



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

Chairperson:	Dan Lund	City Administrator:	Deb Hill
Vice-Chair:	Anthony Mahmood	Executive Analyst:	Renee Eisenbeisz
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 June 12, 2014

**4. APPOINTMENTS WITH COMMISSION**

A. **Public Hearing** – To consider an application from Tom Long for Approval of a Conditional Use Permit for Property Located at 2204 Hastings Avenue

1. Memos from Sherri Buss and Jon Herdegen
2. Application
3. Resolution No. P.C. 2014-9

B. Discussion Regarding Fences

C. Discussion Regarding Historical Overlay District

**5. COMMISSION & STAFF REPORTS**

**6. NEW BUSINESS**

**7. ANNOUNCEMENTS**

A. Upcoming Meetings and Events:

- |                                |                 |           |
|--------------------------------|-----------------|-----------|
| 1. City Council Meeting        | July 17, 2014   | 5:30 p.m. |
| 2. City Council Meeting        | August 7, 2014  | 5:30 p.m. |
| 3. Pioneer Day                 | August 10, 2014 |           |
| 4. Planning Commission Meeting | August 14, 2014 | 6:00 p.m. |

**8. ADJOURNMENT**



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

**1. CALL TO ORDER**

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

**2. ROLL CALL -**

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

Commissioners absent –

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

**3. APPROVAL OF PLANNING COMMISSION MINUTES**

**A. Planning Commission Minutes of May 8, 2014**

**Motion by Lindoo, seconded by Haley, to approve the May 8, 2014 minutes as presented. With 5 Ayes, 0 Nays, the motion carried.**

**4. APPOINTMENTS WITH COMMISSION**

**A. Public Hearing – To consider an application from Michael Hoffman for Approval of a Side Yard Variance for Property Located at 11 Oakridge Drive**

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

**The Public Hearing opened at 6:06 p.m.**

**The Public Hearing closed at 6:07 p.m.**

**Kevin Haley** - Why do we need him to tear down the shed? How big is it?

**Michael Hoffman, 11 Oakridge Drive** - I do have an existing small storage shed. This proposed garage would replace that shed and I have no problem eliminating it.

**Ms. Buss** - We do have a limit, on a parcel of his size, he can have 2 accessory structures up to 2,500 square feet. If he doesn't remove the shed, he exceeds the number and size.

**Chairperson Lund** - Is there any reason we should consider screening requirements?

**Ms. Buss** - If you look at the aerial, there are several trees along his property already.

**Chairperson Lund** - I'm not suggesting adding expense to the project but more of an ongoing requirement that he can't cut down trees.

**Ms. Buss** - You can add a condition that he needs to maintain the existing screening.

**Mr. Hoffman** - Some pine trees would need to be removed. My intent is to leave the other trees that have been there since I've lived there.

**Chairperson Lund** - That wouldn't be a burden to you?

**Mr. Hoffman** - No, not at all.

**Ms. Buss** - We'll just say "The applicant shall maintain the existing vegetative screen on Century Avenue."

**Mr. Hoffman** - And half of those trees are on City property.

**Chairperson Lund** - I only bring that up in case the property across the road gets developed.

**Susan Lindoo** - Is your existing garage right in front of your house?

**Ms. Buss** - It's on the side next to the concrete.

**Kevin Haley** - I don't have any problems at all, I just hate the little storage shed thing but that's an ordinance thing.

**Ms. Buss** -Yes and we have to be consistent.

**Mr. Hoffman** - That's what I'm trying to eliminate by getting this structure.

**Motion by Haley, seconded by Prestegaard, to approve Resolution No. P.C. 2014-6 as amended recommending that the City Council approve a variance to allow for a side yard setback of 20 feet. With 5 Ayes, 0 Nays, the motion carried.**

**B. Public Hearing – To consider an application from Tom Long for Approval of a Rezoning for Property Located at 2204 Hastings Avenue**

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

**The Public Hearing opened at 6:19 p.m.**

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

**Matt Prestegaard** - How long ago did we rezone?

**Executive Analyst Eisenbeisz** - I think it was late 2012/early 2013.

**Matt Prestegaard** - I recall the discussion and I think we debated this parcel at some point and for no other reason than strictly there was a road there we decided to make it MX-2 but I don't remember any other compelling reason to do so.

