screen the fence from the view of adjacent residential properties. The trees shall be a minimum 5 feet in height at planting, and shall be maintained or replaced as needed to screen the fence. **The landscape plan shall be submitted to the City within 30 days of approval of the CUP, and improvements shall be completed within 90 days of approval of the CUP.**
18. The hours of operation for serving visitors shall be 9 a.m. to 4:30 p.m.
19. The applicant shall direct traffic to access the site from the south, using the 70<sup>th</sup> Street exit from Highway 61 and 7<sup>th</sup> Avenue.



20. The business may bring repossessed vehicles to the site outside the hours of operation under the following conditions:
  - **The trucks that are dropping off vehicles shall enter and exit the site via the gate south of the warehouse building.** Headlights shall be controlled so there are no impacts to homes across 7<sup>th</sup> Avenue.
  - Equipment with back-up beepers shall not be used outside the daytime hours of operation (9 a.m. to 4:30 p.m.). At all times, the applicant shall utilize equipment with broadband alarms, minimize equipment and alarm volumes, and utilize a circular traffic pattern to the extent feasible to minimize the need for equipment to back up on the site and utilize beeper alarms.
21. The Applicant shall apply to the City for a permit for any sign(s) proposed as the site. All signs shall meet the ordinance requirements.
22. The permitted use on the site does not include automobile painting and body work.
23. Noise, odors, smoke and particulate matter produced on the site shall not exceed Minnesota Pollution Control Agency standards.
24. The applicant shall complete a Development Agreement with the City that includes at least the following: 1) the responsibilities, phasing and **deadlines** for the cleanup of the hazardous materials on the site and 2) a maintenance agreement and performance bond for the stormwater facilities on the site.
25. The applicant shall continue to work with the City to apply for grant funds to clean up the site, through grant cycles in 2014 and 2015. If the City is not awarded grant funds for cleanup, the applicant will be responsible for cleanup, and shall provide to the City a detailed plan for treatment and disposal of contaminated soils for the site that meets regulatory requirements.
26. The applicant shall pay all fees and escrow associated with this application.



**Section 1330--General District Regulations****1330.01 District Classification.**

In order to implement the Comprehensive Plan and achieve an orderly development pattern that protects the health, safety, and general welfare of the City of Newport, its residents, and business community, and minimizes development impacts on the environment, the city is hereby divided into the following zoning districts:

**1330.01.1 Residential Districts**

- RE Residential Estate
- R-1A River Residential District
- R-1 Low Density Single Family Residential District
- R-2 Medium Density Residential District
- R-3 High Density Residential District

**1330.01.2 Nonresidential Districts**

- B-1 Business Park/Office/Warehouse
- **B-2 General Business**
- I-1 Light Industrial District
- I-2 General Industrial District
- I-S Industrial Storage District

**1330.01.3 Mixed Use Districts**

- MX-1 Downtown Mixed Use District
- MX-2 Commercial Mixed Use District
- MX-3 Transit-Oriented Mixed Use District
- MX-4 General Mixed Use District

**1330.01.4 Planned Unit Developments (PUD)****1330.01.5 Special Overlay Districts**

- Shoreland Management District
- Critical Area Overlay District
- Flood Plain Management District
  - Floodway
  - Floodfringe
- Bluffland Area Overlay District
- Historic Neighborhood Conservation Overlay District
- Conservation Residential Overlay District
- River Redevelopment Overlay District

**1330.02 Zoning Map**

The location and boundaries of the districts established by this Chapter shall be hereby set forth in a map known as the "City of Newport Zoning Map" hereinafter referred to as the Zoning Map. The map and all notations, references, and data shown thereon are hereby incorporated by reference into this Chapter. It shall be the responsibility of the Zoning Administrator to maintain the Zoning Map, and amendments shall be recorded on the map within thirty (30) days after official publication of the amendments. The official zoning map shall be kept on file in the City hall.

**1330.03 Boundary Lines**

Wherever any uncertainty exists as to the boundary of any use district as shown on the zoning map incorporated herein, the following rules shall apply:

- A. Where district boundary lines are indicated as following streets, alleys, railroads, or similar rights-of-way, they shall be construed as following the centerlines thereof;
- B. Where district boundary lines are indicated as approximately following lot lines or section lines, such lines shall be construed to be such boundaries;
- C. Where a lot of record at the effective date of this Code that is held in one (1) ownership is divided by a district boundary line, the entire lot shall be construed to be within the less restricted district; provided that this section shall not apply if it increases the area of the less restricted portion of the lot by more than twenty (20) percent;

**1330.04 Uses**

It is the policy of the City of Newport that the enforcement, amendment, and administration of this Ordinance be accomplished with due consideration of the recommendation contained in *Chapter 1300, Section 1340.02* and *Sections 1350.01-1350.1213*, *Intent of the Newport City Code of Ordinances* and the *City of Newport Comprehensive Plan* as developed and amended from time to time by the Planning Commission and City Council of the City of Newport.

Within the City's zoning districts, no land or buildings may be used or occupied in any manner except for the uses set forth in the following land use classification chart and described in the following subsections. If a use is not identified in the following land use classification chart, the Zoning Administrator shall issue a statement of clarification, finding that the use is or is not substantially similar in character and impact to a use regulated in the land use classification chart. If the use is not substantially similar to any other use regulated in the land use classification chart, the Zoning Administrator shall refer the matter to the City Council for determination. The Zoning Administrator and City Council shall take into consideration if the use meets the City's goals and plans, what zoning district may be most appropriate for the use as well as what conditions and standards should be imposed relating to development of the use. In addition, the Zoning Administrator and City Council shall take into consideration whether the use will conform to the performance standards (*Section 1330.05*) and overlay districts (*Section 1370*) described in this Chapter.

An appeal may be taken to the board of appeals and adjustments as described in *Section 1310.03 Appeal from Administrative Decisions* by any person aggrieved by any order, requirement, decision or determination made by the Zoning Administrator or any other administrative office of the City in enforcement of this Section.

Section 1330.04 Uses

| Land Use Classification                                     |                 |                        |                               |                                |                              |   |                             |                      |                        |   |                         |                           | <b>NP</b> Not Permitted<br><b>P</b> Permitted<br><b>PUD</b> Planned Unit Developments<br><b>C</b> Conditional Use Permit (CUP) required<br><b>A</b> Permitted Accessory Use<br><b>CC</b> Certificate of Compliance |                                   |                          |
|---|-----------------|------------------------|-------------------------------|--------------------------------|------------------------------|---|-----------------------------|----------------------|------------------------|---|-------------------------|---------------------------|--|-----------------------------------|--------------------------|
| Land Use  | Zoning District |                        |                               |                                |                              |   |                             |                      |                        |   |                         |                           | Additional Use Regulations<br>(See footnotes)  |                                   |                          |
|   | RE—Rural Estate | R-1A—River Residential | R-1—Low Density Single Family | R-2—Medium Density Residential | R-3—High Density Residential | B-1—Business Park /Office/ Warehouse  | <u>B-2 General Business</u> | I-1—Light Industrial | I-2—General Industrial | I-S—Industrial Storage  | MX-1—Downtown Mixed Use | MX-2—Commercial Mixed Use |  | MX-3 – Transit-Oriented Mixed Use | MX-4 – General Mixed Use |
| <b>Residential</b>  |                 |                        |                               |                                |                              |   |                             |                      |                        |   |                         |                           |  |                                   |                          |
| Single Family Detached, one dwelling per lot                | P               | P                      | P                             | P                              | P                            | Please see Section 1350. <del>14</del> <u>15</u> (B) for allowed uses in the Business and Industrial Districts. |                             |                      |                        | Please see Section 1350. <del>14</del> <u>15</u> (A) for allowed uses in the Mixed Use Districts. |                         |                           |  |                                   |                          |
| Single Family Detached, more than one dwelling unit per lot | PUD             | PUD                    | PUD                           | PUD                            | PUD                          |   |                             |                      |                        |   |                         |                           |  |                                   |                          |
| Two Family residences                                       |                 |                        |                               | P                              | P                            |   |                             |                      |                        |   |                         |                           |  |                                   | Includes townhomes       |
| Multi-family (eight units or fewer per building)            |                 |                        |                               | C                              | P                            |   |                             |                      |                        |   |                         |                           |  |                                   | Includes townhomes       |
| Multi-family (eight or more units per building)             |                 |                        |                               | C                              | P                            |   |                             |                      |                        |   |                         |                           |  |                                   | Includes townhomes       |

| Land Use Classification  |                 |                        |                               |                                |                              |   |                             |                      |                        |                        |   |                           | NP  | Not Permitted                         |                          |
|--|-----------------|------------------------|-------------------------------|--------------------------------|------------------------------|---|-----------------------------|----------------------|------------------------|------------------------|---|---------------------------|---|---------------------------------------|--------------------------|
|  |                 |                        |                               |                                |                              |   |                             |                      |                        |                        |   |                           | P   | Permitted                             |                          |
|  |                 |                        |                               |                                |                              |   |                             |                      |                        |                        |   |                           | PUD   | Planned Unit Developments             |                          |
|  |                 |                        |                               |                                |                              |   |                             |                      |                        |                        |   |                           | C   | Conditional Use Permit (CUP) required |                          |
|  |                 |                        |                               |                                |                              |   |                             |                      |                        |                        |   |                           | A   | Permitted Accessory Use               |                          |
|  |                 |                        |                               |                                |                              |   |                             |                      |                        |                        |   |                           | CC  | Certificate of Compliance             |                          |
| Land Use   | Zoning District |                        |                               |                                |                              |   |                             |                      |                        |                        |   |                           | Additional Use Regulations<br>(See footnotes) |                                       |                          |
|  | RE—Rural Estate | R-1A—River Residential | R-1—Low Density Single Family | R-2—Medium Density Residential | R-3—High Density Residential | B-1—Business Park /Office/ Warehouse  | <u>B-2 General Business</u> | I-1—Light Industrial | I-2—General Industrial | I-S—Industrial Storage | MX-1—Downtown Mixed Use   | MX-2—Commercial Mixed Use |   | MX-3 – Transit-Oriented Mixed Use     | MX-4 – General Mixed Use |
| Homes for handicapped or infirm including group homes or halfway houses but not containing more than 6 unrelated persons | P               | P                      | P                             | P                              | P                            | Please see Section 1350. <del>14</del> <u>15</u> (B) for allowed uses in the Business and Industrial Districts. |                             |                      |                        |                        | Please see Section 1350. <del>14</del> <u>15</u> (A) for allowed uses in the Mixed Use Districts. |                           |   |                                       |                          |
| Planned residential developments   | PUD             | PUD                    | PUD                           | PUD                            | PUD                          |   |                             |                      |                        |                        |   |                           |   |                                       |                          |
| Manufactured Single-Family Dwelling  | P               | P                      | P                             | P                              | P                            |   |                             |                      |                        |                        |   |                           |   |                                       |                          |
| Mobile Homes   | C               |                        |                               |                                |                              |   |                             |                      |                        |                        |   |                           |   |                                       |                          |
| <b>Public and Semi-Public Services</b>   |                 |                        |                               |                                |                              |   |                             |                      |                        |                        |   |                           |   |                                       |                          |
| Airport  | C               |                        |                               |                                |                              |   |                             |                      |                        |                        | Please see Section 1350. <del>14</del>  |                           |   |                                       |                          |

| Land Use Classification  |                 |                        |                               |                                |                              |   | NP Not Permitted<br>P Permitted<br>PUD Planned Unit Developments<br>C Conditional Use Permit (CUP) required<br>A Permitted Accessory Use<br>CC Certificate of Compliance |                      |                        |                        |   |   |                           |  |
|--|-----------------|------------------------|-------------------------------|--------------------------------|------------------------------|---|--|----------------------|------------------------|------------------------|---|---|---------------------------|--|
| Land Use   | Zoning District |                        |                               |                                |                              |   |  |                      |                        |                        |   | Additional Use Regulations<br>(See footnotes) |                           |  |
|  | RE—Rural Estate | R-1A—River Residential | R-1—Low Density Single Family | R-2—Medium Density Residential | R-3—High Density Residential | B-1—Business Park /Office/ Warehouse  | <u>B-2 General Business</u>  | I-1—Light Industrial | I-2—General Industrial | I-S—Industrial Storage | MX-1—Downtown Mixed Use   |   | MX-2—Commercial Mixed Use | MX-3 – Transit-Oriented Mixed Use  |
| Cemetery   |                 |                        |                               |                                |                              | Please see Section 1350. <del>14</del> <u>15</u> (B) for allowed uses in the Business and Industrial Districts. |  |                      |                        |                        | <u>15</u> (A) for allowed uses in the Mixed Use Districts.  |   |                           |  |
| Churches, synagogues, temples and associated facilities except schools | C               | P                      | P                             | P                              | P                            |   |  |                      |                        |                        |   |   |                           | In Residential Districts and Mixed Use Districts building footprints shall not exceed 10,000 sq. ft. |
| Crematorium  |                 |                        |                               |                                |                              |   |  |                      |                        |                        |   |   |                           |  |
| Funeral Home   |                 |                        |                               |                                |                              |   |  |                      |                        |                        |   |   |                           |  |
| Hospitals  |                 |                        |                               |                                |                              |   |  |                      |                        |                        |   |   |                           |  |
| Medical Clinics  |                 |                        |                               |                                | C                            |   |  |                      |                        |                        |   |   |                           | In the MX district, facilities must not exceed a 10,000 square foot footprint                        |
| Military Reserve, National Guard Centers                               |                 |                        |                               |                                |                              | Please see Section 1350. <del>14</del> <u>15</u> (B) for allowed uses in the Business and Industrial Districts. |  |                      |                        |                        | Please see Section 1350. <del>14</del> <u>15</u> (A) for allowed uses in the Mixed Use Districts. |   |                           |  |

| Land Use Classification  |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           | NP  | Not Permitted                         |                          |
|--|-----------------|------------------------|-------------------------------|--------------------------------|------------------------------|--------------------------------------|-----------------------------|----------------------|------------------------|------------------------|-------------------------|---------------------------|---|---------------------------------------|--------------------------|
|  |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           | P   | Permitted                             |                          |
|  |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           | PUD   | Planned Unit Developments             |                          |
|  |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           | C   | Conditional Use Permit (CUP) required |                          |
|  |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           | A   | Permitted Accessory Use               |                          |
|  |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           | CC  | Certificate of Compliance             |                          |
| Land Use   | Zoning District |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           | Additional Use Regulations<br>(See footnotes) |                                       |                          |
|  | RE—Rural Estate | R-1A—River Residential | R-1—Low Density Single Family | R-2—Medium Density Residential | R-3—High Density Residential | B-1—Business Park /Office/ Warehouse | <u>B-2 General Business</u> | I-1—Light Industrial | I-2—General Industrial | I-S—Industrial Storage | MX-1—Downtown Mixed Use | MX-2—Commercial Mixed Use |   | MX-3 – Transit-Oriented Mixed Use     | MX-4 – General Mixed Use |
| Day Care Facilities in Single Family Homes with 14 or fewer children being attended to                 | P               | P                      | P                             | P                              | P                            |                                      |                             |                      |                        |                        |                         |                           |   |                                       |                          |
| Nursery School/Day Care Facilities in Single Family Homes with more than 14 children being attended to | C               | C                      | C                             | P                              | P                            |                                      |                             |                      |                        |                        |                         |                           |   |                                       |                          |
| Nursery School/Day Care Facilities in Multi-Family Homes   |                 |                        |                               | C                              | C                            |                                      |                             |                      |                        |                        |                         |                           |   |                                       |                          |
| Parking Garage (as principal use)  |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           |   |                                       |                          |

| Land Use Classification   |                 |                        |                               |                                |                              |   |                             |                      |                        |   |                         |                           | NP  | Not Permitted                         |                          |
|---|-----------------|------------------------|-------------------------------|--------------------------------|------------------------------|---|-----------------------------|----------------------|------------------------|---|-------------------------|---------------------------|---|---------------------------------------|--------------------------|
|   |                 |                        |                               |                                |                              |   |                             |                      |                        |   |                         |                           | P   | Permitted                             |                          |
|   |                 |                        |                               |                                |                              |   |                             |                      |                        |   |                         |                           | PUD   | Planned Unit Developments             |                          |
|   |                 |                        |                               |                                |                              |   |                             |                      |                        |   |                         |                           | C   | Conditional Use Permit (CUP) required |                          |
|   |                 |                        |                               |                                |                              |   |                             |                      |                        |   |                         |                           | A   | Permitted Accessory Use               |                          |
|   |                 |                        |                               |                                |                              |   |                             |                      |                        |   |                         |                           | CC  | Certificate of Compliance             |                          |
| Land Use  | Zoning District |                        |                               |                                |                              |   |                             |                      |                        |   |                         |                           | Additional Use Regulations<br>(See footnotes)   |                                       |                          |
|   | RE—Rural Estate | R-1A—River Residential | R-1—Low Density Single Family | R-2—Medium Density Residential | R-3—High Density Residential | B-1—Business Park /Office/ Warehouse  | <u>B-2 General Business</u> | I-1—Light Industrial | I-2—General Industrial | I-S—Industrial Storage  | MX-1—Downtown Mixed Use | MX-2—Commercial Mixed Use |   | MX-3 – Transit-Oriented Mixed Use     | MX-4 – General Mixed Use |
| Parking Lots-- Surface (as principal use)   |                 |                        |                               |                                |                              |   |                             |                      |                        |   |                         |                           |   |                                       |                          |
| Penal/correctional facilities   |                 |                        |                               |                                |                              |   |                             |                      |                        |   |                         |                           |   |                                       |                          |
| Post Office   |                 |                        |                               |                                |                              |   |                             |                      |                        |   |                         |                           |   |                                       |                          |
| Pubic Facilities including government offices, emergency facilities, public works facilities, Schools, libraries, museums, art galleries, and other municipally owned or operated facilities. | C               | C                      | C                             | C                              | C                            | Please see Section 1350. <del>14</del> <u>15</u> (B) for allowed uses in the Business and Industrial Districts. |                             |                      |                        | Please see Section 1350. <del>14</del> <u>15</u> (A) for allowed uses in the Mixed Use Districts. |                         |                           | Public Facilities located in Residential Districts must not exceed 10,000 square foot footprint except if located in the RE District. |                                       |                          |

| Land Use Classification                                       |                 |                        |                               |                                |                              |                                      | NP Not Permitted<br>P Permitted<br>PUD Planned Unit Developments<br>C Conditional Use Permit (CUP) required<br>A Permitted Accessory Use<br>CC Certificate of Compliance |                      |                        |                        |                         |   |  |   |
|---|-----------------|------------------------|-------------------------------|--------------------------------|------------------------------|--------------------------------------|--|----------------------|------------------------|------------------------|-------------------------|---|--|---|
| Land Use  | Zoning District |                        |                               |                                |                              |                                      |  |                      |                        |                        |                         | Additional Use Regulations<br>(See footnotes) |  |   |
|   | RE—Rural Estate | R-1A—River Residential | R-1—Low Density Single Family | R-2—Medium Density Residential | R-3—High Density Residential | B-1—Business Park /Office/ Warehouse | <u>B-2 General Business</u>  | I-1—Light Industrial | I-2—General Industrial | I-S—Industrial Storage | MX-1—Downtown Mixed Use |   | MX-2—Commercial Mixed Use              | MX-3 – Transit-Oriented Mixed Use   |
| Public utility  | C               | C                      | C                             | C                              | C                            |                                      |  |                      |                        |                        |                         |   |  |   |
| Schools--Trade, College, Vocational and associated facilities |                 |                        |                               |                                |                              |                                      |  |                      |                        |                        |                         |   |  | In the MX district, school facilities must not exceed a 10,000 square foot footprint. |
| Social, fraternal clubs and lodges, union halls               |                 |                        |                               |                                |                              |                                      |  |                      |                        |                        |                         |   |  |   |
| Sanitary Landfill   |                 |                        |                               |                                |                              |                                      |  |                      |                        |                        |                         |   |  |   |
| Towers and antennas   |                 |                        |                               |                                |                              |                                      |  |                      |                        |                        |                         |   |  | See Ordinance 97-4  |
| Transit Station   |                 |                        |                               |                                |                              |                                      |  |                      |                        |                        |                         |   |  |   |
| Park-and-ride Lot   |                 |                        |                               |                                |                              |                                      |  |                      |                        |                        |                         |   |  |   |
| <b>Commercial</b>   |                 |                        |                               |                                |                              |                                      |  |                      |                        |                        |                         |   |  |   |
| Bed and Breakfast   | C               | C                      | C                             | C                              | C                            |                                      | Please see Section 1350. <del>14</del> <u>15</u>   |                      |                        |                        |                         |   | Please see Section 1350. <del>14</del> |   |

| Land Use Classification  |                 |                        |                               |                                |                              |  |                             |                      |                        |                        |  | NP  | Not Permitted                         |
|--|-----------------|------------------------|-------------------------------|--------------------------------|------------------------------|--|-----------------------------|----------------------|------------------------|------------------------|--|---|---------------------------------------|
|  |                 |                        |                               |                                |                              |  |                             |                      |                        |                        |  | P   | Permitted                             |
|  |                 |                        |                               |                                |                              |  |                             |                      |                        |                        |  | PUD   | Planned Unit Developments             |
|  |                 |                        |                               |                                |                              |  |                             |                      |                        |                        |  | C   | Conditional Use Permit (CUP) required |
|  |                 |                        |                               |                                |                              |  |                             |                      |                        |                        |  | A   | Permitted Accessory Use               |
|  |                 |                        |                               |                                |                              |  |                             |                      |                        |                        |  | CC  | Certificate of Compliance             |
| Land Use   | Zoning District |                        |                               |                                |                              |  |                             |                      |                        |                        |  | Additional Use Regulations<br>(See footnotes) |                                       |
|  | RE—Rural Estate | R-1A—River Residential | R-1—Low Density Single Family | R-2—Medium Density Residential | R-3—High Density Residential | B-1—Business Park /Office/ Warehouse   | <u>B-2 General Business</u> | I-1—Light Industrial | I-2—General Industrial | I-S—Industrial Storage | MX-1—Downtown Mixed Use  |   | MX-2—Commercial Mixed Use             |
| Hotels   |                 |                        |                               |                                |                              | (B) for allowed uses in the Business and Industrial Districts.   |                             |                      |                        |                        | <u>15</u> (A) for allowed uses in the Mixed Use Districts.   |   |                                       |
| Motels   |                 |                        |                               |                                |                              |  |                             |                      |                        |                        |  |   |                                       |
| Adult Uses (bookstore, theater, nightclub, nude or partially nude dancing) |                 |                        |                               |                                |                              |  |                             |                      |                        |                        |  |   |                                       |
| Animal boarding  |                 |                        |                               |                                |                              |  |                             |                      |                        |                        |  |   |                                       |
| Animal grooming  |                 |                        |                               |                                |                              | Please see Section 1350. <del>14</del> <u>15</u><br>(B) for allowed uses in the Business and Industrial Districts. |                             |                      |                        |                        | Please see Section 1350. <del>14</del> <u>15</u><br>(A) for allowed uses in the Mixed Use Districts. |   |                                       |
| Animal hospitals   |                 |                        |                               |                                |                              |  |                             |                      |                        |                        |  |   |                                       |
| Animal retail sales  |                 |                        |                               |                                |                              |  |                             |                      |                        |                        |  |   |                                       |
| Antique Shops  |                 |                        |                               |                                |                              |  |                             |                      |                        |                        |  |   |                                       |
| Artist studios   |                 |                        |                               |                                |                              |  |                             |                      |                        |                        |  |   |                                       |
| Auto sales, rental and services  |                 |                        |                               |                                |                              |  |                             |                      |                        |                        |  |   |                                       |

| Land Use Classification                                  |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           | NP  | Not Permitted                           |
|--|-----------------|------------------------|-------------------------------|--------------------------------|------------------------------|--------------------------------------|-----------------------------|----------------------|------------------------|------------------------|-------------------------|---------------------------|---|---|
|  |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           | P   | Permitted                               |
|  |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           | PUD   | Planned Unit Developments               |
|  |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           | C   | Conditional Use Permit (CUP) required   |
|  |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           | A   | Permitted Accessory Use                 |
|  |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           | CC  | Certificate of Compliance               |
| Land Use   | Zoning District |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           | Additional Use Regulations<br>(See footnotes) |   |
|  | RE—Rural Estate | R-1A—River Residential | R-1—Low Density Single Family | R-2—Medium Density Residential | R-3—High Density Residential | B-1—Business Park /Office/ Warehouse | <u>B-2 General Business</u> | I-1—Light Industrial | I-2—General Industrial | I-S—Industrial Storage | MX-1—Downtown Mixed Use | MX-2—Commercial Mixed Use |   | MX-3 – Transit-Oriented Mixed Use       |
| Auto services only                                       |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           |   | No more than 4 bays in the MX districts |
| Auto storage   |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           |   |   |
| Auto washing   |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           |   |   |
| Bakeries (Retail sales)                                  |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           |   |   |
| Bakeries (Wholesale)                                     |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           |   |   |
| Restaurant--Liquor Served--Bar Grill                     |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           |   |   |
| Restaurant--Fast food                                    |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           |   |   |
| Restaurant--Traditional (no liquor, sit down restaurant) |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           |   |   |

Please see Section 1350.~~14~~15 (B) for allowed uses in the Business and Industrial Districts.