**Ms. Buss** - And it was ok because the current use is allowed in MX-2 so it didn't make anything non-conforming.

**Chairperson Lund** - I don't see anything different between this parcel and the rest of MX-1. As far as it being a problem that is a code enforcement issue not our domain. If people think it's a problem and the City isn't doing anything about it, that's the City's fault.

**Kevin Haley** - I would go exactly with what you're saying. MX-1 or MX-2 isn't significant here, it's whether or not we enforce the code. I wouldn't have a problem voting right now.

**Susan Lindoo** - Is there an understanding that the current tenant would leave and you would get a new tenant?

**Tom Long, 2204 Hastings Avenue** - The overall plan right now is that I would like this guy out of here as soon as possible. I have a prospective buyer for the property that would like to operate it as an used car lot. He and I would decide how much I put into upgrading it. The dealer would be in place as soon as the current tenant is gone.

**Susan Lindoo** - I wanted to make sure that it wasn't the same person.

**Mr. Long** - No.

**Chairperson Lund** - I would suggest that you should talk with the owner about code enforcement.

**Ms. Buss** - He's actually been very cooperative.

**Mr. Long** - I have been on this guy's case relentlessly. He's made improvements but not to my satisfaction or the City's satisfaction. There are still some issues that need to be cleaned up regardless of what happens tonight.

**Susan Lindoo** - Will this help you get rid of the current tenant?

**Mr. Long** - Yes. I'm only keeping this guy in there because half of the rent goes towards property taxes. I can get him out quick. I have several rental properties and he's 95% of my problems.

**Motion by Haley, seconded by Prestegaard, to approve Resolution No. P.C. 2014-7 as presented recommending that the City Council approve a rezoning from MX-2 to MX-1. With 5 Ayes, 0 Nays, the motion carried.**

### **C. Public Hearing - To consider amendments to the Zoning Code, Chapter 1300, Section 1340 Residential Districts**

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

**Chairperson Lund** - Isn't the entire Shoreland District in the R-1A?

**Ms. Buss** - There are one or two lots that are in the R-1 District.

**Chairperson Lund** - Wouldn't it make more sense to put them in the R-1A? This is something that we've brought up before where we have lots that are in R-1A that should probably be R-1 and those two lots at the bottom that should be in R-1A since they're in the Shoreland District.

**Ms. Buss** - We could ask for those to be rezoned. I think the one disadvantage might be that since it's only a small piece, you'll start restricting what can be put on those lots. I think we would want to consider that separately.

**Chairperson Lund** - So we can revisit it later? Is it also true that there is no R-2 and the requirements for it are identical to R-3?

**Ms. Buss** - Pretty much. I think R-2 was intended to be more duplex. There are a couple differences. Some day we could probably combine those. The other thing I added was a requirement that the Engineer review building permits that propose lot coverage over 30%, you said he reviews them already correct?

**Executive Analyst Eisenbeisz** - Yes, for new homes and then moving forward we'll have him review garages, sheds, or decks.

**Ms. Buss** - We can take that out then.

**Matt Prestegaard** - What was the request that led to this?

**Ms. Buss** - The City staff met with a developer and he brought it to our attention that our standard was much lower than other communities and he was worried that he wouldn't be able to build a standard, two car garage and meet the requirements. He was able to with the lots he has but he pointed out there are several lots in the old part of town that wouldn't be able to. Since other communities allow it and we can accommodate it in regards to storm water.

**Matt Prestegaard** - The only thing I noticed was that we're saying 35% but the Engineer will review anything over 30%.

**Ms. Buss** - We can take it back to 30%, it's up to you.

**Kevin Haley** - I would go higher.

**Chairperson Lund** - Do we really anticipate turning someone down if it's 30% and they come in at 33%? I don't think we would given our history.

**Kevin Haley** - We want to avoid the need for variances.

**Ms. Buss** - That was my rationale as well.

**Kevin Haley** - Is there an ordinance that he's reviewing them against?

**Ms. Buss** - There's a storm water ordinance that he uses and requires both quality and quantity. I think people start having a hard time with the quality of things when they get above 35%.

**Susan Lindoo** - When I first started we had neighbors coming in two or three times a year because of drainage issues and there was big review of the storm water ordinance. We've gone through several years of drought so it hasn't been an issue but this is another wet year. I think going up to 35% makes sense and it makes sense if the Engineer says going above that will cause issues. I have a rain garden and it does take maintenance and work. There are different options but none of them are perfect. I don't know if we have the expertise to have someone work with that.

**Ms. Buss** - It's hard with an individual homeowner because most of them don't know how to put in a rain garden so that's part of the problem because we'll require people to hire someone to put something in their yard for storm water management.

**Susan Lindoo** - And then they have to be maintained. In my experience, it is a big issue and I would hate to have that come back.

**Ms. Buss** - The storm water ordinance is fairly new and it was approved by the Watershed District.

**Susan Lindoo** - And we'll have more rain.

**Kevin Haley** - Since we already have pretty stringent storm water requirements, if we went up to 40% then we would require people to deal with it.

**Susan Lindoo** - Then we're telling people that they'll have to pay an extra \$4,000 to \$5,000 to put in a rain garden and maintain it every year, I don't think that's a good idea. Then they won't do it and we'll have problems with neighbors. We have something that is working now.

**Kevin Haley** - You're making a good point.

**Vice-Chair Mahmood** - We're talking 35% then?

**Chairperson Lund** - This is a significant increase too.

**Ms. Buss** - Yes and it seems to work in neighboring communities.

**The Public Hearing opened at 6:40 p.m.**

**Sandra Packer, 1830 10th Avenue** - Right now, we're at almost 35% with the house, a single car garage, patio and driveway. We don't have any problems. We want to tear our garage down and build a two car garage, which would take some of our driveway away but it still puts us over the 25%. Water goes down our driveway already. If you look around our neighborhood, the lots are about the same and the guy across the street has a driveway that is three cars wide and two cars deep and his house is the same size as mine. Next door to me has a two car garage.

**Kevin Haley** - So this would allow you to do what you need to do without a variance?

**Mrs. Packer** - Yes, that's why I'm here today because I don't want to go through that.

**The Public Hearing closed at 6:43 p.m.**

**Motion by Haley, seconded by Lindoo, to approve Resolution No. P.C. 2014-8 as amended recommending that the City Council approve an amendment to Section 1340. With 5 Ayes, 0 Nays, the motion carried.**

**Ms. Buss** - Next time we have a fence discussion and potentially beer again.

**Susan Lindoo** - Looking at fence ideas?

**Ms. Buss** - Yes, since we talked about it before with the barbed wire. The Lehrke's are asking us to revisit the brewery issue again.

**Susan Lindoo** - Will we ever hear anything about the Historical Overlay?

**Ms. Buss** - I don't think so, I think you'll need to make a decision about whether or not you want to keep it. I think Bob thinks it's a placeholder. I think if we could beef up some sections to discourage McMansions in old town, he would be happy with that.

**Susan Lindoo** - I would rather have something there than something ambiguous and you don't know what it is.

**Ms. Buss** - So put that on for a future meeting.

**Chairperson Lund** - Just to let everyone know, I believe their issue is that they would like the option to being a microbrewery rather than a brewpub. A microbrewery can't sell other spirits and beer, they can only sell their own beer but they can sell it offsite. As a brewpub, they can sell their own beer and other items. I think it's stage two but we'll have to hear from them.

**Ms. Buss** - They also have a question about permits, they would rather not have to get one.

**Kevin Haley** - It's a zoning issue.

**Chairperson Lund** - I think everyone's been in favor of helping them so we'll see next month.

**Admin. Hill** - So you're willing to entertain a discussion for them?

**Kevin Haley** - They should give us something to look at.

**Admin. Hill** - They'll have to write something up. I know they can't make it to the July meeting so it'll have to wait until August.

**Kevin Haley** - I don't have a problem with it, I don't think it'll impact us. We've only got five permits and all but one are already being used. If we amended this to accommodate them, it wouldn't have any impact because the one that would remain open would still need a conditional use permit.

**Susan Lindoo** - I just want to see what they're talking about because I keep hearing about this unhappiness but I don't know what it's about or the issue so I would like to hear from them.

**Admin. Hill** - Yes, because we as staff cannot defend it for them.

**Chairperson Lund** - If we change the accessory use from a CUP to just allowed, would that mean that they wouldn't need a CUP?