Please see Section 1350.~~14~~15 (A) for allowed uses in the Mixed Use Districts.

| Land Use Classification   |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           | NP  | Not Permitted   |
|---|-----------------|------------------------|-------------------------------|--------------------------------|------------------------------|--------------------------------------|-----------------------------|----------------------|------------------------|------------------------|-------------------------|---------------------------|---|---|
|   |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           | P   | Permitted   |
|   |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           | PUD   | Planned Unit Developments   |
|   |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           | C   | Conditional Use Permit (CUP) required                                       |
|   |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           | A   | Permitted Accessory Use   |
|   |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           | CC  | Certificate of Compliance   |
| Land Use  | Zoning District |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           | Additional Use Regulations<br>(See footnotes) |   |
|   | RE—Rural Estate | R-1A—River Residential | R-1—Low Density Single Family | R-2—Medium Density Residential | R-3—High Density Residential | B-1—Business Park /Office/ Warehouse | <u>B-2 General Business</u> | I-1—Light Industrial | I-2—General Industrial | I-S—Industrial Storage | MX-1—Downtown Mixed Use | MX-2—Commercial Mixed Use |   | MX-3 – Transit-Oriented Mixed Use   |
| Building materials and services   |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           |   |   |
| Catering services   |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           |   |   |
| Professional Offices  |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           |   |   |
| Convenience Stores  |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           |   |   |
| Bicycle Sales<br>Dry Cleaner<br>Laundromat<br>Drug Store/Pharmacy<br>Floral/Flower shop<br>Hobby Shop |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           |   | In the MX district, drive up windows require a conditional use permit (CUP) |
| Wholesale sales   |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           |   |   |
| Produce sales: vegetables, fruit, flowers, etc...   |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           |   |   |

| Land Use Classification   |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           | NP  | Not Permitted                         |   |
|---|-----------------|------------------------|-------------------------------|--------------------------------|------------------------------|--------------------------------------|-----------------------------|----------------------|------------------------|------------------------|-------------------------|---------------------------|---|---------------------------------------|---|
|   |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           | P   | Permitted                             |   |
|   |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           | PUD   | Planned Unit Developments             |   |
|   |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           | C   | Conditional Use Permit (CUP) required |   |
|   |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           | A   | Permitted Accessory Use               |   |
|   |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           | CC  | Certificate of Compliance             |   |
| Land Use  | Zoning District |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           | Additional Use Regulations<br>(See footnotes) |                                       |   |
|   | RE—Rural Estate | R-1A—River Residential | R-1—Low Density Single Family | R-2—Medium Density Residential | R-3—High Density Residential | B-1—Business Park /Office/ Warehouse | <u>B-2 General Business</u> | I-1—Light Industrial | I-2—General Industrial | I-S—Industrial Storage | MX-1—Downtown Mixed Use | MX-2—Commercial Mixed Use |   | MX-3 – Transit-Oriented Mixed Use     | MX-4 – General Mixed Use                              |
| Drive up Banks  |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           |   |                                       |   |
| Entertainment/amu<br>sement halls<br>Bowling Alley<br>Skating Rink,<br>Indoor |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           |   |                                       | If alcohol is part of the use a<br>(CUP) is required. |
| Movie Theater   |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           |   |                                       | 300 or less capacity                                  |
| Movie Theater   |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           |   |                                       | 300 or greater capacity                               |
| Coliseums,<br>stadiums  |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           |   |                                       |   |
| Country Club and<br>Golf Course   | C               | C                      | C                             | C                              | C                            |                                      |                             |                      |                        |                        |                         |                           |   |                                       |   |
| Private athletic<br>fields or courts  | C               | C                      | C                             | C                              | C                            |                                      |                             |                      |                        |                        |                         |                           |   |                                       |   |
| Golf Driving<br>Range   |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           |   |                                       |   |

| Land Use Classification                                    |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           | NP  | Not Permitted                         |                          |
|--|-----------------|------------------------|-------------------------------|--------------------------------|------------------------------|--------------------------------------|-----------------------------|----------------------|------------------------|------------------------|-------------------------|---------------------------|---|---------------------------------------|--------------------------|
|  |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           | P   | Permitted                             |                          |
|  |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           | PUD   | Planned Unit Developments             |                          |
|  |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           | C   | Conditional Use Permit (CUP) required |                          |
|  |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           | A   | Permitted Accessory Use               |                          |
|  |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           | CC  | Certificate of Compliance             |                          |
| Land Use   | Zoning District |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           | Additional Use Regulations<br>(See footnotes) |                                       |                          |
|  | RE—Rural Estate | R-1A—River Residential | R-1—Low Density Single Family | R-2—Medium Density Residential | R-3—High Density Residential | B-1—Business Park /Office/ Warehouse | <u>B-2 General Business</u> | I-1—Light Industrial | I-2—General Industrial | I-S—Industrial Storage | MX-1—Downtown Mixed Use | MX-2—Commercial Mixed Use |   | MX-3 – Transit-Oriented Mixed Use     | MX-4 – General Mixed Use |
| Horseback Riding, Stables                                  | C               |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           |   |                                       |                          |
| Auto and motorcycle racing tracks                          |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           |   |                                       |                          |
| Drive-in movie theater                                     |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           |   |                                       |                          |
| Mobile Home Sales  |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           |   |                                       |                          |
| Manufactured Home Sales                                    |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           |   |                                       |                          |
| Automobile Parts/accessories retail sales and installation |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           |   |                                       |                          |
| Automobile painting and body work                          |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           |   |                                       |                          |

Please see Section 1350.~~14~~15 (B) for allowed uses in the Business and Industrial Districts.

Please see Section 1350.~~14~~15 (A) for allowed uses in the Mixed Use Districts.

| Land Use Classification   |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           | NP  | Not Permitted                         |                          |
|---|-----------------|------------------------|-------------------------------|--------------------------------|------------------------------|--------------------------------------|-----------------------------|----------------------|------------------------|------------------------|-------------------------|---------------------------|---|---------------------------------------|--------------------------|
|   |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           | P   | Permitted                             |                          |
|   |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           | PUD   | Planned Unit Developments             |                          |
|   |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           | C   | Conditional Use Permit (CUP) required |                          |
|   |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           | A   | Permitted Accessory Use               |                          |
|   |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           | CC  | Certificate of Compliance             |                          |
| Land Use  | Zoning District |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           | Additional Use Regulations<br>(See footnotes) |                                       |                          |
|   | RE—Rural Estate | R-1A—River Residential | R-1—Low Density Single Family | R-2—Medium Density Residential | R-3—High Density Residential | B-1—Business Park /Office/ Warehouse | <u>B-2 General Business</u> | I-1—Light Industrial | I-2—General Industrial | I-S—Industrial Storage | MX-1—Downtown Mixed Use | MX-2—Commercial Mixed Use |   | MX-3 – Transit-Oriented Mixed Use     | MX-4 – General Mixed Use |
| Gas, diesel or other motor fuel retail sales                              |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           |   |                                       |                          |
| Storage Mini-storage/cold storage   |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           |   |                                       |                          |
| Salvage yard (auto or scrap iron)   |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           |   |                                       |                          |
| Animal Kennel for more than 6 animals                                     | C               |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           |   |                                       |                          |
| Agricultural operations, row cropping, tree farming (excluding livestock) | P               |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           |   |                                       | No on-premises sales     |

Please see Section 1350.~~14~~15 (B) for allowed uses in the Business and Industrial Districts.

Please see Section 1350.~~14~~15 (A) for allowed uses in the Mixed Use Districts.

| Land Use Classification   |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           | NP  | Not Permitted                         |  |
|---|-----------------|------------------------|-------------------------------|--------------------------------|------------------------------|--------------------------------------|-----------------------------|----------------------|------------------------|------------------------|-------------------------|---------------------------|---|---------------------------------------|--|
|   |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           | P   | Permitted                             |  |
|   |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           | PUD   | Planned Unit Developments             |  |
|   |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           | C   | Conditional Use Permit (CUP) required |  |
|   |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           | A   | Permitted Accessory Use               |  |
|   |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           | CC  | Certificate of Compliance             |  |
| Land Use  | Zoning District |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           | Additional Use Regulations<br>(See footnotes) |                                       |  |
|   | RE—Rural Estate | R-1A—River Residential | R-1—Low Density Single Family | R-2—Medium Density Residential | R-3—High Density Residential | B-1—Business Park /Office/ Warehouse | <u>B-2 General Business</u> | I-1—Light Industrial | I-2—General Industrial | I-S—Industrial Storage | MX-1—Downtown Mixed Use | MX-2—Commercial Mixed Use |   | MX-3 – Transit-Oriented Mixed Use     | MX-4 – General Mixed Use   |
| Commercial Greenhouse operations                                      | C               |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           |   |                                       | Outside storage or sales requires a CUP. No on-premise sales permitted in RE district. |
| Veterinarian Clinic, animal hospital                                  |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           |   |                                       |  |
|   |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           |   |                                       |  |
| <b>Industrial</b>   |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           |   |                                       |  |
| Manufacturing   |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           |   |                                       |  |
| Warehousing   |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           |   |                                       |  |
| Storage and Distribution of Bulk Petroleum Products, Oil and Gasoline |                 |                        |                               |                                |                              |                                      |                             |                      |                        |                        |                         |                           |   |                                       |  |

| Land Use Classification  |                 |                        |                               |                                |                              |   |                             |                      |                        |   |                         |                           | NP  | Not Permitted                         |
|--|-----------------|------------------------|-------------------------------|--------------------------------|------------------------------|---|-----------------------------|----------------------|------------------------|---|-------------------------|---------------------------|---|---------------------------------------|
|  |                 |                        |                               |                                |                              |   |                             |                      |                        |   |                         |                           | P   | Permitted                             |
|  |                 |                        |                               |                                |                              |   |                             |                      |                        |   |                         |                           | PUD   | Planned Unit Developments             |
|  |                 |                        |                               |                                |                              |   |                             |                      |                        |   |                         |                           | C   | Conditional Use Permit (CUP) required |
|  |                 |                        |                               |                                |                              |   |                             |                      |                        |   |                         |                           | A   | Permitted Accessory Use               |
|  |                 |                        |                               |                                |                              |   |                             |                      |                        |   |                         |                           | CC  | Certificate of Compliance             |
| Land Use   | Zoning District |                        |                               |                                |                              |   |                             |                      |                        |   |                         |                           | Additional Use Regulations<br>(See footnotes) |                                       |
|  | RE—Rural Estate | R-1A—River Residential | R-1—Low Density Single Family | R-2—Medium Density Residential | R-3—High Density Residential | B-1—Business Park /Office/ Warehouse  | <u>B-2 General Business</u> | I-1—Light Industrial | I-2—General Industrial | I-S—Industrial Storage  | MX-1—Downtown Mixed Use | MX-2—Commercial Mixed Use |   | MX-3 – Transit-Oriented Mixed Use     |
| Storage and distribution of bulk liquid fertilizer, chemicals or similar materials |                 |                        |                               |                                |                              | Please see Section 1350. <del>14</del> <u>15</u> (B) for allowed uses in the Business and Industrial Districts. |                             |                      |                        | Please see Section 1350. <del>14</del> <u>15</u> (A) for allowed uses in the Mixed Use Districts. |                         |                           |   |                                       |
| Retail Sale, Installation and remanufacturing of vehicle parts and accessories.    |                 |                        |                               |                                |                              |   |                             |                      |                        |   |                         |                           |   |                                       |

**1330.05 Performance Standards**

**Subd. 1 Intent.** It shall be the intent of this section to promote high standards of design and construction in the City. These standards are set forth in order to enhance the visual appearance of the built environment within the City, to preserve the taxable value, to implement the goals and policies of the Comprehensive Plan and to promote the public health, safety, and welfare of the general public.

**Subd. 2 General Scope.** Except in the RE, R-1, and R-1A districts, any construction or alteration of buildings, structures, property or exterior equipment in the City which requires a building permit under the provisions of this Chapter shall be reviewed by the Zoning Administrator and shall comply with the standards set in Subds. 3 through 19 inclusive. If the Zoning Administrator determines that the plans comply with the intent and standards contained herein, a building permit may be issued. All decisions of the Zoning Administrator may be appealed to the City Council as provided for in this Chapter.

**Subd. 3 Building Materials.** Exterior building materials of all structures shall be one of, or a combination of, the following materials:

A. Permitted materials:

- 1) Face brick, stone, or glass;
- 2) Decorative concrete block with a color and texture theme that is directly related to the building material, if not more than 50% of the building elevation faces any public roadway. Plain, flat unpainted concrete block is not allowed, nor is any type of painted concrete block;
- 3) Architecturally treated concrete or cast-in-place or precast concrete panels;
- 4) Stucco or other cement like coating applied in a manner so as to create a harmonious design with other exterior materials;
- 5) Metal panels with interlocking, concealed, or tongue-and-groove seams, and concealed fasteners, if the exterior surface finish is warranted by the manufacturer for twenty years against blistering, peeling, cracking, flaking, checking, or chipping, if not more than 50% of the building elevation faces any public roadway;
- 6) Wood, wood siding, metal siding, or vinyl siding, but only in the R-2 and R-3 districts, and only on buildings with eight (8) or fewer units.

B. Conditional materials. Other exterior building materials may be approved by Conditional Use Permit, if it is determined that:

- 1) The materials are similar to or better than the permitted materials listed above;
- 2) The materials are high quality, long-lasting, attractive, reasonably maintenance-free, and;
- 3) The materials are integrated harmoniously into the building design and with neighboring uses.
- 4) The materials are approved by the building official.

**Subd. 4 Additions, Alterations, and Accessory Structures.** All subsequent additions, exterior alterations, and accessory structures, built after the construction of the original building or buildings shall be of the same materials as those used in the original building and shall be designed to conform to the original architectural concept and general appearance. These provisions shall not prevent the upgrading of the quality of materials used in a remodeling or expansion project. Such alterations shall also maintain the appearance of the building exterior due to fading, cracking, peeling, rotting, or other degradations or inconsistencies, particularly where signage, equipment, fixtures, or other features may have been removed, revealing an inconsistent color or condition of materials.

**Subd. 5 Other Structures.** Garages, screen walls, and other areas of exposed permanent materials shall be of a similar type, quality and appearance as the principal structure. These provisions shall not prevent the upgrading of the quality of materials used in a remodeling or expansion project. Exposed areas of retaining walls shall be of high quality durable materials compatible with the overall design of the site plan and structures.

**Subd. 6 Outside Storage.** All outside storage of equipment, materials, or vehicles shall be completely screened from the eye-level view of adjacent residential property and public streets, and from the public front and office sides of business and industrial uses, subject to the following conditions and exceptions:

- A. Temporary, daily parking of vehicles, for a period of no more than forty-eight (48) consecutive hours, for employees or patrons of a business, need not be screened in side and rear yards adjacent to other business or industrial uses, but shall be completely screened from residential uses. In front yards, all such vehicles need to be screened to a height of three (3) feet. Any vehicle parked for more than forty-eight (48) consecutive hours shall be completely screened from the eye-level view of adjacent residential property and public streets, and from the public front and office sides of business and industrial uses.
- B. Any outside storage or display of vehicles for sale, rent, or lease shall be by Conditional Use Permit only as governed by this Chapter, and shall include only operable new vehicles or operable used vehicles in good working order and of good appearance.
- C. Open storage of any kind shall be prohibited in any required front, side or rear yard setback.
- D. Overnight storage of perishable goods shall be allowed only within a completely enclosed permanent structure.

**Subd. 7 Paving and Curbing.** All parking areas and drives shall be constructed of concrete, blacktop, or similar durable hard surface free of dust. The periphery of all parking areas and drives shall be constructed with poured-in-place concrete curbing unless otherwise approved by the City.

**Subd. 8 Utility Equipment.** All utility equipment, such as heating and ventilating equipment, meters and other devices shall be completely screened from eye-level view of adjacent properties and streets. Equipment shall be screened with a screen wall, berm, or landscaping if located on the ground. If on the roof, the equipment shall be screened with a parapet or screen wall of materials compatible with the principal structure. Vertical or horizontal wood slats, fencing or similar materials are not acceptable screening material.

**Subd. 9 Loading and Service Areas.** All loading and service areas shall be completely screened from eye-level view of adjacent residential uses, adjacent public streets, and the public front and



- A. At least one (1) overstory tree shall be provided in the front yard for each fifty (50) feet of lot frontage.
- B. There shall be a minimum of one (1) tree for every one thousand (1,000) square feet of non-impervious surface area on the lot.
- C. All landscape materials shall be appropriate to the physical characteristics of the site in terms of hardiness, salt-tolerance, and sun or shade tolerance. Trees provided shall be at least twenty-five (25) percent overstory deciduous and at least twenty-five (25) percent coniferous. All deciduous trees provided shall be long-lived hardwood species.
- D. All areas not otherwise improved in accordance with approved site plans shall be sodded. Exceptions shall be as follows:
  - 1) Seeding of future expansion areas as shown on approved plans.
  - 2) Undisturbed areas containing existing viable natural vegetation that can be maintained free of foreign and noxious plant material.
  - 3) Areas designated as open space or future expansion areas properly planted and maintained with native prairie grass.
  - 4) Use of mulch material such as rock or wood chips in support of shrubs and foundation plantings.
- E. Slopes and Berms. Final slope grades steeper than the ratio of 3:1 shall not be permitted without special landscaping treatments such as terracing, retaining walls, or ground cover.
- F. Berming used to provide screening of parking lots shall be 3 feet in height and shall have a maximum slope ratio of 3:1.
- G. Parking Lot Requirements.
  - 1) Parking lots for more than eight (8) cars shall landscape 10 percent of the parking lot surface area. The landscaped area may be in the form of landscape islands, special brick paving or other landscaping as approved by the Zoning Administrator. Landscape islands shall be a minimum width of 16 feet and with a minimum surface area of 250 square feet. The landscaped area shall adhere to the size and material requirements of this Chapter.
  - 2) On a corner lot, and at entrances, nothing shall be placed or allowed to grow in such a manner as to impede vision between a height of 2 ½ and 10 feet above the centerline grades of the intersecting streets within a triangular area 30 feet from the intersecting street right-of-way lines.
- H. Plant Size Requirements. Plant size requirements for landscaping areas shall be as follows:
  - 1) Deciduous trees shall be at least 2 ½ inches in diameter.
  - 2) Ornamental trees shall be a minimum of 1 ½ inches in diameter
  - 3) Evergreen trees shall have a minimum height of 6 feet.

- 4) Potted shrubs shall be in a 5 gallon pot or larger.
- 5) Evergreen shrubs used for screening purposes shall be at least 3 feet in height at planting. Evergreen shrubs will have a minimum spread of 24 inches.
- I. Landscape plans and screening plantings shall be completed within one year from the date a building permit is issued.

**Subd. 15 Fences.** Except in the RE, R-1, R-1A, MX-1, MX-2, MX-3, and MX-4 districts, fences shall comply with the following standards:

- A. A fence may be placed along a property line provided no physical damage of any kind results to the abutting property.
- B. That side of the fence considered the face (the finished side as opposed to the structural supports) shall face the abutting property.
- C. Except in the I-S, I-1, and I-2 districts, barbed wire may not be used for fences.
- D. Barbed wire for fences in the I-S, I-1, and I-2 districts shall start at least six (6) feet off the ground.
- E. A fence shall be of one color or pattern, may not contain or support pictures, signage or lettering, and must be maintained in good condition and appearance.
- F. A fence shall only be constructed of the following materials:
  - 1) Treated wood, cedar, or redwood
  - 2) Simulated wood
  - 3) Decorative brick or stone
  - 4) Wrought iron or aluminum designed to simulate wrought iron
  - 5) Coated or non-coated chain link
  - 6) Split rail
  - 7) Other materials or fence types as approved by the Zoning Administrator.
- G. A fence may be no more than twelve (12) feet in height.
- H. A fence shall not visually screen or interfere with streets, sidewalks, or vehicular traffic.
- I. In the I-S district, a fence at least six (6) feet in height shall be required around all storage tanks.
- J. No fence shall be constructed on public rights-of-way.