**Susan Lindoo** - Are you going to do that for all other businesses?

**Chairperson Lund** - Isn't the question about whether or not it's a continuing use because they don't have a CUP at all. Are we going to change our Code.

**Admin. Hill** - That's correct, once they add the brewery, it changes the use and triggers the CUP.

**Chairperson Lund** - Under our Code that requires a CUP for alcohol serving establishments, are we going to take that off?

**Susan Lindoo** - I wouldn't want to.

**Vice-Chair Mahmood** - No.

**Chairperson Lund** - Isn't that true though that even if we take the CUP off of the brewpub, it doesn't help them.

**Executive Analyst Eisenbeisz** - I don't believe so but that would be a question to Sherri.

**Kevin Haley** - So if we changed it to have a microbrewery as an allowed use then they likely wouldn't need a CUP.

**Admin. Hill** - I think one of Sherri's things is that it's near residential and because it's sort of a manufacturing thing, if there are any issues like odor, trucks, etc, those can be regulated through a CUP.

**Susan Lindoo** - Do they want to be both?

**Executive Analyst Eisenbeisz** - You have to be one or another.

**Admin. Hill** - A brewery is not allowed where they are now.

**Matt Prestegaard** - Let's hear from them.

**Chairperson Lund** - There's also been a lot of discussion about the TIF District. I've put forth my reservations about using TIF money for affordable housing on the north end of the District as stage one. I don't know if that's something we can look at with zoning but I feel I might be on an island with my point of view.

**Admin. Hill** - I don't know if that's the Planning Commission's decision.

**Chairperson Lund** - Our decision would be with the zoning of the area.

**Admin. Hill** - I don't think zoning has anything to do with it.

**Chairperson Lund** - The zoning has to do with the allowed uses in the City and it's our job to decide where the appropriate uses are.

**Admin. Hill** - To recommend.

**Chairperson Lund** - To recommend like we do every month. In my view, the north end is better suited for commercial.

**Kevin Haley** - I would be inclined to agree.

**Vice-Chair Mahmood** - Weren't we going to wait to hear if we got that triangle piece from MnDot before we made any decisions?

**Admin. Hill** - We just had a meeting with MnDot and the representative thought it was already granted over to the County but it wasn't on the GIS map so he was going to look into it.

**Vice-Chair Mahmood** - Because that's where the builder wanted to go in right?

**Chairperson Lund** - Yes.

**Admin. Hill** - This isn't on the agenda so maybe we shouldn't be discussing it.

**Susan Lindoo** - I feel we're not prepared.

**Chairperson Lund** - We can bring up new business. I appreciate you don't want me talking about it.

**Admin. Hill** - But discussing it is different. You're talking about future discussion items.

**Chairperson Lund** - Then let's put it on the agenda to get an update, everything is happening fast. I like the whole project but stage one has to be good.

**Executive Analyst Eisenbeisz** - So what would you like on the agenda to discuss?

**Chairperson Lund** - Whatever we need to be able to discuss this.

**Executive Analyst Eisenbeisz** - The topic though. Do you want to talk about rezoning that area?

**Chairperson Lund** - I don't think we have any type of consensus for a proposal.

**Matt Prestegaard** - What would you say, an update on the proposal and then discussion of it?

**Chairperson Lund** - Discussion of appropriate land use.

**Susan Lindoo** - Maybe discussion of the tour. Could we have maps as well?

**5. COMMISSION AND STAFF REPORTS**

**6. NEW BUSINESS**

**7. ANNOUNCEMENTS**

**Chairperson Lund** - The next City Council meeting is June 19 at 5:30 and ours is July 10 at 6:00.

**8. ADJOURNMENT**

**Motion by Haley, seconded by Prestegaard, to adjourn the Planning Commission Meeting at 6:55 P.M. With 5 Ayes, 0 Nays, the motion carried.**

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

Respectfully submitted,

Renee Eisenbeisz  
Executive Analyst



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## Memorandum

<b>To:</b>	Newport Planning Commission	<b>Reference:</b>	Long CUP
<b>Copies To:</b>	Deb Hill, City Administrator		
	Renee Eisenbeisz, Executive Analyst		
	Tom Long, applicant and owner		
	Jon Herdegen, MSA, City Engineer	<b>Project No.:</b>	15481.005
<b>From:</b>	Sherri Buss, RLA AICP, City Planner	<b>Routing:</b>	
<b>Date:</b>	June 30, 2014		