**Subd. 16 Noxious Matter.** The emission of noxious matter shall be controlled so that no such emission crosses the lot line of the property from which it originates. Noxious matter shall mean any solid, liquid or gaseous material, including but not limited to gases, vapors, odor, dusts, fumes, mists, or combinations thereof, the emission of which is detrimental to or endangers the public health, safety, comfort or general welfare, or causes damage to property. The operator of the facility shall comply with a regular inspection schedule as approved by the City and shall submit reports of such inspections to the City.

**Subd. 17 Restricted Operations.** Uses which because of the nature of their operation are accompanied by an excess of noise, vibration, dust, dirt, smoke, odor, noxious gases, glare or wastes shall not be permitted. Noise, odors, smoke and particulate matter shall not exceed Minnesota Pollution Control Agency standards. Glare, whether direct or reflected, such as from spotlights or high temperature processes, as differentiated from general illumination, shall not be visible beyond the lot line of the property from which it originates.

**Subd. 18 Explosives.** Any use requiring the storage, use or manufacturing of explosives, or other products which could decompose by detonation, shall not be located less than four hundred (400) feet from any residential use or residentially zoned area. This provision shall not apply to the storage or use of liquefied petroleum or natural gas for normal residential or business purposes, nor to the storage and distribution for retail sale of gasoline and other motor fuels if properly stored and handled according to applicable safety regulations.

**Subd. 19 Exceptions for Legal Non-Conforming Structures.** The standards in this section do not apply to legal non-conforming single family residential structures and properties in Business and Industrial districts, provided they are continuously used for residential purposes only, and provided any additions or alterations to these structures meet the standards of the R-1 district and other applicable zoning and building code standards. For legal non-conforming non-residential structures in the Business and Industrial districts or for existing non-residential development on properties that are rezoned to a Business or Industrial zoning district, the following exceptions shall apply:

- A. New construction projects for repairs, remodeling, or additions to a structure do not need to meet the standards in this section if the construction increases the size of the building by less than ten (10) percent, or if it increases the assessor's market value by less than twenty (20) percent.
- B. Construction projects involving a building expansion between ten (10) and fifty (50) percent of the size of the building or an increase in assessor's market value between twenty (20) and fifty (50) percent of its value need not meet all the standards of this section, but shall be required to meet a reasonable proportion of the requirements of this section as determined by the Planning Commission, upon the advice of the Zoning Administrator. If two or more smaller projects, over a period of five years or less, together exceed the percentage thresholds in this paragraph, the property shall then meet a reasonable proportion of the requirements as determined by the Zoning Administrator.
- C. Construction projects involving a building expansion over fifty (50) percent of the size of the building or an increase in assessor's market value over fifty (50) percent of its value shall be required to meet all the standards of this section. If two or more smaller projects, over a period of five years or less, together exceed the percentage threshold in this paragraph, the property shall then meet all the standards of this section.

- D. For the purposes of determining compliance with the standards in this section, site work not involving the structures on site shall be considered separately from work on the structures.
- 1) For legal non-conforming uses, new construction projects for repairs, remodeling, or additions to the parking lot, outdoor spaces, landscaping, or other exterior features do not need to meet the standards in this section if the construction increases the size of these areas by less than ten (10) percent.
  - 2) Construction projects involving an expansion of exterior space between ten (10) and fifty (50) percent of the size of the parking lot or other outdoor space need not meet all the standards of this section, but shall be required to meet a reasonable proportion of the requirements as determined by the Planning Commission, upon the advice of the Zoning Administrator.
  - 3) For the purposes of this section, adding one inch or more of new material to an existing parking lot surface shall be considered an increase of one hundred (100) percent of the area involved.

**Subd. 20 Performance Standards in RE, R-1, and R-1A districts.** All construction or alteration of buildings, structures, or property in the RE, R-1, and R-1A districts shall comply with the standards set in Subds. 21 through 23 inclusive, as interpreted by the Zoning Administrator. All decisions of the Zoning Administrator may be appealed to the City Council as provided for elsewhere in this Code.

**Subd. 21 Fences in the RE, R-1, R-1A, MX-1, MX-2, MX-3, and MX-4 districts.**

- A. A fence may be placed along a property line provided no physical damage of any kind results to the abutting property.
- B. That side of the fence considered being the face (the finished side as opposed to the structural supports) shall face the abutting property.
- C. A fence in the front yard shall be of one color or pattern, and may not contain or support pictures, signage or lettering visible to a public street or to adjacent properties.
- D. A fence may be no more than four (4) feet in height in the front yard.
- E. A fence may be no more than six (6) feet in height in a side or rear yard, unless the side or rear lot line is common with the front yard of an abutting lot, in which case the portion of the side or rear lot line equal to the required front yard of the abutting lot may have a fence no more than four (4) feet in height.
- F. Except in the RE district, electric fences may not be used.
- G. A fence shall not visually screen or interfere with streets, sidewalks, or vehicular traffic.
- H. All fences shall be maintained in good condition and appearance.
- I. A fence shall only be constructed of the following materials:
  - 1) Treated wood, cedar, or redwood

- 2) Simulated wood
  - 3) Decorative brick or stone
  - 4) Wrought iron or aluminum designed to simulate wrought iron
  - 5) Coated or non-coated chain link
  - 6) Split rail
  - 7) Other materials or fence types as approved by the Zoning Administrator.
- J. Except in the RE District, welded wire may not be used for fences on property boundaries.
- K. Welded wire may be used in the RE District for fences on property boundaries of rear yards.
- L. Welded wire may only be used for small enclosures in all districts to protect vegetation such as trees, gardens, plants, and bushes.
- M. Except in the RE District, snow fences may not be used for fences.
- N. Snow fences may be erected in the RE District for controlling snow between November 1 and April 15. All snow fences must be removed by April 16.
- O. No fence shall be constructed on public rights-of-way.

**Subd. 22 Exterior Storage and Screening in RE, R-1, and R-1A districts.**

- A. All waste, refuse, garbage and containers shall be kept in a building or in a fully screened area, except as allowed before a scheduled collection.
- B. All non-operating vehicles or equipment shall be kept within a fully enclosed building.
- C. No exterior storage shall be allowed in the front yard, except parking of operable vehicles, subject to the following conditions and exceptions:
- 1) All vehicles parked in the front yard shall be on concrete, blacktop, or similar durable hard surface free of dust.
  - 2) No more than three (3) vehicles may be parked in the front yard at any one time, only one of which may be over six thousand (6,000) pounds gross vehicle weight or over twenty (20) feet in length.
  - 3) Additional operable vehicles above the limit of three (3) may be parked in the front yard on a temporary basis, for no more than forty-eight (48) consecutive hours.
- D. All exterior storage in the street side yard of a corner lot shall be fully screened from the street and adjacent properties.

**Subd. 23 Lighting in the RE, R-1, and R-1A districts.** Lighting used to illuminate any exterior area or structure shall be arranged so as to direct the light away from any adjoining property or from the public street.

**Subd. 24 Landscaping in the RE, R-1 and R-1A Districts.** All areas of land not covered by structures or pavement shall be landscaped with sod, mulch, or rock materials, and landscaped according to the provisions of this section:

- A. At least one (1) overstory tree shall be provided in the front yard for each fifty (50) feet of lot frontage.
- B. There shall be a minimum of one (1) tree for every one thousand (1,000) square feet of non-impervious surface area on the lot.
- C. All landscape materials shall be appropriate to the physical characteristics of the site in terms of hardiness, salt-tolerance, and sun or shade tolerance.
- D. All areas of land not covered by structures, pavement, or landscaping may be covered by natural characteristics, when appropriate.
- E. All areas not otherwise improved in accordance with approved site plans shall be sodded. Exceptions shall be as follows:
  - 1) Seeding of future expansion areas as shown on approved plans.
  - 2) Undisturbed areas containing existing viable natural vegetation that can be maintained free of foreign and noxious plant material.
  - 3) Areas designated as open space or future expansion areas properly planted and maintained with native prairie grass.
  - 4) Use of mulch material such as rock or wood chips in support of shrubs and foundation plantings.
- F. Slopes and Berms. Final slope grades steeper than the ratio of 3:1 shall not be permitted without special landscaping treatments such as terracing, retaining walls, or ground cover.
- G. Plant Size Requirements. Plant size requirements for landscaping areas shall be as follows:
  1. Deciduous trees shall be at least 2 ½ inches in diameter.
  2. Ornamental trees shall be a minimum of 1 ½ inches in diameter.
  3. Evergreen trees shall have a minimum height of 6 feet.
  4. Potted shrubs shall be in a 5 gallon pot or larger.
  5. Evergreen shrubs used for screening purposes shall be at least 3 feet in height at planting. Evergreen shrubs will have a minimum spread of 24 inches.
  6. Except when a property's topsoil depth is less than 24 inches, the plant size requirement may be reduced by 50% or to 1 ¼ inches and doubling the number of trees.

- H. Landscape plans and screening plantings shall be completed within one year from the date a building permit is issued.

### 1330.06 Off-Street Parking

#### Subd. 1 General.

- A. Standards. Off-street parking, loading, and service areas shall be improved with a durable and dustless surface, and shall be graded and drained so as to dispose of all surface water accumulation within the parking area. Acceptable surfaces may include crushed rock and similar treatment for parking accessory to single family and duplex residential structures, all other uses shall utilize asphalt, concrete or substitute as approved by the Zoning Administrator. All surfacing shall be completed prior to occupancy of the structure, unless specific approval otherwise has been granted by the City. Parking areas for three (3) vehicles or fewer shall be exempt from the requirements of this paragraph.
- B. Dimensions. Each off-street parking space shall be a minimum of nine (9) feet wide by eighteen (18) feet deep. Access drives and aisles shall be a minimum of twenty-four (24) feet wide for two-way traffic, and eighteen (18) feet wide for one-way traffic. Parking space dimensions for angled parking shall be approved by the Zoning Administrator, based on acceptable planning standards.
- C. Compact Car Parking. Parking spaces for compact cars may be included within a parking lot plan approved by the Zoning Administrator provided the spaces comprise no more than forty (40) percent of the spaces for the entire use or project, and provided they shall be clearly identified on the site and their location shall be designed carefully into the overall site plan. The spaces shall be a minimum of eight (8) feet wide by sixteen (16) feet deep.
- D. Handicapped Parking. Parking for handicapped persons shall be provided in accordance with State and Federal regulations.
- E. Access. All off-street parking spaces shall have access from a private driveway and shall not access directly onto a public street.

**Subd. 2 Number of Off-street Parking Spaces.** The number of off-street parking spaces required for uses in the Residential, Non-Residential, and MX-1 and MX-2 Districts shall be as follows. Section 1350.1819(D) prescribes the number of off street parking spaces required for uses in the MX-3 District.

- A. Single and Two-family Dwellings: Two (2) spaces per unit, at least one of which shall be enclosed.
- B. Residential Dwellings up to Eight (8) Units per structure: Two (2) spaces per unit, at least one each of which shall be enclosed, plus one half (0.5) space per unit of visitor parking, apart from individual garages or reserved resident spaces, within one hundred (100) feet of the entrance to each private unit entrance or to the building entrance if there is a common entrance. Visitor spaces may be further away if they have enclosed access to the building.
- C. Residential Dwelling with more than Eight (8) Units: One and one-half (1-½) spaces per unit for each efficiency or one bedroom unit, at least one each of which shall be enclosed, and two (2) spaces per unit for each unit with two or more bedrooms, at least one each of which

- shall be enclosed. In addition, there shall be one-half (½) space per unit of visitor parking, apart from individual garages or reserved resident spaces, within two hundred (200) feet of the entrance to each private unit entrance or to the building entrance if there is a common entrance. Visitor spaces may be further away if they have enclosed access to the building.
- D. Driveway Space: Driveway space immediately in front of a garage door, blocking normal access to the garage, may not be counted as part of the required parking space for any residential use.
  - E. Retail Sales and Service Uses: One (1) space for each two hundred fifty (250) square feet of gross floor area.
  - F. Hotel or Motel: One (1) space per unit, plus one (1) space per employee on the largest shift.
  - G. Medical or Dental Clinic: Six (6) spaces per doctor or dentist.
  - H. Vehicle or Equipment Service and Repair: Two (2) spaces plus three (3) spaces for each service stall
  - I. Restaurants, Taverns, Clubs, and Similar Uses: One (1) space for each two and one half (2.5) seats, based on maximum design capacity.
  - J. Offices, Other than Medical or Dental: One (1) space for each two hundred fifty (250) square feet of gross floor area.
  - K. Churches, Theaters, Auditoriums, Funeral Homes, and Other Places of Assembly.: One (1) space for each three (3) seats or for each five (5) feet of pew or bleacher length, based on the maximum design capacity.
  - L. Warehouse, Storage, Handling of Bulk Goods, Industrial Storage: One (1) space for each two (2) employees on the largest shift, or one (1) space for each two thousand (2,000) square feet of gross floor area, whichever shall be greater.
  - M. Manufacturing, Light Industrial, Processing, and Fabrication: One (1) space per five hundred (500) square feet of gross floor area.
  - N. Uses Not Specifically Mentioned: As shall be determined by the Zoning Administrator.

**Subd. 3 Residential Districts.**

- A. No more than twenty-five (25) percent of the required yard area shall be surfaced or utilized for driveway space or vehicle storage.
- B. All parking spaces shall be on the same lot as the principal use for which they are intended.

**Subd. 4 Shared Parking in Non-residential Districts.** The standards for shared parking spaces for uses in all-non-residential districts are as follows:

- A. Required parking facilities serving two or more uses may be located on the same lot or in the same structure, provided that the total number of parking spaces furnished shall not be less than the sum of the separate requirements for each use.

- B. A shared parking plan for two or more uses involving fewer than the total number of parking spaces required in paragraph (1) above may be approved by Conditional Use Permit, if at least the following conditions shall be met:
- 1) No more than fifty (50) percent of the required parking spaces for a given use may be shared with another use.
  - 2) The applicant shall show that there is no substantial conflict between the principal operating hours of the uses, which will share parking spaces.
  - 3) A properly drawn legal instrument covering access easements, cross parking arrangements, maintenance, or other pertinent issues, executed by the parties involved, and approved by the City Attorney, shall be filed with the City Clerk-Administrator.
  - 4) Proof of available parking can be made available should a more intensive use be proposed for the site at a later time.

**Subd. 5 Location of Parking.** Unless otherwise provided, required parking for all uses shall be within four hundred (400) feet of the entrance to the use.

Section 1350 - Non-residential Districts

**1350.01 Scope.**

Except as otherwise provided, this division applies to all non-residential and mixed-use districts in the City.

**1350.02 Purpose of Business Districts.**

Business districts shall be established to accomplish the general purpose of this Chapter and the Comprehensive Plan and for the following specific purposes:

- A. To group compatible business uses which will tend to draw trade that is naturally interchangeable and so promotes the business prosperity and public convenience;
- B. To provide an adequate supply of suitable land for businesses and professional services to meet the needs of the community and provide employment opportunities and significant tax base;
- C. To promote a high quality of business and commercial development and design that produces a positive visual image and minimizes the effects of traffic congestion noise, odor, glare, and similar problems.

**1350.03 Specific intent of the Business Park/Office/Warehouse District.**

The Business Park/Office/Warehouse District is intended to provide locations for office, warehouse, and related uses in a business park setting. Some accessory commercial services may also be a part of this land use type to serve the large employment base.

**1350.04 Specific intent of the General Business District**

The General Business District is intended to provide the opportunity for diverse businesses to take advantage of the City's location and access to major roadway corridors. The district is intended to provide locations for businesses that serve local and regional needs, and may include retail businesses, highway or automobile-oriented businesses, and quasi-industrial and wholesale enterprises that do not need an industrial setting, and can be designed or managed to be compatible with surrounding districts.

**1350.0405 Purpose of the Industrial Districts.**

The industrial districts shall be established to accomplish the general purpose of this Chapter and the Comprehensive Plan and the following specific purposes:

- A. To provide employment opportunities;
- B. To group industrial uses in locations accessible to rail and highways, so that the movement of raw materials, finished products, and employees can be carried on efficiently;
- C. To separate traffic, noise, and other obtrusive characteristics of intense industrial activity from the more sensitive commercial, residential, and open space areas of the City.

**1350.0506 Specific intent of the I-1 Light Industrial District.**

The specific intent of the I-1 Light Industrial District shall be to provide areas for the development of research laboratories, small-scale processing, fabricating, storage, manufacturing, and assembly of products. Such uses are non-polluting, not excessively noisy or dirty, limited traffic producers, and do not produce hazardous waste as by-products.

**1350.067 Specific intent of the I-2 General Industrial District.**

The specific intent of the I-2 General Industrial District shall be to provide areas adjacent to major thoroughfares and in areas where public utilities are available for the express use of industrial developments. Designation of industrial districts will help attract industry, thereby stabilizing the tax base and increasing employment in the City.

**1350.0708 Specific intent of the I-S Industrial Storage District.**

The specific intent of the I-S Industrial Storage District shall be to provide areas bordering City limits and areas adequately buffered with open land to permit storage of petroleum products and other similar storage uses.

**1350.08–09 Purpose of the Mixed-Use Districts.**

The mixed-use districts shall be established to accomplish the general purposes outlined in the Comprehensive Plan and to foster a development pattern that encourages a mix of supportive residential and commercial uses, and supports a multi-modal transportation system that services all users. These districts will integrate places to live, shop, work and play. The mixed-use districts are intended to help shape Newport's downtown and small town identity.

**1350.0910 Specific intent of the MX-1 Downtown District.**

The specific intent of the MX-1 Downtown Mixed Use District shall be to provide sites for small scale retail, commercial, office and service uses, and to support a mix of residential uses. District requirements and standards will create neighborhoods that are aesthetically pleasing, dense, safe, and walkable. This district is primarily intended to integrate residential uses with pedestrian-oriented commercial uses such as specialty retail stores, professional and financial services, offices, sit down restaurants, coffee shops, floral shops, etc. This district shall serve as the center for financial, commercial, professional, and entertainment activities. Inclusion of high density housing above commercial uses in this district will support commercial and entertainment uses and public transit services.

**1350.1011 Specific intent of the MX-2 Commercial District.**

The specific intent of the MX-2 Commercial Mixed Use District shall be to provide areas that integrate diverse commercial and residential uses. Minimum lot sizes are larger than those in the Downtown District. Development is intended to be compatible with the scale of surrounding areas. Parking areas are restricted in this zone in order to limit the impact on the neighborhood and on areas that are visual gateways to the City.

**1350.11-12 Specific intent of the MX-3 Transit-Oriented Mixed Use District**

The specific intent of the MX-3 Transit-Oriented Mixed Use District is to encourage a mixture of residential, commercial, office, and civic uses in proximity to the commuter rail station at densities and intensities that support and increase transit use. The district is also intended to:

- A. Encourage a safe and pleasant pedestrian environment near the rail station, and limit conflicts between pedestrians and vehicles.
- B. Maximize access to transit.
- C. Encourage use of transit infrastructure.
- D. Provide parking in an efficient and unobtrusive manner
- E. Reduce parking requirements by encouraging shared parking and alternative modes of transportation.
- F. Encourage a sense of activity and liveliness along the street level of building facades.

**1350.12-13 Specific intent of the MX-4 General Mixed Use District**

The specific intent of the MX-General Mixed Use District is to provide for a mix of residential and commercial uses that provide for a long-term transition from the auto-oriented uses that exist in the district based on past frontage on Highway 61, to uses that are compatible with adjacent Mixed-Use Districts and development of the Downtown character of Hastings Avenue. The City anticipates that commercial uses will cluster on and near Hastings Avenue and the Glen Road interchange, and that over the long-term, residential uses may become more dense in this zone.

**1350.13–14 Dimensional Requirements for lots and structures in non-residential districts**

A. Non-residential district requirements

| <b>Requirements</b>  | <b>MX-1</b> | <b>MX-2</b> | <b>MX-3</b> | <b>MX-4</b> | <b>B-1<br/>and<br/>B-2</b> | <b>I-1</b> | <b>I-2</b> | <b>I-S</b> |
|--|-------------|-------------|-------------|-------------|----------------------------|------------|------------|------------|
| Minimum lot area in square feet  | 2,400       | 4,000       | None        | 2,400       | 15,000                     | 30,000     | 30,000     | 30,000     |
| Minimum lot depth in feet  | 80          | 100         | None        | 80          | 150                        | 200        | 200        | 200        |
| Minimum lot width in feet  | 30          | 40          | 30          | 30          | 100                        | 100        | 100        | 100        |
| Maximum lot coverage by all buildings (%)  | 80%         | 50%         | None        | 80%         | 30%                        | 40%        | 50%        | 50%        |
| <i>Structure setback standards***</i>  |             |             |             |             |                            |            |            |            |
| Minimum front yard setback   | 0           | 10**        | 0           | 0           | 20                         | 20         | 20         | 50         |
| Minimum front yard if across collector or minor street from any residential district | 10          | 10**        | 10          | 10          | 50                         | 50         | 50         | 100        |
| Minimum side yard  | 0           | 5           | 5           | 5           | 10                         | 20         | 20         | 50         |
| Minimum side yard if adjacent to any residential district                            | 10          | 10          | 10          | 10          | 50                         | 50         | 50         | 100        |
| Minimum rear yard  | 20          | 20          | 20          | 20          | 20                         | 20         | 20         | 50         |
| Minimum rear yard if adjacent to any residential district                            | 20          | 20          | 20          | 20          | 50                         | 50         | 50         | 100        |
| <i>Parking and driving aisle setback in feet</i>                                     |             |             |             |             |                            |            |            |            |
| Minimum front yard   | 20          | Not allowed | Not allowed | 20          | 20                         | 20         | 20         | 20         |
| Minimum front yard if across collector or minor street from any R district           | 50          | Not allowed | Not allowed | 50          | 50                         | 50         | 50         | 50         |
| Minimum side yard  | 5           | 5           | 5           | 5           | 5                          | 5          | 5          | 5          |
| Minimum side yard if adjacent to any R district                                      | 5           | 5           | 5           | 30          | 30                         | 30         | 30         | 30         |
| Minimum rear yard  | 5           | 5           | 5           | 5           | 5                          | 5          | 5          | 5          |
| Minimum rear yard if adjacent to any R district                                      | 10          | 10          | 10          | 50          | 50                         | 50         | 50         | 50         |
| Maximum building height in feet*   | 40<br>3-sty | 28<br>2-sty | See table   | 40          | 40                         | 40         | 40         | 40         |

| Requirements                                  | MX-1 | MX-2 | MX-3     | MX-4 | B-1<br>and<br>B-2 | I-1 | I-2 | I-S |
|---|------|------|----------|------|-------------------|-----|-----|-----|
|   |      |      | B.,below |      |                   |     |     |     |
| Maximum height of storage tank in IS district |      |      |          |      |                   |     |     | 55  |
| Public utilities required, including sewer    | Yes  | Yes  | Yes      | Yes  | Yes               | Yes | Yes | Yes |

\*Maximum height may be increased upon issuance of a Conditional Use Permit. The setback requirements for increases in height adjacent to single-family residential uses included in this chapter apply.

\*\* See section 1300.08 Exceptions to Front Yard Setbacks

\*\*\*Structure setbacks for the MX-1 and MX-2 are as noted by the dimensional provisions unless otherwise specifically approved in a development plan as outlined in a Planned Unit Development.

B. Additional MX-3 District standards. The following requirements apply to all buildings or uses in an MX-3 District, unless otherwise specified:

| <i>Height and Setbacks</i> | <i>Residential Townhouse</i>   | <i>Residential Apt., Condo, Cooperative</i>                          | <i>Mixed-Use Building</i>  | <i>Commercial, Civic, not in mixed-use building</i>                       |
|----------------------------|--|--|--|---|
| <i>Height</i>              | <i>3 stories or 35 feet, whichever is less</i>                       | <i>2 stories minimum, 4 stories maximum*</i>                         | <i>2 stories minimum, 4 stories maximum*</i>                               | <i>No minimum, 4 stories or 40 feet maximum</i>                           |
| <i>Setbacks</i>            | <i>Front: Maximum of 15 feet<br/>Side: 10 feet<br/>Rear: 15 feet</i> | <i>Front: Maximum of 15 feet<br/>Side: 10 feet<br/>Rear: 15 feet</i> | <i>Front: Maximum of 15 feet<br/>Side: 10 feet<br/>Rear: none required</i> | <i>Front: Maximum of 8 feet<br/>Side: 10 feet<br/>Rear: None required</i> |

\*Maximum height may be increased upon issuance of a Conditional Use Permit. Single-story buildings shall have a foot print of no more than 15,000 square feet.

C. Densities in the MX-3 District

- 1) The maximum residential density in the MX-3 District shall be 50 units per acre.
- 2) The minimum residential density in the MX-3 District shall be 30 units per acre.
- 3) The minimum net FAR (Floor Area Ratio) for residential and non-residential uses shall be .5 FAR.

1350.14-15 Uses in the Non-Residential Districts

A. Mixed Use Districts Uses

P=Permitted Use; C=Permitted with a Conditional Use Permit; N=Not Permitted; PUD=Permitted with a Planned Unit Development

| Use  | MX-1 | MX-2 | MX-3                                      | MX-4 |
|--|------|------|---|------|
| <b>Residential Uses</b>  |      |      |   |      |
| Single-family detached, one dwelling per lot   | P    | P    | N   | P    |
| Single-family detached, more than one dwelling per lot   | PUD  | PUD  | N   | PUD  |
| Two-family residences  | P    | P    | N   | P    |
| Townhouse, rowhouse  | P    | P    | P   | P    |
| Manufactured single-family dwelling  | P    | P    | N   | P    |
| Mobile homes   | N    | N    | N   | N    |
| Multi-Family, condos, apartments and cooperatives  | P    | P    | P—less than 8 units;<br>C—8 or more units | P    |
| Congregate housing for senior populations  | P    | P    | P   | P    |
| Homes for handicapped or infirm including group homes or halfway houses but not containing more than 6 unrelated persons   | P    | P    | P   | P    |
| Mixed-Use (dwelling unit above ground floor)   | P    | P    | P   | P    |
| Live-work building   | C    | C    | C   | C    |
| PUD  | PUD  | PUD  | PUD                                       | PUD  |
| <b>Civic and Semi-Public Uses</b>  |      |      |   |      |
| Day Care Facilities in Single Family Homes with 14 or fewer children being attended to   | P    | P    | N   | P    |
| Day Care Facilities in Single Family Homes with more than 14 children being attended to  | C    | C    | N   | C    |
| Day Care Facilities  | C    | C    | C   | C    |
| Day Care Facilities in a mixed-use building  | P    | P    | P   | P    |
| Essential services/public utilities  | P    | P    | P   | P    |
| Funeral Home   | C    | C    | C   | C    |
| Hospitals  | C    | C    | C   | C    |
| Military reserve, national guard centers   | C    | N    | N   | N    |
| Park and public recreation facilities  | P    | P    | P   | P    |
| Parking Garage (as a principal use)  | C    | N    | C   | N    |
| Parking Lot, Surface (as a principal use)  | C    | N    | N   | N    |
| Penal/correctional facilities  | N    | N    | N   | N    |
| Place of worship and associated facilities, except schools   | C    | C    | C   | C    |
| Public Facilities including government offices, emergency services facilities, public works facilities, schools, libraries, museums, post offices and other municipally owned or operated facilities | C    | C    | C—50,000 sq ft maximum                    | C    |
| Schools – trade, college, vocational, and associated facilities  | C    | C    | C—50,000 sq ft maximum                    | C    |

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| Use   | MX-1         | MX-2         | MX-3  | MX-4         |
|---|--------------|--------------|---|--------------|
| Schools for business, trade, dancing, music   | C            | C            | C   | C            |
| Social and fraternal clubs and lodges, union halls                                      | P            | P            | C—10,000 sq ft maximum                            | P            |
| Transit stations and related parking facilities   | C            | C            | C   | C            |
| <b>Commercial Uses</b>  |              |              |   |              |
| Administrative support services   | P            | P            | P   | P            |
| Adult Uses  | N            | N            | N   | N            |
| Animal boarding, grooming, veterinary clinics, retail sales                             | C            | C            | C—10,000 sq ft maximum                            | C            |
| Artist studios  | P            | P            | P   | P            |
| Auto body repair and major auto repair, towing services                                 | C            | N            | N   | N            |
| <del>Auto sales, rental</del>   | <del>C</del> | <del>N</del> | <del>N</del>                                      | <del>N</del> |
| Automotive services, car specialty services (not including body repair or major repair) | C            | C            | C—Maximum 4 repair bays                           | C            |
| Bakeries, delicatessens, coffee shops   | P            | P            | P   | P            |
| Bakeries, wholesale   | P            | C            | C   | C            |
| Bed and Breakfast   | P            | P            | N   | P            |
| Biotechnology   | P            | P            | P   | P            |
| Building materials and services   | C            | N            | N   | N            |
| Catalog and mail order  | P            | P            | P   | P            |
| Conference Center, 50,000 square feet or less   | C            | C            | C   | C            |
| Convenience stores  | P            | P            | P   | P            |
| Data centers  | C            | C            | C   | C            |
| Entertainment/amusement halls, bowling alley, indoor skating rink                       | P            | P            | C   | C            |
| Fabrication of apparel, leather products and other products from prepared products      | P            | C            | P   | C            |
| Fabrication of office and computer equipment  | P            | P            | P   | P            |
| Financial services  | P            | P            | P   | P            |
| Fitness and recreation centers, in a mixed-use building                                 | C            | C            | C   | C            |
| Gas, diesel or other motor fuel retail sales  | C            | C            | N   | C            |
| Grocery and produce sales   | C            | C            | C—50,000 sq ft maximum                            | C            |
| Internet publishing and broadcasting  | P            | P            | P   | P            |
| Medical, dental, or veterinary clinics and laboratories                                 | C            | C            | C—10,000 sq ft maximum                            | C            |
| Medical appliance assembly  | P            | P            | P   | P            |
| Motion picture and sound recording industries   | C            | C            | C   | C            |
| Offices – general, medical, professional, free-standing, or mixed-use building          | P            | P            | P--to 10,000 sq ft;<br>C—larger than 10,000 sq ft | P            |
| Printing, publishing, bookbinding, blueprinting   | C            | C            | C   | C            |
| Processing and packaging of drugs, pharmaceuticals, perfumes and cosmetics              | C            | C            | P   | C            |

| Use   | MX-1     | MX-2     | MX-3  | MX-4     |
|---|----------|----------|---|----------|
| Retail and service establishments, free-standing, or mixed-use building   | P        | P        | P--to 10,000 sq ft;<br>C—10,000 to 50,000 sq ft maximum | P        |
| <a href="#">Rental of vehicles (with limited outside storage)</a>   | <u>C</u> | <u>C</u> | <u>C</u>  | <u>C</u> |
| Research, development and testing laboratory  | C        | C        | C   | C        |
| Restaurants, including open air or sidewalk cafes, freestanding or in mixed-use buildings—no liquor served                          | P        | P        | P   | P        |
| Restaurants, including open air or sidewalk cafes, freestanding or in mixed-use buildings—liquor served                             | C        | C        | C   | C        |
| Restaurants with drive-through service  | C        | C        | C   | C        |
| Service businesses, such as beauty shops, barbershops, dry-cleaning, drop-off/pickup (no on-site processing) in mixed-use buildings | P        | P        | P   | P        |
| Small scale manufacturing and artisans  | P        | P        | P—5,000 sq ft or less;<br>C—5,000 to 10,000 sq ft       | P        |
| Theaters (with structured parking)  | P        | P        | P   | P        |
| Theaters  | C        | C        | C   | C        |
| Towing services (no outside storage of vehicles)  | P        | C        | P   | C        |
| <a href="#">Vehicle sales, display and service</a>  | <u>C</u> | <u>N</u> | <u>N</u>  | <u>N</u> |
| <a href="#">Vehicle Storage Lot</a>   | <u>N</u> | <u>N</u> | <u>N</u>  | <u>N</u> |
| Warehousing as a primary use  | N        | N        | N   | N        |
| <b>Accessory Uses</b>   |          |          |   |          |
| Drive up facilities   | C        | C        | C   | C        |
| Gazebo, arbor, play equipment in public or private open space area  | P        | P        | P   | P        |
| Outdoor sales, in conjunction with permitted use  | C        | C        | N   | C        |
| Renewable energy system   | P        | P        | P   | P        |
| <a href="#">Rental of vehicles (with limited outside storage)</a>   | <u>C</u> | <u>C</u> | <u>C</u>  | <u>C</u> |
| Parking lot, as an accessory use  | C        | C        | C   | C        |
| Swimming Pool   | P        | P        | P   | P        |

B. Business and Industrial District Uses

P=Permitted Use; C=Permitted with a Conditional Use Permit; N=Not Permitted

| Use                                      | B-1       | B-2      | I-1 | I-2 | I-S |
|--|-----------|----------|-----|-----|-----|
| <b>Civic and Public Uses</b>             |           |          |     |     |     |
| Airports                                 | N         | <u>N</u> | C   | C   | N   |
| Cemetery and/or crematorium              | C         | <u>N</u> | N   | N   | N   |
| Day care centers                         | C         | <u>C</u> | C   | C   | C   |
| Day care centers in a mixed-use building | P         | <u>P</u> | C   | C   | C   |
| Essential services/public utilities      | P         | <u>P</u> | P   | P   | P   |
| Funeral Home                             | <u>Pp</u> | <u>P</u> | N   | N   | N   |
| Hospitals                                | C         | <u>C</u> | N   | N   | N   |
| Medical Clinics                          | P         | <u>P</u> | N   | N   | N   |

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| Use   | B-1          | <u>B-2</u>   | I-1          | I-2          | I-S          |
|---|--------------|--------------|--------------|--------------|--------------|
| Military reserve, national guard centers  | C            | <u>C</u>     | N            | N            | N            |
| Park and public recreation facilities   | P            | <u>P</u>     | P            | P            | P            |
| Parking Garage (as a principal use)   | P            | <u>C</u>     | N            | N            | N            |
| Parking Lot, Surface (as a principal use)   | P            | <u>C</u>     | P            | P            | P            |
| Penal/correctional facilities   | N            | <u>N</u>     | C            | C            | N            |
| Place of worship and associated facilities, except schools  | P            | <u>P</u>     | N            | N            | N            |
| Post Office   | P            | <u>P</u>     | N            | N            | N            |
| Public Facilities including government offices, emergency services facilities, public works facilities, schools, libraries, museums, and other municipally owned or operated facilities | C            | <u>C</u>     | C            | C            | C            |
| Sanitary landfill   | N            | <u>N</u>     | C            | C            | N            |
| Schools-trade, college, vocational, and associated facilities   | <u>Pp</u>    | <u>P</u>     | C            | N            | N            |
| Schools for business, trade, dancing, music   | C            | <u>C</u>     | C            | N            | N            |
| Social, Fraternal clubs and lodges, union halls   | P            | <u>P</u>     | N            | N            | N            |
| Transit stations and related parking facilities   | C            | <u>C</u>     | N            | N            | N            |
| <b>Commercial Uses</b>  |              |              |              |              |              |
| Adult uses (bookstore, theater, nightclub, nude or partially nude dancing)  | N            | <u>N</u>     | N            | C            | C            |
| Animal boarding, grooming, veterinary clinics, retail sales   | N            | C            | N            | N            | N            |
| <del>Auto sales, rental</del>   | <del>N</del> | <del>N</del> | <del>N</del> | <del>N</del> | <del>N</del> |
| <del>Automotive services, car specialty services (not including body repair or major repair)</del>  | <del>N</del> | <del>C</del> | <del>N</del> | <del>N</del> | <del>N</del> |
| Auto painting and body work   | N            | <u>N</u>     | C            | N            | N            |
| Auto storage  | N            | <u>C</u>     | C            | P            | C            |
| <u>Bakery, wholesale</u>  | <u>N</u>     | <u>C</u>     | <u>N</u>     | <u>N</u>     | <u>N</u>     |
| <u>Biotechnology businesses</u>   | <u>C</u>     | <u>C</u>     | <u>N</u>     | <u>N</u>     | <u>N</u>     |
| Brewery, craft  | P            | P            | P            | N            | N            |
| <u>Building materials and services</u>  | <u>N</u>     | <u>C</u>     | <u>N</u>     | <u>N</u>     | <u>N</u>     |
| Commercial greenhouse operations  | C            | <u>C</u>     | P            | N            | N            |
| Convenience stores  | P            | <u>P</u>     | N            | N            | N            |
| <u>Data centers</u>   | <u>N</u>     | <u>C</u>     | <u>N</u>     | <u>N</u>     | <u>N</u>     |
| Distillery, craft   | P            | P            | P            | N            | N            |
| <u>Fabrication of apparel, leather products and products from prepared products</u>   | <u>N</u>     | <u>P</u>     | <u>N</u>     | <u>N</u>     | <u>N</u>     |
| <u>Fabrication of office and computer equipment</u>   | <u>N</u>     | <u>P</u>     | <u>N</u>     | <u>N</u>     | <u>N</u>     |
| Gas, diesel or other motor fuel retail sales  | P            | <u>P</u>     | N            | N            | N            |
| Hotels, motels  | P            | <u>P</u>     | N            | N            | N            |
| Medical, dental or veterinary clinics and laboratories  | N            | C            | N            | N            | N            |
| Printing, publishing, bookbinding, blueprinting   | N            | C            | N            | N            | N            |
| Processing and packaging of drugs, pharmaceuticals, perfumes and cosmetics  | N            | C            | N            | N            | N            |
| <del>Rental of vehicles</del>   | <del>N</del> | <del>C</del> | <del>N</del> | <del>N</del> | <del>N</del> |
| Restaurants, traditional or liquor served; bar and grill  | <u>Pp</u>    | <u>P</u>     | N            | N            | N            |
| Salvage yards (auto or scrap iron)  | N            | <u>N</u>     | N            | P            | N            |
| Small brewery or winery as an accessory use to a bar or restaurant  | P            | P            | P            | N            | N            |

| Use  | B-1      | <u>B-2</u> | I-1      | I-2      | I-S      |
|--|----------|------------|----------|----------|----------|
| Storage, mini-storage, cold-storage  | N        | <u>N</u>   | N        | N        | P        |
| <u>Vehicle Sales, display and Service</u>                                      | <u>N</u> | <u>C</u>   | <u>N</u> | <u>N</u> | <u>N</u> |
| <u>Vehicle Storage Lot</u>   | <u>N</u> | <u>C</u>   | <u>N</u> | <u>N</u> | <u>N</u> |
| Veterinary clinic, animal hospital   | C        | <u>C</u>   | P        | N        | N        |
| Wholesale sales  | P        | <u>P</u>   | N        | N        | N        |
| Winery, craft  | P        | P          | P        | N        | N        |
| <b>Warehouse and Industrial Uses</b>   |          |            |          |          |          |
| Manufacturing  | C        | <u>C</u>   | P        | P        | N        |
| Micro- and regional brewery  | N        | P          | P        | N        | N        |
| Retail sale, installation and remanufacturing of vehicle parts and accessories | N        | <u>N</u>   | P        | N        | N        |
| Storage and distribution of bulk petroleum products, oil and gasoline          | N        | <u>N</u>   | N        | N        | C        |
| Storage, mini-storage, cold storage  | N        | <u>N</u>   | N        | N        | P        |
| Warehousing  | C        | <u>C</u>   | P        | P        | N        |
| <b>Accessory Uses</b>  |          |            |          |          |          |
| <b>Outdoor sales, in conjunction with a permitted use</b>                      | N        | C          | N        | N        | N        |
| <b>Renewable energy system</b>   | P        | P          | P        | P        | P        |
| <b>Parking lot, as an accessory use</b>  | P        | P          | P        | P        | P        |

**1350.1516 Administrative Procedure for Re-Zoning in the Non-residential Districts**

- A. All petitions for rezoning to establish or expand a nonresidential district shall also concurrently follow subdivision platting procedures and a complete preliminary plat with all supporting data required which shall be filed with the Zoning Administrator.
- B. If a zoning change for a nonresidential district is approved, the first phase of construction shall begin or show reasonable progress within two (2) years after approval of the general development plan and zoning change by ordinance or the district may be zoned back to its original zoning district classification or other appropriate zoning district classification.
- C. Upon receipt of a completed application for rezoning, subdivision or site plan approval, a date shall be set for a public hearing before the Planning Commission. The hearing will be held no less than 10 days after mailed notice is sent to the owners of property located wholly or partially within 350 feet of the site. The Planning Commission shall submit its recommendation to the City Council. Following appropriate review, the Council shall make a decision regarding the application.
- D. Upon finding by the Planning Commission and City Council that the proposed zoning district and preliminary plat shall constitute a district of sustained desirability, is consistent with long range comprehensive plans for the City, and meets the requirements of the district, the City Council may establish such district on the property included in the preliminary plat. The preliminary plat as approved together with such covenants, deed restrictions, controls, or special conditional use permits as may be attached to it, shall be filed and recorded by the owners or developer in the office of the county register of deeds and shall become a part of the ordinance establishing the zoning charge. Any substantial change to the plat shall require resubmission to and approval by the Planning Commission and City Council.
- E. The final platting of such land shall be subject to such requirements for approval, recording, and the installation of improvements as required by other City ordinances.

**1350.167 Administrative Procedure for Site Plan Review in the Non-residential Districts and Additional Procedures for Development in the MX-3 District**

A. *Site Plan Review.* Prior to obtaining a building permit or constructing any building improvements on an individual lot or site within any nonresidential district, three (3) copies of the site plan of proposed improvements shall be submitted to the Zoning Administrator. The Zoning Administrator may require review by the Planning Commission and City Council. Such site plan shall include the following:

- 1) A survey or plat of the property
- 2) Evidence of ownership or interest in the property
- 3) The fee specified in the City's fee schedule
- 4) Information regarding project phasing and timing.
- 5) Complete development plans, signed by a registered architect, civil engineer, landscape architect, or other appropriate design professional, as required by the State Building Code.
- 6) Phasing plan
- 7) Architectural plans showing the following:
  - a. Colored elevations of all sides of the building
  - b. Type, color and samples of exterior building materials
  - c. Typical floor plans
  - d. Dimensions of all structures
  - e. The location of exterior trash storage areas and of exterior electrical, heating, ventilation and air conditioning equipment
  - f. Utility plans including water, sanitary sewer, and storm sewer
  - g. A plan showing landscaping, lighting, and signs that meets code requirements
  - h. Illustrations that show adjacent building elevations to show the scale of adjacent buildings and landscaping
  - i. Such other information as may be required by the City to process the application

B. *MX-3 District.* Additional Administrative Procedures for Development in the MX-3 District

- 1) *Preliminary Review.* It is strongly recommended that anyone planning to develop or redevelop property in an MX-3 District meet with the City Administrator (1) during the conceptual design process in order that the staff may offer input into meeting the ordinance requirements and design standards and (2) during the design development stage to ensure that the plans meet the minimum MX-3 District Standards.
- 2) *Station Area Plan Procedure.* No new development or redevelopment may occur, and no building permit will be issued, without approval of a Station Area Plan conforming to the requirements of this section. Approval of individual site plans must conform to the Station Area Plan. Upon the submission of the Station Area Plan, the Planning Commission will conduct a public hearing and

make a recommendation to the City Council, which shall approve, modify, or deny the Station Area Plan. The Station Area Plan shall include the following:

- a. A drawing showing existing conditions such as property boundaries, generalized contours, site features such as wetlands and wooded areas, and surrounding land uses and development.
  - b. A conceptual development plan showing public and private open space, and general site data such as building locations, density, setbacks, ponding areas, parking areas and generalized screening, buffering and landscape concepts.
  - c. Generalized traffic information including proposed new streets and alley connections, and improvements to existing roads.
  - d. An elements plan that includes, but is not limited to, lighting, public art, planters, fountains, litter receptacles, benches or seating areas.
- 3) The findings necessary for approval of the Station Area Plan include, but are not limited to, the following:
- a. The Station Area Plan is consistent with the intent of the MX-3 District.
  - b. The Station Area Plan reflects development that:
    - i. Is not detrimental to the public health, safety, or general welfare
    - ii. Is not hazardous, detrimental, or disturbing to surrounding land uses, or that creates pollution, vibration, general unsightliness, electrical interference, or other nuisances
    - iii. Does not create traffic congestion, unsafe access, or parking needs that will cause inconvenience to adjoining properties
    - iv. Is served adequately by essential public services such as streets, police, fire protection, utilities, and parks
    - v. Does not create excessive additional requirements at public cost for public facilities and services, and is not detrimental to the economic welfare of the City
    - vi. Causes minimal adverse environmental effects
    - vii. Each phase or stage of the Station Area Plan can exist as an independent unit.
- 4) *Administrative Approval.* To offer some degree of flexibility, the City Administrator has the authority to administratively alter any of the development and urban design standards by five percent (5%) in an MX-3 District. If administrative approval is required for parking or an item normally approved by the Planning Commission and City Council, the City Administrator shall only grant approval after consultation with other city staff (public works, building inspections, fire chief, etc.)