**SUBJECT:** Long Conditional Use Permit (CUP) for Motor Vehicle Sales, Display and Service

**MEETING DATE:** July 10, 2014

**LOCATION:** 2204 Hastings Avenue

**APPLICANT/OWNER:** Tom Long  
6939 Lamar Avenue  
Cottage Grove, MN 55016

**CURRENT ZONING:** MX-1 (Downtown District)

**60-DAY PERIOD:** August 15, 2014

**ITEMS REVIEWED:** Application, Sketch Plan.

### BRIEF DESCRIPTION OF THE REQUEST

The applicant, Tom Long, is requesting a CUP for a Vehicle Sales, Display and Service use at the property at 2204 Hastings Avenue. The City recently approved his rezoning request for the property from the MX-2 District to the MX-1 District to permit the Vehicles Sales use. The current use on the property is an Auto Repair business. The City issued a Special Use Permit in November 1972 to this property to operate a used car lot; that use was discontinued in 2010.

If a conditional use is discontinued for more than 1 year, the property owner must obtain a new CUP to operate the business.

## **BACKGROUND**

The subject property includes 1 parcel located at the north end of Hastings Avenue. The City has received numerous complaints from neighbors about the appearance and operation of the auto repair business at 2204 Hastings Avenue in recent years, including complaints about the messy condition of the site and autos parked for extended periods of time that are not operable. The City has sent multiple letters to the owner (Mr. Long) and the Community Services Officer has visited the site to identify and document the issues, to request that the inoperable vehicles be removed, and request that the portion of the site adjacent to residential uses be screened to meet ordinance requirements. Despite these actions, the site condition has not improved.

The applicant's letter requesting the rezoning indicated that he believes that many of the site issues are related to the auto repair use, and that if an automobile sale business is permitted on the site, the appearance will improve due to the change in use.

The applicant is requesting that the new use include vehicle sales, display, and light repair. His application indicated that the repair will be done in 2 existing bays for the used cars that are displayed and sold at the business.

## **EVALUATION OF THE REQUEST**

### ***Zoning Ordinance Criteria for Granting a CUP***

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.

### **1. Zoning District and Proposed Use—Motor Vehicles Sales**

The proposed use is Motor Vehicle Sales. The use is permitted in the MX-1 Zoning District with a Conditional Use Permit. The definition of this use is “the sale or trade of new or used motor vehicles, including cars, trucks, buses, campers, motorcycles or other motorized vehicles, including the display of new or used vehicles, or the possession of new or used vehicles for sale or trade.” The use title indicates that servicing of the vehicles that are displayed or sold at the business is included in the use. The proposed conditions specify that auto repair services will be limited to the vehicles that are displayed and sold at the business.

#### Dimensional Standards, Setbacks, and Requirements in the Zoning District

The dimensional standards and setbacks for the MX-1 District include the following:

- Minimum lot area: 2,400 square feet
- Minimum lot depth: 80 feet
- Minimum lot width: 30 feet
- Maximum lot coverage (buildings): 80%
- Structure setbacks: Front yard: 0 feet;  
Side yard if adjacent to a residential district: 10 feet  
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 parcel at 2204 Hastings is approximately 8400 square feet in area; the lot depth varies from 109 to 117 feet, and the parcel is 75 feet wide. The existing building covers approximately 20% of the parcel, and meets the structure setback requirements.

The entire surface area of the parcel is currently used for parking motor vehicles. There is an existing boulevard along Hastings Street that is part of the road right-of-way and outside the parcel. The ordinance requires that parking be setback 20 feet from the front lot line and five feet from the side and rear lot lines.

The existing parcel and building meet the ordinance requirement. The new use should meet the setback requirements in the ordinance.



## **2. Comprehensive Plan**

The Comprehensive Plan supports the continuing existence and redevelopment of Hastings Avenue with commercial and residential uses that have a “main street” character. It supports assisting existing businesses to survive and improve. The plan discourages the development of “big box” businesses in the MX-1 District, and supports smaller, locally-owned businesses and services that fit the small town character of Newport. The proposed commercial use is generally consistent with the land use goals included in the 2030 Comprehensive Plan.