On matters that do not involve quantitative measurements, the City Administrator may also make minor alterations if he/she determines that such changes would be an acceptable design approach to development and would be in keeping with the general intent of the MX-3 District. Any such approval shall meet the following criteria:

- a. Incorporates existing buildings, trees, topographic features, or other existing elements consistent with the intent of the MX-3 District; and
- b. Provides urban open space, seating, fountains, accent landscaping, or other similar urban pedestrian amenities consistent with the intent of the MX-3 District.

**1350.178 Performance Standards for Non-residential Districts**

- A. The Performance Standards included in Item 1330.05 of this Ordinance shall apply in the Non-residential districts, except as modified in this Section.
- B. All public rights-of-way within the MX, Business, and Industrial Districts shall be considered collector streets or arterials as defined in the City thoroughfare plan.
- C. MX District Parking standards.
  - 1) Parking requirements in the MX Districts shall be governed by Section 1330.06 except for the following: Surface Parking Lots in the MX-2 and MX-3 Districts shall be located at the side or rear of buildings and not in the front yard area. Surface parking lot or driveway access may not make up more than 25% of lot frontage. The required front setback for surface parking lots in the MX-1 and MX-4 district shall include a planted boulevard that meets the landscaping requirements of the ordinance.
  - 2) In the MX-1 District, parking requirements shall be 1 space for every 350 square feet of office or retail gross floor area. On-street parking spaces that are adjacent to the parcel that the parking is being calculated for may be included in the calculation. The maximum number of off-street parking spaces permitted shall not exceed 1 space per 250 square feet of office or retail uses, except in the case of restaurants which shall be allowed one space per 200 square feet if shared parking facilities are not available.
  - 3) Parking standards for the MX-3 District are included in Section 1350.1719.
  - 4) Additional reductions in parking requirements in the MX-1 and MX-2 Districts shall be permitted with demonstrations of proof of parking or a parking management strategy acceptable to the Zoning Administrator.
- D. Building Standards. Every primary and accessory building in a Commercial, Industrial, or Mixed Use District shall be uniform in design and materials on all sides of a structure facing a public street, having extensive visual exposure from a public street or is adjacent to a residential zoning district, unless modified herein.
  - 1) Exterior surfaces of all buildings shall be faced with or a combination of brick, stone (or better), decorating architecturally textured concrete products, wood veneer, glass, stone, decorative pre-cast panels, equivalent products, or better.
  - 2) Primary and accessory buildings: facades or roofs in any Commercial District shall not be constructed of non-textured cinder concrete block, sheet aluminum, steel, corrugated aluminum or steel, or similar products.
  - 3) Primary or accessory building facades in any Industrial District not fronting on a public street, not having extensive visual exposure from a public street or is not adjacent to a Residential Zone may be constructed of non-textured cinder block, sheet aluminum, steel, corrugated block, corrugated aluminum or steel or similar products.

- 4) Within an Industrial District a multi-tenant, mini-storage or trucking terminal with extensive use of garage doors on many sides of a building or groups of buildings may be constructed of metal, untextured cinder block, sheet aluminum, steel, corrugated aluminum or steel, or similar products. Exterior metal surface finishes shall be warranted by the manufacturer for twenty years against blistering, peeling, cracking, flaking, checking, or chipping, and shall not compose more than 50% of the building elevation facing a public roadway.
- 5) Metal-like materials, in a zone other than Industrial, are only acceptable as trim, fascia, mansards, portions of the main facade, or the like. Metal roof materials may be used upon approval by the Zoning Administrator.
- 6) Accessory tanks, exterior equipment, stacks, pipes, towers and the like are exempt from these requirements.
- 7) Other exterior building materials may be approved by Conditional Use Permit if it is determined that:
  - a. The materials are similar to or better than the permitted materials listed above;
  - b. The materials are high-quality, long-lasting, attractive, reasonably maintenance-free; and
  - c. The materials are integrated harmoniously into the building design and consistent with neighboring uses.
- E. Exterior Storage: No materials, product, or equipment shall be stored outside of an enclosed building except for daily display (during store hours) of merchandise.
- F. All refuse and recycling containers must be stored inside of the principle structure or a fully enclosed accessory structure.
- G. All roof equipment must be screened from public view unless designed as an integral part of the building and is compatible with the site lines of the building, as determined by the Zoning Administrator.
- H. All developments (except for improvements to a single-family detached housing unit or construction of a new single-family detached housing unit) conducted within the MX-1 or MX-2 district must be completed through the Planned Development District process as outlined in Section 1360 of the Zoning Code.

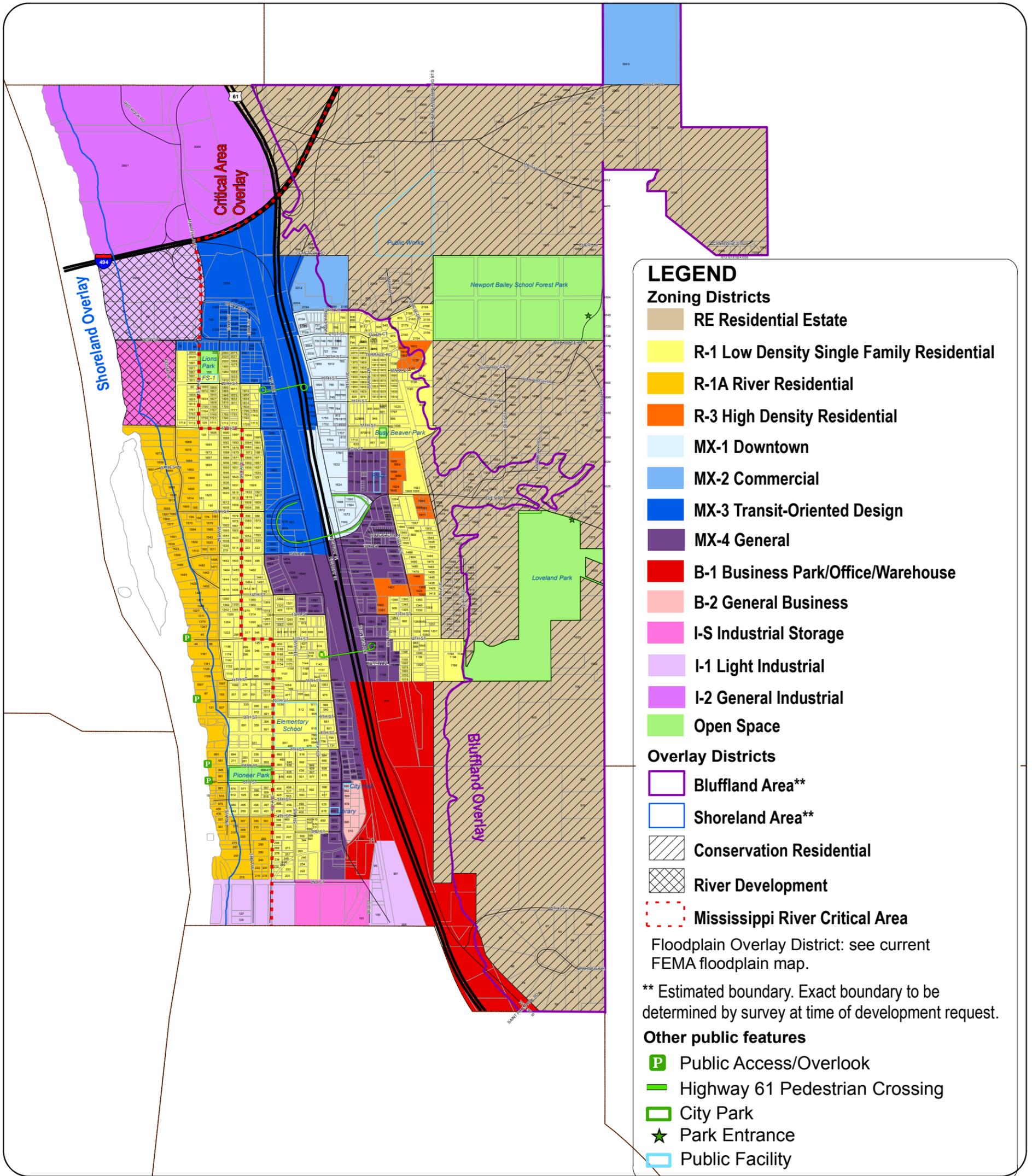
**1350.18-19 Additional Performance Standards for the MX-3 District**

**A. Height and Setback Standards**

- 1) General setback standards for the MX-3 District are indicated on the table in Section 1350.~~1314~~.
- 2) Additional setback and building height standards for the MX-3 District include the following:
  - a. If new construction incorporates an existing structure located within a minimum setback, the City Administrator may allow the setback for the building addition to be reduced to the established setback.
  - b. All above-ground utility structures associated with electric, natural gas, telecommunications, cable television distribution lines, pipes, conduits, or other public utilities shall be located behind



# City of Newport Zoning Map



## LEGEND

### Zoning Districts

- RE Residential Estate
- R-1 Low Density Single Family Residential
- R-1A River Residential
- R-3 High Density Residential
- MX-1 Downtown
- MX-2 Commercial
- MX-3 Transit-Oriented Design
- MX-4 General
- B-1 Business Park/Office/Warehouse
- B-2 General Business
- I-S Industrial Storage
- I-1 Light Industrial
- I-2 General Industrial
- Open Space

### Overlay Districts

- Bluffland Area\*\*
  - Shoreland Area\*\*
  - Conservation Residential
  - River Development
  - Mississippi River Critical Area
- Floodplain Overlay District: see current FEMA floodplain map.

\*\* Estimated boundary. Exact boundary to be determined by survey at time of development request.

### Other public features

- P Public Access/Overlook
- Highway 61 Pedestrian Crossing
- City Park
- ★ Park Entrance
- Public Facility

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Data sources: City of Newport, Washington County, Metropolitan Council  
 Zoning Map Adopted June 20, 2013  
 Map printed June 25, 2013



2,000  
 Feet  
 1 inch = 500 feet

**PLANNING COMMISSION  
RESOLUTION NO. P.C. 2014-4**

**A RESOLUTION RECOMMENDING CITY COUNCIL APPROVE A ZONING AMENDMENT TO  
SECTION 1330 GENERAL DISTRICT REGULATIONS, SECTION 1350 NON-RESIDENTIAL  
DISTRICTS, AND SECTION 1370.09 RIVER REDEVELOPMENT OVERLAY DISTRICT AND AMENDING  
THE ZONING MAP**

**WHEREAS**, at the March 12, 2014 Planning Commission meeting, the Planning Commission recommending creating a B-2 General Business District that provides for the opportunity for diverse businesses to take advantage of the City's location and access to major roadway corridors; and

**WHEREAS**, the Commission recommended updates to the Zoning Ordinance to include the purpose, location, uses, dimensional standards and other requirements for the B-2 District;

**WHEREAS**, The Planning Commission held a public hearing on this Zoning Amendment at its meeting of Thursday, April 10, 2014; and

**NOW, THEREFORE, BE IT RESOLVED**, That the Newport Planning Commission recommends Newport City Council approval of a Zoning Amendment to amend the present language found in *Section 1330 General District Regulations, Section 1350 Non-residential Districts, and Section 1370.09 River Development Overlay District*. They will read as follows:

**Section 1330 – General District Regulations**

**1330.01 District Classification.**

In order to implement the Comprehensive Plan and achieve an orderly development pattern that protects the health, safety, and general welfare of the City of Newport, its residents, and business community, and minimizes development impacts on the environment, the city is hereby divided into the following zoning districts:

**1330.01.1 Residential Districts**

- RE Residential Estate
- R-1A River Residential District
- R-1 Low Density Single Family Residential District
- R-2 Medium Density Residential District
- R-3 High Density Residential District

**1330.01.2 Nonresidential Districts**

- B-1 Business Park/Office/Warehouse
- B-2 General Business
- I-1 Light Industrial District
- I-2 General Industrial District
- I-S Industrial Storage District

**1330.01.3 Mixed Use Districts**

- MX-1 Downtown Mixed Use District
- MX-2 Commercial Mixed Use District
- MX-3 Transit-Oriented Mixed Use District
- MX-4 General Mixed Use District

**1330.01.4 Planned Unit Developments (PUD)**

**1330.01.5 Special Overlay Districts**

- **Shoreland Management District**
- **Critical Area Overlay District**
- **Flood Plain Management District**
  - **Floodway**
  - **Floodfringe**
- **Bluffland Area Overlay District**
- **Historic Neighborhood Conservation Overlay District**
- **Conservation Residential Overlay District**
- **River Redevelopment Overlay District**

### **1330.02 Zoning Map**

The location and boundaries of the districts established by this Chapter shall be hereby set forth in a map known as the "City of Newport Zoning Map" hereinafter referred to as the Zoning Map. The map and all notations, references, and data shown thereon are hereby incorporated by reference into this Chapter. It shall be the responsibility of the Zoning Administrator to maintain the Zoning Map, and amendments shall be recorded on the map within thirty (30) days after official publication of the amendments. The official zoning map shall be kept on file in the City hall.

### **1330.03 Boundary Lines**

#### **1330.04 Uses**

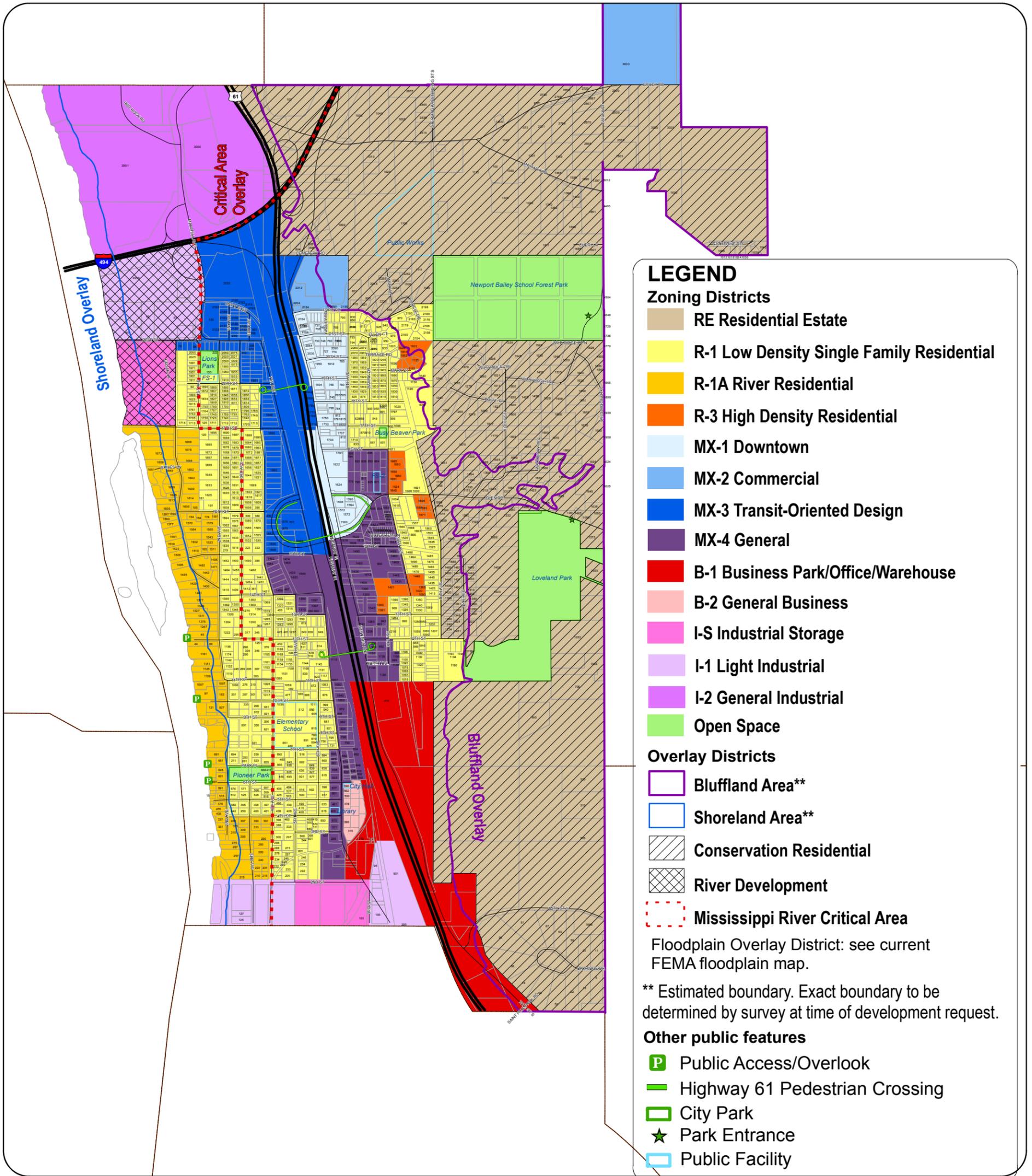
It is the policy of the City of Newport that the enforcement, amendment, and administration of this Ordinance be accomplished with due consideration of the recommendation contained in *Chapter 1300, Section 1340.02 and Sections 1350.01-1350.13, Intent of the Newport City Code of Ordinances* and the *City of Newport Comprehensive Plan* as developed and amended from time to time by the Planning Commission and City Council of the City of Newport.

Within the City's zoning districts, no land or buildings may be used or occupied in any manner except for the uses set forth in the following land use classification chart and described in the following subsections. If a use is not identified in the following land use classification chart, the Zoning Administrator shall issue a statement of clarification, finding that the use is or is not substantially similar in character and impact to a use regulated in the land use classification chart. If the use is not substantially similar to any other use regulated in the land use classification chart, the Zoning Administrator shall refer the matter to the City Council for determination. The Zoning Administrator and City Council shall take into consideration if the use meets the City's goals and plans, what zoning district may be most appropriate for the use as well as what conditions and standards should be imposed relating to development of the use. In addition, the Zoning Administrator and City Council shall take into consideration whether the use will conform to the performance standards (*Section 1330.05*) and overlay districts (*Section 1370*) described in this Chapter.

An appeal may be taken to the board of appeals and adjustments as described in *Section 1310.03 Appeal from Administrative Decisions* by any person aggrieved by any order, requirement, decision or determination made by the Zoning Administrator or any other administrative office of the City in enforcement of this Section.



# City of Newport Zoning Map



## LEGEND

### Zoning Districts

- RE Residential Estate
- R-1 Low Density Single Family Residential
- R-1A River Residential
- R-3 High Density Residential
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- MX-2 Commercial
- MX-3 Transit-Oriented Design
- MX-4 General
- B-1 Business Park/Office/Warehouse
- B-2 General Business
- I-S Industrial Storage
- I-1 Light Industrial
- I-2 General Industrial
- Open Space

### Overlay Districts

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  - Mississippi River Critical Area
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\*\* Estimated boundary. Exact boundary to be determined by survey at time of development request.

### Other public features

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- Highway 61 Pedestrian Crossing
- City Park
- ★ Park Entrance
- Public Facility

K:\gis\NewportZoningMap.mxd

Data sources: City of Newport, Washington County, Metropolitan Council  
 Zoning Map Adopted June 20, 2013  
 Map printed June 25, 2013



2,000  
 Feet  
 1 inch = 500 feet

Section 1330.04 Uses

| Land Use Classification                                     |                 |                        |                               |                                |                              |   |                      |                      |                        |   |                         |                           | NP                                | Not Permitted                                 |                          |
|---|-----------------|------------------------|-------------------------------|--------------------------------|------------------------------|---|----------------------|----------------------|------------------------|---|-------------------------|---------------------------|-----------------------------------|---|--------------------------|
|   |                 |                        |                               |                                |                              |   |                      |                      |                        |   |                         |                           | P                                 | Permitted                                     |                          |
|   |                 |                        |                               |                                |                              |   |                      |                      |                        |   |                         |                           | PUD                               | Planned Unit Developments                     |                          |
|   |                 |                        |                               |                                |                              |   |                      |                      |                        |   |                         |                           | C                                 | Conditional Use Permit (CUP) required         |                          |
|   |                 |                        |                               |                                |                              |   |                      |                      |                        |   |                         |                           | A                                 | Permitted Accessory Use                       |                          |
|   |                 |                        |                               |                                |                              |   |                      |                      |                        |   |                         |                           | CC                                | Certificate of Compliance                     |                          |
| Land Use  | Zoning District |                        |                               |                                |                              |   |                      |                      |                        |   |                         |                           |                                   | Additional Use Regulations<br>(See footnotes) |                          |
|   | RE—Rural Estate | R-1A—River Residential | R-1—Low Density Single Family | R-2—Medium Density Residential | R-3—High Density Residential | B-1—Business Park /Office/ Warehouse  | B-2 General Business | I-1—Light Industrial | I-2—General Industrial | I-S—Industrial Storage  | MX-1—Downtown Mixed Use | MX-2—Commercial Mixed Use | MX-3 – Transit-Oriented Mixed Use |   | MX-4 – General Mixed Use |
| <b>Residential</b>  |                 |                        |                               |                                |                              |   |                      |                      |                        |   |                         |                           |                                   |   |                          |
| Single Family Detached, one dwelling per lot                | P               | P                      | P                             | P                              | P                            | Please see Section 1350.15 (B) for allowed uses in the Business and Industrial Districts. |                      |                      |                        | Please see Section 1350.15 (A) for allowed uses in the Mixed Use Districts. |                         |                           |                                   |   |                          |
| Single Family Detached, more than one dwelling unit per lot | PUD             | PUD                    | PUD                           | PUD                            | PUD                          |   |                      |                      |                        |   |                         |                           |                                   |   |                          |
| Two Family residences                                       |                 |                        |                               | P                              | P                            |   |                      |                      |                        |   |                         |                           |                                   | Includes townhomes                            |                          |
| Multi-family (eight units or fewer per building)            |                 |                        |                               | C                              | P                            |   |                      |                      |                        |   |                         |                           |                                   | Includes townhomes                            |                          |
| Multi-family (eight or more units per building)             |                 |                        |                               | C                              | P                            |   |                      |                      |                        |   |                         |                           |                                   | Includes townhomes                            |                          |



**Land Use Classification**

- NP** Not Permitted
- P** Permitted
- PUD** Planned Unit Developments
- C** Conditional Use Permit (CUP) required
- A** Permitted Accessory Use
- CC** Certificate of Compliance

| Land Use   | Zoning District |                        |                               |                                |                              |   |                      |                      |                        |   |                         |                           |                                   | Additional Use Regulations<br>(See footnotes)  |
|--|-----------------|------------------------|-------------------------------|--------------------------------|------------------------------|---|----------------------|----------------------|------------------------|---|-------------------------|---------------------------|-----------------------------------|--|
|  | RE—Rural Estate | R-1A—River Residential | R-1—Low Density Single Family | R-2—Medium Density Residential | R-3—High Density Residential | B-1—Business Park /Office/ Warehouse  | B-2 General Business | I-1—Light Industrial | I-2—General Industrial | I-S—Industrial Storage  | MX-1—Downtown Mixed Use | MX-2—Commercial Mixed Use | MX-3 – Transit-Oriented Mixed Use |  |
| Churches, synagogues, temples and associated facilities except schools                 | C               | P                      | P                             | P                              | P                            | and Industrial Districts.   |                      |                      |                        |   |                         |                           |                                   | In Residential Districts and Mixed Use Districts building footprints shall not exceed 10,000 sq. ft. |
| Crematorium  |                 |                        |                               |                                |                              |   |                      |                      |                        |   |                         |                           |                                   |  |
| Funeral Home   |                 |                        |                               |                                |                              |   |                      |                      |                        |   |                         |                           |                                   |  |
| Hospitals  |                 |                        |                               |                                |                              |   |                      |                      |                        |   |                         |                           |                                   |  |
| Medical Clinics  |                 |                        |                               |                                | C                            |   |                      |                      |                        |   |                         |                           |                                   | In the MX district, facilities must not exceed a 10,000 square foot footprint                        |
| Military Reserve, National Guard Centers   |                 |                        |                               |                                |                              |   |                      |                      |                        |   |                         |                           |                                   |  |
| Day Care Facilities in Single Family Homes with 14 or fewer children being attended to | P               | P                      | P                             | P                              | P                            | Please see Section 1350.15 (B) for allowed uses in the Business and Industrial Districts. |                      |                      |                        | Please see Section 1350.15 (A) for allowed uses in the Mixed Use Districts. |                         |                           |                                   |  |



| <b>Land Use Classification</b>   |                        |                               |                                      |                                       |                                     |   |                             |                             |                               |   | <b>NP</b> Not Permitted<br><b>P</b> Permitted<br><b>PUD</b> Planned Unit Developments<br><b>C</b> Conditional Use Permit (CUP) required<br><b>A</b> Permitted Accessory Use<br><b>CC</b> Certificate of Compliance |   |                                  |   |   |  |  |   |   |  |  |   |
|--|------------------------|-------------------------------|--------------------------------------|---------------------------------------|-------------------------------------|---|-----------------------------|-----------------------------|-------------------------------|---|--|---|----------------------------------|---|---|--|--|---|---|--|--|---|
| <b>Land Use</b>  | <b>Zoning District</b> |                               |                                      |                                       |                                     |   |                             |                             |                               |   |  | <b>Additional Use Regulations<br/>(See footnotes)</b> |                                  |   |   |  |  |   |   |  |  |   |
|  | <b>RE—Rural Estate</b> | <b>R-1A—River Residential</b> | <b>R-1—Low Density Single Family</b> | <b>R-2—Medium Density Residential</b> | <b>R-3—High Density Residential</b> | <b>B-1—Business Park /Office/ Warehouse</b>   | <b>B-2 General Business</b> | <b>I-1—Light Industrial</b> | <b>I-2—General Industrial</b> | <b>I-S—Industrial Storage</b>   | <b>MX-1—Downtown Mixed Use</b>   |   | <b>MX-2—Commercial Mixed Use</b> | <b>MX-3 – Transit-Oriented Mixed Use</b>  | <b>MX-4 – General Mixed Use</b>   |  |  |   |   |  |  |   |
| Public Facilities including government offices, emergency facilities, public works facilities, Schools, libraries, museums, art galleries, and other municipally owned or operated facilities. | C                      | C                             | C                                    | C                                     | C                                   | Please see Section 1350.15 (B) for allowed uses in the Business and Industrial Districts. |                             |                             |                               | Please see Section 1350.15 (A) for allowed uses in the Mixed Use Districts. |  |   |                                  | Public Facilities located in Residential Districts must not exceed 10,000 square foot footprint except if located in the RE District. |   |  |  |   |   |  |  |   |
| Public utility   | C                      | C                             | C                                    | C                                     | C                                   |   |                             |                             |                               |   |  |   |                                  |   | Please see Section 1350.15 (B) for allowed uses in the Business and Industrial Districts. |  |  |   | Please see Section 1350.15 (A) for allowed uses in the Mixed Use Districts. |  |  |   |
| Schools--Trade, College, Vocational and associated facilities  |                        |                               |                                      |                                       |                                     |   |                             |                             |                               |   |  |   |                                  | Please see Section 1350.15 (B) for allowed uses in the Business and Industrial Districts.   |   |  |  |   |   |  |  |   |
| Social, fraternal clubs and lodges, union halls  |                        |                               |                                      |                                       |                                     |   |                             |                             |                               |   |  |   |                                  |   |   |  |  | Please see Section 1350.15 (B) for allowed uses in the Business and Industrial Districts. |   |  |  | Please see Section 1350.15 (A) for allowed uses in the Mixed Use Districts. |

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| Land Use  | Zoning District |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |                                   | Additional Use Regulations<br>(See footnotes) |                          |
|---|-----------------|------------------------|-------------------------------|--------------------------------|------------------------------|--------------------------------------|----------------------|----------------------|------------------------|------------------------|-------------------------|---------------------------|-----------------------------------|---|--------------------------|
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| Sanitary Landfill   |                 |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |                                   |   |                          |
| Towers and antennas   |                 |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |                                   |   | See Ordinance 97-4       |
| Transit Station   |                 |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |                                   |   |                          |
| Park-and-ride Lot   |                 |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |                                   |   |                          |
| <b>Commercial</b>   |                 |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |                                   |   |                          |
| Bed and Breakfast   | C               | C                      | C                             | C                              | C                            |                                      |                      |                      |                        |                        |                         |                           |                                   |   |                          |
| Hotels  |                 |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |                                   |   |                          |
| Motels  |                 |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |                                   |   |                          |
| Adult Uses<br>(bookstore, theater, nightclub, nude or partially nude dancing) |                 |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |                                   |   |                          |
| Animal boarding   |                 |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |                                   |   |                          |
| Animal grooming   |                 |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |                                   |   |                          |
| Animal hospitals  |                 |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |                                   |   |                          |

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Please see Section 1350.15 (A) for allowed uses in the Mixed Use Districts.

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| Land Use                             | Zoning District |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           | Additional Use Regulations<br>(See footnotes) |                                   |   |
|--------------------------------------|-----------------|------------------------|-------------------------------|--------------------------------|------------------------------|--------------------------------------|----------------------|----------------------|------------------------|------------------------|-------------------------|---------------------------|---|-----------------------------------|---|
|                                      | RE—Rural Estate | R-1A—River Residential | R-1—Low Density Single Family | R-2—Medium Density Residential | R-3—High Density Residential | B-1—Business Park /Office/ Warehouse | B-2 General Business | I-1—Light Industrial | I-2—General Industrial | I-S—Industrial Storage | MX-1—Downtown Mixed Use | MX-2—Commercial Mixed Use |   | MX-3 – Transit-Oriented Mixed Use | MX-4 – General Mixed Use                |
| Animal retail sales                  |                 |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |   |                                   |   |
| Antique Shops                        |                 |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |   |                                   |   |
| Artist studios                       |                 |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |   |                                   |   |
| Auto sales, rental and services      |                 |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |   |                                   |   |
| Auto services only                   |                 |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |   |                                   | No more than 4 bays in the MX districts |
| Auto storage                         |                 |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |   |                                   |   |
| Auto washing                         |                 |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |   |                                   |   |
| Bakeries (Retail sales)              |                 |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |   |                                   |   |
| Bakeries (Wholesale)                 |                 |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |   |                                   |   |
| Restaurant--Liquor Served--Bar Grill |                 |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |   |                                   |   |
| Restaurant--Fast food                |                 |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |   |                                   |   |

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| Land Use  | Zoning District |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           | Additional Use Regulations<br>(See footnotes) |                                   |   |
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| Restaurant-- Traditional (no liquor, sit down restaurant)   |                 |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |   |                                   |   |
| Building materials and services   |                 |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |   |                                   |   |
| Catering services   |                 |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |   |                                   |   |
| Professional Offices  |                 |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |   |                                   |   |
| Convenience Stores  |                 |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |   |                                   |   |
| Bicycle Sales<br>Dry Cleaner<br>Laundromat<br>Drug Store/Pharmacy<br>Floral/Flower shop<br>Hobby Shop |                 |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |   |                                   | In the MX district, drive up windows require a conditional use permit (CUP) |
| Wholesale sales   |                 |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |   |                                   |   |

Please see Section 1350.15 (B) for allowed uses in the Business and Industrial Districts.

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In the MX district, drive up windows require a conditional use permit (CUP)

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| Land Use   | Zoning District |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           | Additional Use Regulations<br>(See footnotes) |                                   |                          |  |
|--|-----------------|------------------------|-------------------------------|--------------------------------|------------------------------|--------------------------------------|----------------------|----------------------|------------------------|------------------------|-------------------------|---------------------------|---|-----------------------------------|--------------------------|--|
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| Produce sales: vegetables, fruit, flowers, etc...                          |                 |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |   |                                   |                          |  |
| Drive up Banks   |                 |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |   |                                   |                          |  |
| Entertainment/amu sement halls<br>Bowling Alley<br>Skating Rink,<br>Indoor |                 |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |   |                                   |                          | If alcohol is part of the use a (CUP) is required. |
| Movie Theater  |                 |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |   |                                   |                          | 300 or less capacity                               |
| Movie Theater  |                 |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |   |                                   |                          | 300 or greater capacity                            |
| Coliseums, stadiums  |                 |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |   |                                   |                          |  |
| Country Club and Golf Course   | C               | C                      | C                             | C                              | C                            |                                      |                      |                      |                        |                        |                         |                           |   |                                   |                          |  |
| Private athletic fields or courts  | C               | C                      | C                             | C                              | C                            |                                      |                      |                      |                        |                        |                         |                           |   |                                   |                          |  |
| Golf Driving Range   |                 |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |   |                                   |                          |  |

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| Land Use   | Zoning District |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |                                   | Additional Use Regulations<br>(See footnotes) |                          |  |
|--|-----------------|------------------------|-------------------------------|--------------------------------|------------------------------|--------------------------------------|----------------------|----------------------|------------------------|------------------------|-------------------------|---------------------------|-----------------------------------|---|--------------------------|--|
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| Horseback Riding, Stables                                  | C               |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |                                   |   |                          |  |
| Auto and motorcycle racing tracks                          |                 |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |                                   |   |                          |  |
| Drive-in movie theater                                     |                 |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |                                   |   |                          |  |
| Mobile Home Sales  |                 |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |                                   |   |                          |  |
| Manufactured Home Sales                                    |                 |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |                                   |   |                          |  |
| Automobile Parts/accessories retail sales and installation |                 |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |                                   |   |                          |  |
| Automobile painting and body work                          |                 |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |                                   |   |                          |  |
| Gas, diesel or other motor fuel retail sales               |                 |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |                                   |   |                          |  |

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| Land Use  | Zoning District |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           | Additional Use Regulations<br>(See footnotes) |                                   |  |
|---|-----------------|------------------------|-------------------------------|--------------------------------|------------------------------|--------------------------------------|----------------------|----------------------|------------------------|------------------------|-------------------------|---------------------------|---|-----------------------------------|--|
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| Storage Mini-storage/cold storage   |                 |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |   |                                   |  |
| Salvage yard (auto or scrap iron)   |                 |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |   |                                   |  |
| Animal Kennel for more than 6 animals                                     | C               |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |   |                                   |  |
| Agricultural operations, row cropping, tree farming (excluding livestock) | P               |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |   |                                   | No on-premises sales   |
| Commercial Greenhouse operations  | C               |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |   |                                   | Outside storage or sales requires a CUP. No on-premise sales permitted in RE district. |
| Veterinarian Clinic, animal hospital                                      |                 |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |   |                                   |  |
|   |                 |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |   |                                   |  |

Please see Section 1350.15 (B) for allowed uses in the Business and Industrial Districts.

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| Land Use   | Zoning District |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           | Additional Use Regulations<br>(See footnotes) |                                   |                          |
|--|-----------------|------------------------|-------------------------------|--------------------------------|------------------------------|--------------------------------------|----------------------|----------------------|------------------------|------------------------|-------------------------|---------------------------|---|-----------------------------------|--------------------------|
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| <b>Industrial</b>  |                 |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |   |                                   |                          |
| Manufacturing  |                 |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |   |                                   |                          |
| Warehousing  |                 |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |   |                                   |                          |
| Storage and Distribution of Bulk Petroleum Products, Oil and Gasoline              |                 |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |   |                                   |                          |
| Storage and distribution of bulk liquid fertilizer, chemicals or similar materials |                 |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |   |                                   |                          |
| Retail Sale, Installation and remanufacturing of vehicle parts and accessories.    |                 |                        |                               |                                |                              |                                      |                      |                      |                        |                        |                         |                           |   |                                   |                          |

Please see Section 1350.15 (B) for allowed uses in the Business and Industrial Districts.

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| Requirements   | MX-1        | MX-2        | MX-3               | MX-4 | B-1 and B-2 | I-1 | I-2 | I-S |
|--|-------------|-------------|--------------------|------|-------------|-----|-----|-----|
| Minimum rear yard if adjacent to any residential district                  | 20          | 20          | 20                 | 20   | 50          | 50  | 50  | 100 |
| <i>Parking and driving aisle setback in feet</i>                           |             |             |                    |      |             |     |     |     |
| Minimum front yard   | 20          | Not allowed | Not allowed        | 20   | 20          | 20  | 20  | 20  |
| Minimum front yard if across collector or minor street from any R district | 50          | Not allowed | Not allowed        | 50   | 50          | 50  | 50  | 50  |
| Minimum side yard  | 5           | 5           | 5                  | 5    | 5           | 5   | 5   | 5   |
| Minimum side yard if adjacent to any R district                            | 5           | 5           | 5                  | 30   | 30          | 30  | 30  | 30  |
| Minimum rear yard  | 5           | 5           | 5                  | 5    | 5           | 5   | 5   | 5   |
| Minimum rear yard if adjacent to any R district                            | 10          | 10          | 10                 | 50   | 50          | 50  | 50  | 50  |
| Maximum building height in feet*   | 40<br>3-sty | 28<br>2-sty | See table B.,below | 40   | 40          | 40  | 40  | 40  |
| Maximum height of storage tank in IS district                              |             |             |                    |      |             |     |     | 55  |
| Public utilities required, including sewer                                 | Yes         | Yes         | Yes                | Yes  | Yes         | Yes | Yes | Yes |

\*Maximum height may be increased upon issuance of a Conditional Use Permit. The setback requirements for increases in height adjacent to single-family residential uses included in this chapter apply.

\*\* See section 1300.08 Exceptions to Front Yard Setbacks

\*\*\*Structure setbacks for the MX-1 and MX-2 are as noted by the dimensional provisions unless otherwise specifically approved in a development plan as outlined in a Planned Unit Development.

### 1350.15 Uses in the Non-Residential Districts

#### A. Mixed Use Districts Uses

P=Permitted Use; C=Permitted with a Conditional Use Permit; N=Not Permitted; PUD=Permitted with a Planned Unit Development

| Use  | MX-1 | MX-2 | MX-3 | MX-4 |
|--|------|------|------|------|
| <b>Residential Uses</b>                                |      |      |      |      |
| Single-family detached, one dwelling per lot           | P    | P    | N    | P    |
| Single-family detached, more than one dwelling per lot | PUD  | PUD  | N    | PUD  |
| Two-family residences                                  | P    | P    | N    | P    |
| Townhouse, rowhouse                                    | P    | P    | P    | P    |
| Manufactured single-family dwelling                    | P    | P    | N    | P    |
| Mobile homes   | N    | N    | N    | N    |

| Use  | MX-1 | MX-2 | MX-3                                      | MX-4 |
|--|------|------|---|------|
| Multi-Family, condos, apartments and cooperatives  | P    | P    | P—less than 8 units;<br>C—8 or more units | P    |
| Congregate housing for senior populations  | P    | P    | P   | P    |
| Homes for handicapped or infirm including group homes or halfway houses but not containing more than 6 unrelated persons   | P    | P    | P   | P    |
| Mixed-Use (dwelling unit above ground floor)   | P    | P    | P   | P    |
| Live-work building   | C    | C    | C   | C    |
| PUD  | PUD  | PUD  | PUD                                       | PUD  |
| <b>Civic and Semi-Public Uses</b>  |      |      |   |      |
| Day Care Facilities in Single Family Homes with 14 or fewer children being attended to   | P    | P    | N   | P    |
| Day Care Facilities in Single Family Homes with more than 14 children being attended to  | C    | C    | N   | C    |
| Day Care Facilities  | C    | C    | C   | C    |
| Day Care Facilities in a mixed-use building  | P    | P    | P   | P    |
| Essential services/public utilities  | P    | P    | P   | P    |
| Funeral Home   | C    | C    | C   | C    |
| Hospitals  | C    | C    | C   | C    |
| Military reserve, national guard centers   | C    | N    | N   | N    |
| Park and public recreation facilities  | P    | P    | P   | P    |
| Parking Garage (as a principal use)  | C    | N    | C   | N    |
| Parking Lot, Surface (as a principal use)  | C    | N    | N   | N    |
| Penal/correctional facilities  | N    | N    | N   | N    |
| Place of worship and associated facilities, except schools   | C    | C    | C   | C    |
| Public Facilities including government offices, emergency services facilities, public works facilities, schools, libraries, museums, post offices and other municipally owned or operated facilities | C    | C    | C—50,000 sq ft maximum                    | C    |
| Schools – trade, college, vocational, and associated facilities  | C    | C    | C—50,000 sq ft maximum                    | C    |
| Schools for business, trade, dancing, music  | C    | C    | C   | C    |
| Social and fraternal clubs and lodges, union halls   | P    | P    | C—10,000 sq ft maximum                    | P    |
| Transit stations and related parking facilities  | C    | C    | C   | C    |
| <b>Commercial Uses</b>   |      |      |   |      |
| Administrative support services  | P    | P    | P   | P    |
| Adult Uses   | N    | N    | N   | N    |
| Animal boarding, grooming, veterinary clinics, retail sales  | C    | C    | C—10,000 sq ft maximum                    | C    |
| Artist studios   | P    | P    | P   | P    |
| Auto body repair and major auto repair, towing services  | C    | N    | N   | N    |
| Automotive services, car specialty services (not including body repair or major repair)  | C    | C    | C—Maximum 4 repair bays                   | C    |
| Bakeries, delicatessens, coffee shops  | P    | P    | P   | P    |

| Use   | MX-1 | MX-2 | MX-3  | MX-4 |
|---|------|------|---|------|
| Bakeries, wholesale   | P    | C    | C   | C    |
| Bed and Breakfast   | P    | P    | N   | P    |
| Biotechnology   | P    | P    | P   | P    |
| Building materials and services   | C    | N    | N   | N    |
| Catalog and mail order  | P    | P    | P   | P    |
| Conference Center, 50,000 square feet or less   | C    | C    | C   | C    |
| Convenience stores  | P    | P    | P   | P    |
| Data centers  | C    | C    | C   | C    |
| Entertainment/amusement halls, bowling alley, indoor skating rink   | P    | P    | C   | C    |
| Fabrication of apparel, leather products and other products from prepared products  | P    | C    | P   | C    |
| Fabrication of office and computer equipment  | P    | P    | P   | P    |
| Financial services  | P    | P    | P   | P    |
| Fitness and recreation centers, in a mixed-use building   | C    | C    | C   | C    |
| Gas, diesel or other motor fuel retail sales  | C    | C    | N   | C    |
| Grocery and produce sales   | C    | C    | C—50,000 sq ft maximum                                  | C    |
| Internet publishing and broadcasting  | P    | P    | P   | P    |
| Medical, dental, or veterinary clinics and laboratories   | C    | C    | C—10,000 sq ft maximum                                  | C    |
| Medical appliance assembly  | P    | P    | P   | P    |
| Motion picture and sound recording industries   | C    | C    | C   | C    |
| Offices – general, medical, professional, free-standing, or mixed-use building  | P    | P    | P--to 10,000 sq ft;<br>C—larger than 10,000 sq ft       | P    |
| Printing, publishing, bookbinding, blueprinting   | C    | C    | C   | C    |
| Processing and packaging of drugs, pharmaceuticals, perfumes and cosmetics  | C    | C    | P   | C    |
| Retail and service establishments, free-standing, or mixed-use building   | P    | P    | P--to 10,000 sq ft;<br>C—10,000 to 50,000 sq ft maximum | P    |
| Research, development and testing laboratory  | C    | C    | C   | C    |
| Restaurants, including open air or sidewalk cafes, freestanding or in mixed-use buildings—no liquor served                          | P    | P    | P   | P    |
| Restaurants, including open air or sidewalk cafes, freestanding or in mixed-use buildings—liquor served                             | C    | C    | C   | C    |
| Restaurants with drive-through service  | C    | C    | C   | C    |
| Service businesses, such as beauty shops, barbershops, dry-cleaning, drop-off/pickup (no on-site processing) in mixed-use buildings | P    | P    | P   | P    |
| Small scale manufacturing and artisans  | P    | P    | P—5,000 sq ft or less;<br>C—5,000 to                    | P    |

| Use  | MX-1 | MX-2 | MX-3         | MX-4 |
|--|------|------|--------------|------|
|  |      |      | 10,000 sq ft |      |
| Theaters (with structured parking)                                 | P    | P    | P            | P    |
| Theaters   | C    | C    | C            | C    |
| Towing services (no outside storage of vehicles)                   | P    | C    | P            | C    |
| Vehicle sales, display and service                                 | C    | N    | N            | N    |
| Vehicle Storage Lot  | N    | N    | N            | N    |
| Warehousing as a primary use                                       | N    | N    | N            | N    |
| <b>Accessory Uses</b>  |      |      |              |      |
| Drive up facilities  | C    | C    | C            | C    |
| Gazebo, arbor, play equipment in public or private open space area | P    | P    | P            | P    |
| Outdoor sales, in conjunction with permitted use                   | C    | C    | N            | C    |
| Renewable energy system  | P    | P    | P            | P    |
| Rental of vehicles (with limited outside storage)                  | C    | C    | C            | C    |
| Parking lot, as an accessory use                                   | C    | C    | C            | C    |
| Swimming Pool  | P    | P    | P            | P    |

B. Business and Industrial District Uses

P=Permitted Use; C=Permitted with a Conditional Use Permit; N=Not Permitted

| Use   | B-1 | B-2 | I-1 | I-2 | I-S |
|---|-----|-----|-----|-----|-----|
| <b>Civic and Public Uses</b>  |     |     |     |     |     |
| Airports  | N   | N   | C   | C   | N   |
| Cemetery and/or crematorium   | C   | N   | N   | N   | N   |
| Day care centers  | C   | C   | C   | C   | C   |
| Day care centers in a mixed-use building  | P   | P   | C   | C   | C   |
| Essential services/public utilities   | P   | P   | P   | P   | P   |
| Funeral Home  | P   | P   | N   | N   | N   |
| Hospitals   | C   | C   | N   | N   | N   |
| Medical Clinics   | P   | P   | N   | N   | N   |
| Military reserve, national guard centers  | C   | C   | N   | N   | N   |
| Park and public recreation facilities   | P   | P   | P   | P   | P   |
| Parking Garage (as a principal use)   | P   | C   | N   | N   | N   |
| Parking Lot, Surface (as a principal use)   | P   | C   | P   | P   | P   |
| Penal/correctional facilities   | N   | N   | C   | C   | N   |
| Place of worship and associated facilities, except schools  | P   | P   | N   | N   | N   |
| Post Office   | P   | P   | N   | N   | N   |
| Public Facilities including government offices, emergency services facilities, public works facilities, schools, libraries, museums, and other municipally owned or operated facilities | C   | C   | C   | C   | C   |
| Sanitary landfill   | N   | N   | C   | C   | N   |
| Schools-trade, college, vocational, and associated facilities   | P   | P   | C   | N   | N   |
| Schools for business, trade, dancing, music   | C   | C   | C   | N   | N   |
| Social, Fraternal clubs and lodges, union halls   | P   | P   | N   | N   | N   |
| Transit stations and related parking facilities   | C   | C   | N   | N   | N   |
| <b>Commercial Uses</b>  |     |     |     |     |     |
| Adult uses (bookstore, theater, nightclub, nude or partially nude dancing)  | N   | N   | N   | C   | C   |

| Use  | B-1 | B-2 | I-1 | I-2 | I-S |
|--|-----|-----|-----|-----|-----|
| Animal boarding, grooming, veterinary clinics, retail sales                    | N   | C   | N   | N   | N   |
| Auto painting and body work  | N   | N   | C   | N   | N   |
| Auto storage   | N   | C   | C   | P   | C   |
| Bakery, wholesale  | N   | C   | N   | N   | N   |
| Biotechnology businesses   | C   | C   | N   | N   | N   |
| Brewery, craft   | P   | P   | P   | N   | N   |
| Building materials and services  | N   | C   | N   | N   | N   |
| Commercial greenhouse operations   | C   | C   | P   | N   | N   |
| Convenience stores   | P   | P   | N   | N   | N   |
| Data centers   | N   | C   | N   | N   | N   |
| Distillery, craft  | P   | P   | P   | N   | N   |
| Fabrication of apparel, leather products and products from prepared products   | N   | P   | N   | N   | N   |
| Fabrication of office and computer equipment                                   | N   | P   | N   | N   | N   |
| Gas, diesel or other motor fuel retail sales                                   | P   | P   | N   | N   | N   |
| Hotels, motels   | P   | P   | N   | N   | N   |
| Medical, dental or veterinary clinics and laboratories                         | N   | C   | N   | N   | N   |
| Printing, publishing, bookbinding, blueprinting                                | N   | C   | N   | N   | N   |
| Processing and packaging of drugs, pharmaceuticals, perfumes and cosmetics     | N   | C   | N   | N   | N   |
| Restaurants, traditional or liquor served; bar and grill                       | P   | P   | N   | N   | N   |
| Salvage yards (auto or scrap iron)   | N   | N   | N   | P   | N   |
| Small brewery or winery as an accessory use to a bar or restaurant             | P   | P   | P   | N   | N   |
| Storage, mini-storage, cold-storage  | N   | N   | N   | N   | P   |
| Vehicle Sales, display and Service   | N   | C   | N   | N   | N   |
| Vehicle Storage Lot  | N   | C   | N   | N   | N   |
| Veterinary clinic, animal hospital   | C   | C   | P   | N   | N   |
| Wholesale sales  | P   | P   | N   | N   | N   |
| Winery, craft  | P   | P   | P   | N   | N   |
| <b>Warehouse and Industrial Uses</b>   |     |     |     |     |     |
| Manufacturing  | C   | C   | P   | P   | N   |
| Micro- and regional brewery  | N   | P   | P   | N   | N   |
| Retail sale, installation and remanufacturing of vehicle parts and accessories | N   | N   | P   | N   | N   |
| Storage and distribution of bulk petroleum products, oil and gasoline          | N   | N   | N   | N   | C   |
| Storage, mini-storage, cold storage  | N   | N   | N   | N   | P   |
| Warehousing  | C   | C   | P   | P   | N   |
| <b>Accessory Uses</b>  |     |     |     |     |     |
| <b>Outdoor sales, in conjunction with a permitted use</b>                      | N   | C   | N   | N   | N   |
| <b>Renewable energy system</b>   | P   | P   | P   | P   | P   |
| <b>Parking lot, as an accessory use</b>  | P   | P   | P   | P   | P   |

**1350.16 Administrative Procedure for Re-Zoning in the Non-residential Districts**

**1350.17 Administrative Procedure for Site Plan Review in the Non-residential Districts and Additional Procedures for Development in the MX-3 District**

**1350.18 Performance Standards for Non-residential Districts**

C. MX District Parking standards.

3) Parking standards for the MX-3 District are included in Section 1350.19.

**1350.19 Additional Performance Standards for the MX-3 District**

A. Height and Setback Standards

1) General setback standards for the MX-3 District are indicated on the table in Section 1350.14.

**Section 1370.09 River Redevelopment Overlay District.**

**Subd. 9 Process for Approval of Redevelopment Plans.** Plans for each new use or redevelopment project or combination of projects in the River Redevelopment Overlay District must be submitted to the City Administrator for concept plan review. Site plan approval is required for all new construction in the River Redevelopment Overlay District. Applications and process for site plan approval shall follow the requirements for site plan approval identified in Section 1350.17.

Adopted this 10th day of April, 2014 by the Newport Planning Commission.

|             |       |
|-------------|-------|
| VOTE: Lund  | _____ |
| Mahmood     | _____ |
| Lindoo      | _____ |
| Prestegaard | _____ |
| Haley       | _____ |

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

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

## Imperial Recovery Services MN

### Planning Request

### Business/Operations Plan

City of Newport Mayor, City council and Planning Commissioners,

David & Diane Sullivan along with Christopher and Stephanie Findley have come together to form Presidential Recovery Services, LLC for the expressed purpose of purchasing the subject buildings and land formerly known as Bill's Auto Salvage/Bill's Auto Parts. That is really the total reason for the existence of that LLC. The Sullivans and the Findleys have also formed a domestic corporation here in Minnesota called Imperial Recovery Services MN, Inc., which will be the name of the entity conducting the business that gives rise to this request.

Please accept our request for a Conditional Use Permit (CUP) to operate an automobile repossession company on the property, formally known as Bill's Auto Salvage/Bill's Auto Parts, etc... The following is a description of the proposed use, operations and improvements.

Imperial Recovery Services, MN (hereinafter referred to as I R Services) is planning to operate an automobile repossession company based at the former salvage yard. One of the main things we will be doing at that location is storing cars, trucks, motorcycles, etc... that we repossess primarily in the 7 county Twin Cities metropolitan area.

The automobile repossession industry in general and I R Services specifically is a far cry from most anything that you may have seen on some of the TV shows that are on the air now. We are bonded and insured for millions of dollars and in fact David Sullivan and Stephanie Findley serve as elected officers of Allied Finance Adjusters. AFA is the largest and the oldest (established in 1936) trade association in the repossession industry. We conduct teleconference meetings once a month and conventions twice a year. As nationally recognized industry leaders, some of our main concerns are keeping our members educated on maintaining a professional workplace and complying with the various state, federal and local rules, laws, and standards that are applicable to our industry.

At the outset of our business we plan to store the majority of the vehicles on the approximate two acres of land to the south, east, north and north east of the "warehouse" building. We also plan to store some repossessed collateral and personal property found in cars/trucks inside the warehouse as well.

Some key information that I believe the City of Newport needs to know:

- Office hours to conduct business with public: Monday thru Friday 9am – 4:30pm. The public will come and go primarily to retrieve their personal effects and in some cases they will be retrieving their collateral as well.
- All traffic will be directed to come into our facility from the south (taking the 70<sup>th</sup> street exit off of Highway 61).
- We will be dropping off some repossessed cars/trucks “after hours” and our plan is to route vehicles into the storage yard via the gate just south of the warehouse and have them exit the yard via the gate just north of the yellow house. This should virtually eliminate any noise from “backup beepers”. Also, by exiting via the north gate our headlights will not shine on any homes but rather down 4<sup>th</sup> street. Should we have occasion to exit the south gate our headlights would shine down 3<sup>rd</sup> street.
- We anticipate doing some repair and sprucing up to the exteriors of both the warehouse and the small yellow house.
- We will not be selling any of the collateral.
- We will not be repairing any of the collateral.
- We want to install lighting in such a way that for the most part it aims down and to the east wherever practical. **We will not allow any exterior lighting that will have an impact on any of the homes of the citizens Newport with the possible exception of 396 7<sup>th</sup> Avenue which we will own.**

We anticipate some office staff working out of the warehouse and some in the old “paint and auto repair shop”. At this time we envision conducting business with debtors (when they come to our office to retrieve personal effects or their collateral) from the old repair shop.

We are requesting an exception to ***City Zoning Code 1330 General District Regulations Section 1330.05 Subd. 7 Paving and Curbing***: requiring the periphery of all parking areas to be constructed with poured-in-place concrete curbing. We are requesting that concrete curb and gutter not to be required under the city code for the following reasons;

1. This is a unique parking area and is not open to the public.
2. Only professional employees/drivers are allowed to operate vehicles in that area.
3. We are proposing a security fence one foot from the edge of parking so vehicles will not be able to drop off the edge of the parking area alleviating the concern of deterioration of the hard surface edge.
4. The request is controlled by the city if the use were to change under the conditions of the CUP.

**Fence Example from Dave Sullivan**



## Warehouse Building at 310 7<sup>th</sup> Avenue – Newport, MN

Remove existing steel siding on the face of the building replace with new painted steel siding and trim. Color to be determined.

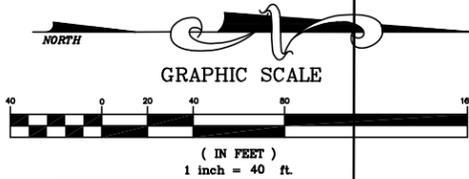
Replace existing service doors, window and all existing trim on the face. Replace with new window, trim and maintenance free doors.

Existing fence will be repaired and a privacy mesh screening material will be installed on both sides of the fence (on the 7<sup>th</sup> Avenue side) to greatly improve the outward appearance and virtually prevent any view of the inside of the lot. Other areas of the fencing that are visible (but not on 7<sup>th</sup> Avenue) will be screened on at least the inside of the fence.

EMERGENCY OVERFLOW  
 CLASS 3 RIPRAP W/GEOTEXTILE  
 10' WIER BOTTOM EL. 743.4  
 6:1 SLOPES TO TOP EL. 744.0

**SOUTH BASIN DESIGN DATA**  
 100YR HW EL. 743.36  
 NWL = 741.0  
 BASIN TOP 744.0  
 BASIN BOTTOM EL. 738.0  
 8" HICKENBOTTOM CONTROL OUTLET  
 WITH 44-1" HOLES PER FOOT  
 & 8-1"x 4" SLOTS PER FOOT  
 BOTTOM HOLE 741.00  
 TOP OPEN RISER 743.40

**EAST BASIN DESIGN DATA**  
 100YR HW EL. 743.36  
 NWL 741.8  
 BASIN TOP 744.0  
 BASIN BOTTOM EL. 738.0  
 8" HICKENBOTTOM CONTROL OUTLET  
 WITH 44-1" HOLES PER FOOT  
 & 8-1"x 4" SLOTS PER FOOT  
 BOTTOM HOLE 741.80  
 TOP OPEN RISER 743.40



**GOVERNING SPECIFICATIONS**

THE 2014 EDITION OF THE MINNESOTA DEPARTMENT OF TRANSPORTATION "STANDARD SPECIFICATIONS FOR CONSTRUCTION", SUBJECT TO ANY AMENDMENTS & THE 1999 EDITION OF THE "STANDARD UTILITIES SPECIFICATIONS" AS PER THE CITY ENGINEER'S ASSOCIATION OF MINNESOTA AND THE CURRENT CITY OF NEWPORT STANDARD SPECIFICATIONS SHALL GOVERN.

CALL BEFORE YOU DIG  
**GOPHER STATE ONE CALL**  
 TWIN CITY AREA 651-454-0002  
 MN. TOLL FREE 1-800-252-1166

**FENCE NOTE:**  
 1.) EXISTING FENCE SHALL BE REPAIRED AND MAINTAINED AS NEEDED.  
 2.) FENCE ALONG CITY STREET SHALL PROVIDE FULL SCREENING.

**TYPICAL PAVEMENT SECTION**

SCREENING/SECURITY FENCE  
 1' FROM EDGE OF BIT. TYP.

0.5% CROSS SLOPE TYP.

SCREENING/SECURITY FENCE  
 1' FROM EDGE OF BIT. TYP.

- 1.5" BITUMINOUS WEARING COURSE  
 TYPE MV 9.5 WEARING COURSE MIXTURE (SPWEA340C)
- 1.5" BITUMINOUS BASE COURSE  
 TYPE MV 12.5 BASE COURSE MIXTURE (SPWEB340C)
- 4" THICK AGGREGATE BASE, CLASS 5
- COMPACT SUBGRADE

**G-Cubed Inc.**  
 Engineering  
 Surveying  
 Planning  
 285 Westview Drive  
 West Saint Paul, MN 55118  
 ph. 651.288.9474 fax 651.455.4948

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA  
 Geoffrey G. Griffin  
 DATE \_\_\_\_\_ REG. NO. 21940

|          |     |         |    |      |   |
|----------|-----|---------|----|------|---|
| DESIGNED | DJT | REVISED | BY | DATE | LATEST REVISION: 2/12/2014                          |
| DRAWN    |     |         |    |      | Prepared For:<br>DAVE SULLIVAN                      |
| CHECKED  |     |         |    |      | 6127 S. Hearthstone Ave.<br>Cottage Grove, MN 55016 |
|          |     |         |    |      | FILE NO.:14-012 CP                                  |

CITY OF NEWPORT  
 WASHINGTON COUNTY  
 MINNESOTA

IMPERIAL RECOVERY  
 SERVICES MN

SITE IMPROVEMENT  
 AND GRADING PLAN  
 BENCHMARKS:  
 TOP MH CL CL 4TH ST. AND 7TH AVE. ELEV. 743.07'  
 TOP MH CL CL 6TH ST. AND 7TH AVE. ELEV. 742.70'  
**SHEET 2 OF 5 SHEETS**

**PLANNING COMMISSION  
RESOLUTION NO. P.C. 2014-1**

**A RESOLUTION RECOMMENDING CITY COUNCIL APPROVE A REZONING REQUESTED BY  
DAVID SULLIVAN, 6127 S HEARTHSTONE AVENUE, COTTAGE GROVE, MN, 55016, FOR  
PROPERTY LOCATED ON 7TH AVENUE BETWEEN 3RD AND 6TH STREETS, NEWPORT, MN  
55055**

**WHEREAS**, David Sullivan, 6127 S Hearthstone Avenue, Cottage Grove, MN 55016, has submitted a request for a rezoning; and

**WHEREAS**, The proposed rezoning is for property located on 7<sup>th</sup> Avenue between 3<sup>rd</sup> and 6<sup>th</sup> Streets, Newport, MN 55055, and is more fully legally described as follows:

**PID#01.027.22.21.0009** - Lot 5, 6, Block 3, Division No 6 St. Paul Park, Washington County, Minnesota, together with vacated alley.

**PID#01.027.22.21.0010** - Lots 7, 8, 9 and 10, Block 3, Division No. 6 St. Paul Park, Washington County, Minnesota, together with the vacated alley

**PID#01.027.22.21.0011** - Lots 11, 12, 13, 14, and 15, Block 3, Division No 6 St. Paul Park, Washington County, Minnesota, together with vacated alley and vacated 8th Avenue.

**PID#01.027.22.21.0012** - Lots 16, 17, and 18, Block 3, Division No 6 St. Paul Park, Washington County, Minnesota, together with vacated alley and vacated 8th Avenue.

**PID#01.027.22.21.0013** - Lots 19 and 20, Block 3, Division No 6 St. Paul Park, Washington County, Minnesota, together with vacated alley and vacated 8th Avenue.

**PID#01.027.22.21.0014** - Lots 21 and 22, Block 3, Division No 6 St. Paul Park, Washington County, Minnesota, together with vacated alley and vacated 8th Avenue.

**PID#01.027.22.21.0015** - Lots 23 and 24, Block 3, Division No 6 St. Paul Park, Washington County, Minnesota, together with vacated alley and vacated 8th Avenue.

**PID#01.027.22.21.0016** - Lots 1, 2, 3, and 4, Block 4, Division No 6 St. Paul Park, Washington County, Minnesota, together with vacated alley.

**PID#01.027.22.21.0017** - Lots 5, 6, 7, 8, 9, 10, and 11, Block 4, Division No 6 St. Paul Park, Washington County, Minnesota, together with vacated alley, vacated 8th Avenue, and vacated Parker Street.

**PID#01.027.22.21.0018** - Lots 12, 13, 14, and 15, Block 4, Division No 6 St. Paul Park, Washington County, Minnesota, together with vacated alley and vacated 8th Avenue.

**PID#01.027.22.21.0019** - Part of Block 5 being North 1/2 of all lying West of the Chicago Rock Island and Pacific Railroad Right of Way and south of the North line of Lot 18, Block 3, Division No 6, projected East to the Railroad Right of Way and vacated 8th Avenue, Washington County, Minnesota

**PID#01.027.22.21.0020** - Part of Block 5 being South 1/2 of all lying West of the Chicago Rock Island and Pacific Railroad Right of Way and south of the South line of Lot 18, Block 3, Division No 6, projected East to the Railroad Right of Way and vacated 8th Avenue, Washington County, Minnesota

**PID#01.027.22.21.0021** - Part of Block 5 being all lying North of the South Line of Lot 19, Block 3, Division No 6 easterly to C B & N Railway Right of Way and the South Line of Lot 23, Block 3, Division No 6 St. Paul Park and vacated 8th Avenue, Washington County, Minnesota

**PID#01.027.22.21.0022** - Part of Block 5 all that part lying North of the South Line of Lot 23, Block 3, Division No 6 St. Paul Park extended Easterly to C B & Q Railway Right of Way and vacated 8th Avenue, Washington County, Minnesota

**WHEREAS**, The described property is zoned Business Park/Office/Warehouse District (B-1); and

**WHEREAS**, The request is to rezone the property to General Business District (B-2); and

**WHEREAS**, Chapter 13, Section 1310.02, Subdivision 3, of the Code of Ordinance states; "Proceedings for amendment, which are initiated by the petition of the owner or owners of the property, shall be filed with the Zoning Administrator. All applications shall be accompanied by an administrative fee as prescribed in Subsection 1310.01 and shall include the following information:

- A. The name and address of the applicant or applicants;
- B. A description of the area proposed to be rezoned; the names and addresses of all owners of property lying within such area and a description of the property owned by each;
- C. The present zone classification of the area and the proposed zone classification;
- D. A description of the present use of each separately owned tract within the area, and the intended use of any tract of land therein;
- E. A site plan showing the location and extent of the proposed building, parking, loading, access drives, landscaping and any other improvements;
- F. A statement of how the rezoning would fit in with the general zoning pattern of the neighborhood, and the zoning plan of the entire City;
- G. A map showing the property to be rezoned, and the present zoning of the surrounding area for at least a distance of three hundred fifty (350) feet, including the street pattern of such area, together with the names and addresses of the owners of the lands in each area." and

**WHEREAS**, Following publication, posted, and mailed notice thereof, the Newport Planning Commission held a Public Hearing on March 12, 2014; and

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

1. The proposed rezoning from the B-1 District to the B-2 District is consistent with the goals and policies in the Comprehensive Plan that encourage redevelopment of the portions of the City along Highway 61 with a mix of residential and commercial uses.
2. The proposed zoning is compatible with many of the existing uses around the site. The surrounding areas include a diverse mix of uses, including railroads, commercial, residential, and light industrial uses. The performance standards in the zoning ordinance can be applied so that the uses allowed in the B-2 district are compatible with the residential and commercial uses in the MX-4 District.
3. The proposed zoning fits the general pattern of zoning in the City. Most of the land along Highway 61 has been zoning for Business or Mixed Use.
4. The proposed rezoning will allow for redevelopment of the property with new uses that have a higher value than the existing and past uses of the site. Redevelopment is likely to have a positive impact on the value of adjacent properties. The rezoning is likely to conserve or improve property values in the City.
5. The proposed rezoning will allow for redevelopment of the property and cleanup of existing pollution on the site. The redevelopment and cleanup will result in positive impacts for the entire City. The cleanup of pollution on the site and redevelopment with a new use are in the interest of public health, safety and welfare.

**NOW, THEREFORE, BE IT FURTHER RESOLVED That** the Newport Planning Commission **Hereby Recommends Newport City Council Approval** for a Rezoning of the described property from B-1 to B-2 to applicant David Sullivan, 6127 S Hearthstone Avenue, Cottage Grove, MN 55016.

Adopted this 10th day of April, 2014 by the Newport Planning Commission.

|             |       |
|-------------|-------|
| VOTE: Lund  | _____ |
| Mahmood     | _____ |
| Lindoo      | _____ |
| Prestegaard | _____ |
| Haley       | _____ |

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

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

**PLANNING COMMISSION  
RESOLUTION NO. P.C. 2014-2**

**A RESOLUTION RECOMMENDING THE NEWPORT CITY COUNCIL APPROVE A CONDITIONAL USE PERMIT REQUESTED BY DAVID SULLIVAN, 6127 S HEARTHSTONE AVENUE, COTTAGE GROVE, MN, 55016, FOR PROPERTY LOCATED ON 7<sup>TH</sup> AVENUE BETWEEN 3<sup>RD</sup> AND 6<sup>TH</sup> STREETS, NEWPORT, MN 55055**

**WHEREAS**, David Sullivan, 6127 S Hearthstone Avenue, Cottage Grove, MN 55016, has submitted a request for a Conditional Use Permit to allow for an Vehicle Storage Lot Use/ automobile repossession business use, not including auto body repair or major repair; and

**WHEREAS**, the property is located on 7<sup>th</sup> Avenue between 3<sup>rd</sup> and 6<sup>th</sup> Streets, Newport, MN 55055, and is more fully legally described as follows:

**PID#01.027.22.21.0009** - Lot 5, 6, Block 3, Division No 6 St. Paul Park, Washington County, Minnesota, together with vacated alley.

**PID#01.027.22.21.0010** - Lots 7, 8, 9 and 10, Block 3, Division No. 6 St. Paul Park, Washington County, Minnesota, together with the vacated alley

**PID#01.027.22.21.0011** - Lots 11, 12, 13, 14, and 15, Block 3, Division No 6 St. Paul Park, Washington County, Minnesota, together with vacated alley and vacated 8th Avenue.

**PID#01.027.22.21.0012** - Lots 16, 17, and 18, Block 3, Division No 6 St. Paul Park, Washington County, Minnesota, together with vacated alley and vacated 8th Avenue.

**PID#01.027.22.21.0013** - Lots 19 and 20, Block 3, Division No 6 St. Paul Park, Washington County, Minnesota, together with vacated alley and vacated 8th Avenue.

**PID#01.027.22.21.0014** - Lots 21 and 22, Block 3, Division No 6 St. Paul Park, Washington County, Minnesota, together with vacated alley and vacated 8th Avenue.

**PID#01.027.22.21.0015** - Lots 23 and 24, Block 3, Division No 6 St. Paul Park, Washington County, Minnesota, together with vacated alley and vacated 8th Avenue.

**PID#01.027.22.21.0016** - Lots 1, 2, 3, and 4, Block 4, Division No 6 St. Paul Park, Washington County, Minnesota, together with vacated alley.

**PID#01.027.22.21.0017** - Lots 5, 6, 7, 8, 9, 10, and 11, Block 4, Division No 6 St. Paul Park, Washington County, Minnesota, together with vacated alley, vacated 8th Avenue, and vacated Parker Street.

**PID#01.027.22.21.0018** - Lots 12, 13, 14, and 15, Block 4, Division No 6 St. Paul Park, Washington County, Minnesota, together with vacated alley and vacated 8th Avenue.

**PID#01.027.22.21.0019** - Part of Block 5 being North 1/2 of all lying West of the Chicago Rock Island and Pacific Railroad Right of Way and south of the North line of Lot 18, Block 3, Division No 6, projected East to the Railroad Right of Way and vacated 8th Avenue, Washington County, Minnesota

**PID#01.027.22.21.0020** - Part of Block 5 being South 1/2 of all lying West of the Chicago Rock Island and Pacific Railroad Right of Way and south of the South line of Lot 18, Block 3, Division No 6, projected East to the Railroad Right of Way and vacated 8th Avenue, Washington County, Minnesota

**PID#01.027.22.21.0021** - Part of Block 5 being all lying North of the South Line of Lot 19, Block 3, Division No 6 easterly to C B & N Railway Right of Way and the South Line of Lot 23, Block 3, Division No 6 St. Paul Park and vacated 8th Avenue, Washington County, Minnesota

**PID#01.027.22.21.0022** - Part of Block 5 all that part lying North of the South Line of Lot 23, Block 3, Division No 6 St. Paul Park extended Easterly to C B & Q Railway Right of Way and vacated 8th Avenue, Washington County, Minnesota

**WHEREAS**, The described property is zoned General Business District (B-2); and

**WHEREAS, Section 1310.10 Subd. 2 Criteria states** the criteria for acting upon a Conditional Use Permit (C.U.P.) application as follows: *“In acting upon an application for a conditional use permit, the City shall consider the effect of the proposed use upon the health, safety, and general welfare of the City including but not limited to the factors of noise, glare, odor, electrical interference, vibration, dust, and other nuisances; fire and safety hazards; existing and anticipated traffic conditions; parking facilities on adjacent streets and land; the effect on surrounding properties, including valuation, aesthetics and scenic views, land uses, character and integrity of the neighborhood; consistency with the Newport comprehensive plan; impact on governmental facilities and services, including roads, sanitary sewer, water and police and fire; effect on sensitive environmental features including lakes, surface and underground water supply and quality, wetlands, slopes flood plains and soils; and other factors as found relevant by the City. The City may also consider whether the proposed use complies or is likely to comply in the future with all standards and requirements set out in other regulations or ordinances of the City or other governmental bodies having jurisdiction over the City. In permitting a new conditional use or the alteration of an existing conditional use, the City may impose, in addition to the standards and requirements expressly specified by this chapter, additional conditions which it considers necessary to protect the best interest of the surrounding area or the community as a whole.”*; and

**WHEREAS**, Following publication, posted, and mailed notice thereof, the Newport Planning Commission held a Public Hearing on March 12, 2014; and

**WHEREAS**, the Planning Commission’s findings related to the request for approval of a Conditional Use Permit include the following:

1. The proposed use is designated in Section 1330 of the development code as a conditional use in the B-2 General Business Zoning District.
2. The proposed use is consistent with the Newport Comprehensive Plan, which supports the development of a mix of residential and commercial uses in the areas along Highway 61.
3. The conditions for approval of the proposed use include requirements for development and operation of the site so that the proposed use will not be detrimental to or endanger the public health, safety or general welfare of the City, including the potential impacts of noise, glare, odor, electrical interference, vibration, dust, and other nuisances; fire and safety hazards; existing and anticipated traffic conditions and parking facilities on adjacent streets and land.
4. The redevelopment of the property with a new use and associated cleanup of existing pollution on the site will have positive impacts on surrounding properties, including valuation, aesthetics, and the character of the neighborhood.
5. The proposed use will have no negative impacts governmental facilities and services, including roads, sanitary sewer, water and police and fire.
6. The potential use and development plan will result in the cleanup of existing pollution on the site, and provide positive impacts to surface and ground waters and soils.
7. In permitting a new conditional use, the City has adopted conditions which it considers necessary to protect the best interest of the surrounding area or community as a whole.

**NOW, THEREFORE, BE IT FURTHER RESOLVED That** the Newport Planning Commission **Hereby Recommends Newport City Council Approval** for a Conditional Use Permit for a Vehicle Storage Lot Use/ automobile repossession business use, not including auto body repair or major repair with the following conditions:

1. The Applicant shall submit Final Site Plan(s) and Building Plans that are substantially in conformance with the plans that were submitted to the City, dated February 12, 2014. All elements of the Final Plans must meet the requirements of the zoning ordinance. Final plans shall be submitted within 30 days of the approval of the CUP, and before the start of business operations on the site.
2. The applicant shall combine the parcels that will be occupied by the business in order to meet the minimum lot size requirements.
3. The Applicant shall modify the plans for City Engineer approval, and comply with the requests of the City Engineer included in the Engineer's memo, dated February 18, 2014, except for the requirement that concrete curbing be required for the parking area. All work shall be completed in accordance with the City of Newport's Engineering Standards. The plans shall be submitted within 30 days of the approval of the CUP, and before the start of business operations on the site.
4. No concrete curb shall be required for the parking areas on the site. Parking lots shall drain to the stormwater ponds.
5. Maximum truck loads serving the site may not exceed 9 tons in weight year-round.
6. Trucks shall enter the site using the gate south of the warehouse, and shall exit the property using that gate or the gate north of the existing house near 4<sup>th</sup> Avenue between 9 a.m. and 4:30 p.m. At all other hours, trucks shall enter and exit the site using the gate south of the warehouse. The height of the gates shall be the same as the fence, and the gates must remain closed when not in use.
7. The applicant shall revise the plan to include a location for visitor parking and handicapped parking that meets State and Federal regulations.
8. The applicant shall provide the plans for the improvements to the warehouse to the City staff for approval. The plans shall include removing existing rust from the warehouse exterior, painting the entire warehouse and removal of the existing Bill's Auto Parts signage. The warehouse plans shall be submitted to the City within 30 days of the approval of the CUP, and improvements to the warehouse shall be completed within 90 days of approval of the CUP.
9. No outside storage other than vehicles stored on the parking areas is permitted on the site.
10. No servicing of vehicles, sales of vehicles or parts, auto body work or automobile painting is permitted on the site.
11. No stacking, crushing, or dismantling of vehicles is permitted on the site.
12. All trash and recycling equipment shall be stored within an enclosed structure. The materials used to construct the trash enclosure shall be the same materials used on the exterior of the principal structure.
13. Lighting shall conform to the plan submitted with the application and the ordinance requirements. Lighting fixtures shall be downcast, cutoff-type fixtures that prevent glare from spilling onto adjacent residential areas.
14. The fencing and related screening on the site shall be repaired and maintained in good condition so that the requirements of the ordinance are met. Fencing and screening improvements shall be completed before the business begins operations at the site.
15. Any utility equipment installed at the site must meet the ordinance requirements.
16. The applicant shall submit final plans for fence repairs and screening elements to the City staff for approval within 30 days of the approval of the CUP.
17. The applicant shall submit a landscape plan to the City for approval that includes a screen of conifer trees (Black Hills Spruce, *Picea glauca densata*, or equivalent) that shall screen the fence from the view of

adjacent residential properties. The trees shall be a minimum 5 feet in height at planting, and shall be maintained or replaced as needed to screen the fence. The landscape plan shall be submitted to the City within 30 days of approval of the CUP, and improvements shall be completed within 90 days of approval of the CUP.

- 18. The hours of operation for serving visitors shall be 9 a.m. to 4:30 p.m.
- 19. The applicant shall direct traffic to access the site from the south, using the 70<sup>th</sup> Street exit from Highway 61 and 7<sup>th</sup> Avenue.
- 20. The business may bring repossessed vehicles to the site outside the hours of operation under the following conditions:
  - a. The trucks that are dropping off vehicles shall enter and exit the site via the gate south of the warehouse building. Headlights shall be controlled so there are no impacts to homes across 7<sup>th</sup> Avenue.
  - b. Equipment with back-up beepers shall not be used outside the daytime hours of operation (9 a.m. to 4:30 p.m.). At all times, the applicant shall utilize equipment with broadband alarms, minimize equipment and alarm volumes, and utilize a circular traffic pattern to the extent feasible to minimize the need for equipment to back up on the site and utilize beeper alarms.
- 21. The Applicant shall apply to the City for a permit for any sign(s) proposed as the site. All signs shall meet the ordinance requirements.
- 22. The permitted use on the site does not include automobile painting and body work.
- 23. Noise, odors, smoke and particulate matter produced on the site shall not exceed Minnesota Pollution Control Agency standards.
- 24. The applicant shall complete a Development Agreement with the City that includes at least the following: 1) the responsibilities, phasing and deadlines for the cleanup of the hazardous materials on the site and 2) a maintenance agreement and performance bond for the stormwater facilities on the site.
- 25. The applicant shall continue to work with the City to apply for grant funds to clean up the site, through grant cycles in 2014 and 2015. If the City is not awarded grant funds for cleanup, the applicant will be responsible for cleanup, and shall provide to the City a detailed plan for treatment and disposal of contaminated soils for the site that meets regulatory requirements.
- 26. The applicant shall pay all fees and escrow associated with this application.

Adopted this 10th day of April, 2014 by the Newport Planning Commission.

|             |       |
|-------------|-------|
| VOTE: Lund  | _____ |
| Mahmood     | _____ |
| Lindoo      | _____ |
| Prestegaard | _____ |
| Haley       | _____ |

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

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



## INFORMATION MEMO

# Land Use Conditional Use Permits

*Learn the basics of conditional use permits (CUPs) in administering the city's land use ordinances. Define conditional use permits, for what purposes they may be granted; learn who grants them and procedural considerations for public hearings and the role of neighborhood opinion. Understand expiration dates, time limits and revocation of CUPs.*

### RELEVANT LINKS:

[Minn. Stat. § 462.3595.](#)

## I. Conditional use

A conditional use is a land use designated in a zoning ordinance that is specifically allowed in a zoning district so long as certain standards are met. The zoning ordinance typically detail both general standards that apply to all conditional uses, as well as specific standards that apply to a particular conditional use in a given zoning district.

A use is typically designated in a zoning ordinance as conditional because of hazards inherent in the use itself or because of special problems that its proposed location may present. For example, uses that generate traffic such as family childcare, service stations, convenience stores, or drive-thrus are often designated as conditional uses.

## II. Conditional use permit (CUP)

A conditional use permit is a document a city issues to grant a conditional use when the general and specific ordinance standards have been met by the applicant. The use is allowed by permit only if the special concerns are addressed as set forth in the zoning ordinance. Conditional use permits are authorized under state law.

### A. General CUP standards

A zoning ordinance will typically detail general standards that apply to all conditional uses. For example, some zoning ordinances provide that all conditional uses must conform to the comprehensive land use plan of the community, be compatible with the adjoining properties, and be served by adequate roads and public utilities.

This material is provided as general information and is not a substitute for legal advice. Consult your attorney for advice concerning specific situations.

**RELEVANT LINKS:**

See Section IV, Public hearings.

[Minn. Stat. § 15.99.](#)

## **B. Specific CUP standards**

In addition to general CUP standards, many zoning ordinances will detail specific standards that apply to a particular conditional use, such as those made for businesses operating a drive-thru. Conditions for such uses may include specific standards regarding things like off-street parking and loading areas, landscaping and site plan, and hours of business operation.

## **III. Granting conditional use permits**

Generally CUPs are granted only for uses specifically listed in the zoning ordinance as conditional uses in a particular zoning district. If a use is not designated as a conditional use in a zoning district, then arguably the city has no ability to issue a CUP without first amending the zoning ordinance to provide for the conditional use. This would of course allow other applicants to apply for a conditional use permit under the same standards.

### **A. Who grants**

A CUP is typically approved by the city council. Planning commissions often first consider the CUP application and make recommendations to the city council. State statute allows the city council to designate its CUP approval to another authority, and some cities have designated the planning commission as the approving body. In any event, the city council is generally makes the final decision on CUPs.

### **B. Required approval**

If a proposed conditional use satisfies both the general and specific standards set forth in the zoning ordinance, the applicant is entitled to the conditional use permit. Importantly, if the applicant meets the general and specific ordinance standards, the city usually has no legal basis for denying the CUP.

### **C. Time limits**

A written request for a CUP is subject to Minnesota's 60-day rule, and must be approved or denied within 60 days of the time it is submitted to the city. A city may extend the time period for an additional 60 days, but only if it does so in writing before expiration of the initial 60-day period. Under the 60-day rule, failure to approve or deny a request within the statutory time period is considered an approval.

## RELEVANT LINKS:

Minn. Stat. § 462.3595, subd. 3.  
A.G. Op. 59-A-32 (February 27, 1990).

Minn. Stat. § 462.3597.

Minn. Stat. § 462.3595, subd. 2.  
Minn. Stat. § 462.357, subd. 3.

See LMC information memo, *Public Hearings*.

## D. Other conditions on permits

### 1. Permitted

Reasonable conditions relating to the ordinance standards may be attached to a CUP based upon factual evidence contained in public record. For example, if a zoning ordinance provides that a conditional use should not have adverse visual or noise impacts on any adjacent property, a city might require specific screening and landscaping conditions to address any potential impacts established in the record.

### 2. Not permitted

State statute provides that a CUP remains in effect as long as the conditions agreed upon are observed. The attorney general has found that time limits such as sunset provisions or automatic annual review are not consistent with state law, explaining that cities may not enact or enforce provisions that allow a city to terminate CUPs without regard to whether or not the conditions agreed upon are observed.

If a city wishes to place time constraints on particular uses, then the appropriate zoning tool is an interim use permit, rather than a conditional use permit. State law authorizes interim use permits for a temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it.

## IV. Public hearings

A proposed conditional use is allowed only after a statutorily required public hearing. The city must provide published notice of the time, place, and purpose of the hearing on a proposed CUP at least 10 days prior to the day of the hearing. If the decision affects an area of five acres or less, the city may need to mail notice to property owners within a 350-foot radius of the land in question. The purpose of the public hearing is to help develop a factual record as to whether the applicant meets the relevant ordinance standards such that the CUP should be granted.

### A. City role in hearing

A city exercises so-called “quasi-judicial” authority when considering a CUP application. This means that the city’s role is limited to applying the standards in the ordinance to the facts presented by the application. The city acts like a judge in evaluating the facts against the standards. If the applicant meets the standards, then the CUP should be granted. In contrast, when the city in zoning ordinance designates certain uses as conditional, the city is exercising “legislative” authority and has much broader discretion.

## RELEVANT LINKS:

See LMC information memo,  
*Taking the Mystery out of  
Findings of Fact.*

[Minn. Stat. § 462.3595, subd.  
3.](#)

[Minn. Stat. § 462.3595, subd.  
4.](#)

Jed Burkett  
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[jburkett@lmc.org](mailto:jburkett@lmc.org)

[League of Minnesota Cities.](#)

## B. Role of neighborhood opinion

Neighborhood opinion alone is not a valid basis for granting or denying a CUP. While city officials may feel their decision should reflect the overall preferences of residents, their task is limited to evaluating how the CUP application meets the ordinance standards. Residents can often provide important facts to help the city address whether the application meets the standards, but unsubstantiated opinions and reactions to an application do not form a legitimate basis for a CUP decision. If neighborhood opinion serves as the sole basis of the decision, it could be overturned by a court if challenged.

## C. Documentation of hearing

Whatever the decision, a city should create a record that will support it. If a city denies a CUP application, the 60-day rule requires the reasons for the denial be put in writing. Even if a city approves a CUP, a written statement explaining the decision is advisable. The written statement explaining the decision should address the general and specific ordinance standards, and explain the relevant facts and conclusions.

## V. Conditional use permit after issuance

A conditional use permit is a property right that “runs with the land” so it attaches to and benefits the land and is not limited to a particular landowner. State statute requires that CUPs be recorded with the county recorder’s office. When the property is sold, the new landowner will have the continued right to the CUP so long as the conditions are met.

A city can revoke a conditional use permit if there is not substantial compliance with conditions, so long as the revocation is based upon factual evidence, after appropriate notice and hearing. Because a CUP is a property right, a city should work closely with the city attorney if considering a CUP revocation.

## VI. Further assistance

LMCIT offers land use consultations, training and information to members. Contact the League’s Loss Control Land Use Attorney for assistance. You can also learn more about land use issues in the land use section of the League’s website.



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

## Memorandum

|                   |                                |                     |                                     |
|-------------------|--------------------------------|---------------------|-------------------------------------|
| <b>To:</b>        | Newport Planning Commission    | <b>Reference:</b>   | Lot Coverage Requirement Comparison |
| <b>Copies To:</b> | Deb Hill, City Administrator   |                     |                                     |
|                   | Renee Helm, Executive Analyst  |                     |                                     |
| <b>From:</b>      | Sherri Buss, RLA AICP, Planner | <b>Project No.:</b> | 15482.000                           |
| <b>Date:</b>      | April 2, 2014                  | <b>Routing:</b>     |                                     |

### Background

The City staff are working with a developer who is proposing to develop some new single-family homes on existing lots in the R-1 Zoning District. He has provided some feedback to staff that Newport’s lot coverage requirement in this District makes it difficult to develop single-family homes at a typical size and with standard garages that can compete with others in the market. He indicated that he thought the City’s 25% lot coverage maximum in the R-1 District is more restrictive than the requirement in neighboring communities. Deb Hill requested that the Planner provide information on neighboring community requirements for Planning Commission discussion of this issue.

### Newport’s Lot Coverage Requirement and Comparison to Neighboring Communities

#### *Current requirements*

Newport’s existing standard for lot coverage in the R-1 District is 25%. The minimum lot size in the District is 9,100 square feet. The lot coverage requirement in the R-1A District is a maximum 20%, with a minimum lot size of 15,000 square feet.

Portions of the R-1A District are in the Shoreland Overlay Zone, which has a maximum lot coverage requirement of 25%, so Newport’s current requirement is more strict than the Shoreland Zone Overlay requirement. A few lots in the R-1 District (along 2<sup>nd</sup> Avenue between 4<sup>th</sup> and 6<sup>th</sup> Streets) are partially within the Shoreland Zone. All of the R-1A District and a portion of the R-1 District are within the Mississippi River Critical Area Overlay District. Within the Critical Area in Newport, the underlying zoning standards apply for lot sizes and coverage.

#### *Neighboring Community Standards*

The Planner reviewed other ordinances and contacted City Planners to identify the districts that are similar to Newport’s R-1 District and their lot coverage requirements. Lot coverage standards for similar residential districts in neighboring communities include the following:

| <b>City</b>   | <b>Zoning District /<br/>Minimum Lot Size</b>                     | <b>Lot Coverage<br/>Maximum</b> |
|---------------|---|---------------------------------|
| Saint Paul    | R-1 One Family District<br>9,600 square feet                      | 35%                             |
| Woodbury      | R-4 Urban Residential District<br>10,000 square feet              | 35%                             |
| St. Paul Park | R-4 SW Residential District<br>5,600 square feet/6,500 corner lot | 60%                             |
| Maplewood     | R-1 Residential District<br>10,000 square feet                    | 30% (see note 1)                |
| Cottage Grove | R-2a Residential District<br>11,000 square feet                   | 50% (see note 2)                |

- Maplewood's ordinance states that "The City Council may approve a larger building area if it finds that it would not affect the character of the neighborhood."
- The Cottage Grove Planner indicated that their older residential districts have no lot coverage requirement, because the lots were thought to be too large to have a requirement. With the latest update to their ordinance, they have identified some areas for smaller lots, and have established a coverage requirement in that R-2a District.

The Planner has provided this memo to the City Engineer for comments regarding whether the standards that other communities use would not be compatible with the City's stormwater management ordinance and requirements, and will provide any comments from the Engineer at the Planning Commission meeting on April 4.

### **Planning Commission Discussion**

Staff request that the Planning Commission members review the information provided in this memo, and determine whether the Commission wants to review the City's lot coverage standards for residential areas based on the information provided in the memo.