## **3. Potential Impacts of the Business and Ordinance Requirements**

Section 1330.05 of the Zoning Ordinance includes performance standards for businesses operating in Newport, including Motor Vehicle Sales businesses. The standards address the potential impacts of the business that need to be evaluated for CUP criteria 3-7, listed above. The Zoning Ordinance allows the City to include conditions in the CUP to avoid or minimize potential impacts to surrounding properties. The sections below evaluate the proposed business based on the performance standards, and identify conditions that the Planning Commission and Council may consider to manage the potential impacts on surrounding properties.

### Parking and Vehicle Storage

Section 1330.05 of the Zoning Ordinance includes standards for parking and storing vehicles. Subdivision 6 applies to Motor Vehicle Sales, and states that “any outside storage or display of vehicles for sale, rent or lease shall be by Conditional Use Permit as governed by this chapter, and shall include only operable new vehicles or operable used vehicles in good working order and of good appearance. The Planner has included a condition that the business meet the vehicle storage requirement of the ordinance, and that no open storage of other items is permitted on the property.

Pavement and Driveways. The existing business uses an access from Hastings Avenue to the parcel that is outside the parcel boundaries, and on City property. The business also has access from Ford Road along the entire southern parcel boundary.

The Engineer made the following comments and recommendations regarding access for the proposed use:

“We recognize that this property utilizes a driveway access from Hastings Avenue that is currently located on City property. Should the applicant continue to use this access, provisions for it use should be agreed upon by all parties. The property access from Ford Rd is currently allowed along the entire south property line, with the exception of the small amount of curb at the intersection of Hastings Ave. As part of the 2014 Street Improvements project, curb will be constructed on both sides of Ford Road in this location. A new driveway access will be provided from Ford Rd. with a maximum width of 36 feet (per City policy) and the location will be determined with the property owner and City Staff during construction. Due to the close proximity of this parcel to Hastings Avenue, we recommend the new driveway entrance on Ford Road be located as close to the east property line as possible.

“The remaining bituminous pavement on the [parcel] will be removed between the new back of curb and the right-of-way (approximately 33’ from existing centerline of Ford Road). The boulevard area will be graded with topsoil and seeded. We recommend that



storage of any vehicles or other private property within the City ROW on Hastings Ave. or Ford Rd. is prohibited.”

The Planner has proposed the following conditions for the CUP based on the Engineer's comments:

- Continued use of the existing driveway access from Hastings Avenue shall require that the applicant complete an agreement with the City to use this access.
- The new driveway access from Ford Road that is a maximum 36' wide shall be located as close to the east property line as possible.
- Vehicles or other business property shall not be stored or displayed within the City right-of-way on Hastings Avenue or Ford Road.

#### Buildings and Accessory Structures

No changes are proposed to the existing building on the property. No new accessory structures are proposed on the site plans.

#### 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 of items other than new or used vehicles is permitted on the site.

#### 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.

#### Lighting

No new lighting is proposed at the site. Lighting must meet the ordinance requirement that it be a downcast, cut off type, and that glare and lighting shall not spill over to adjacent residential properties.

#### Landscaping

Section 1330.05, Subdivision 14 includes the landscaping requirements for commercial and office uses. The ordinance requires that areas of land not covered by structures or pavement shall be landscaped. In this case, the entire site is covered by pavement. The area within the road right-of-way is landscaped with turf grass. Since no changes in buildings or pavements are proposed, the Planner has not included requirements for landscaping for the new use.

#### Hours of Operation

The applicant has proposed that the hours of operation be 9 a.m. to 7 p.m., Monday through Friday and 9 to 3 p.m. on Saturday. The Planner has included the proposed hours as a condition for the CUP.



### 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.

### Infrastructure and Public Services

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. The Engineer sent an email to the Planner that states that he is not recommending new stormwater management facilities or practices for the site.

### Potential effects of the proposed use on surrounding properties, including valuation, aesthetics and scenic views, land uses, and character and integrity of the neighborhood.

The existing auto repair use on the site has received numerous complaints from surrounding properties regarding the messy condition of the site and autos parked for extended periods of time that are not operable. The City has been working with Mr. Long to try to address the zoning violations at the site, and Mr. Long has indicated that he believes that a change to a new use will bring the site into compliance. The ordinance requires that in order to be approved, the new use must not negatively affect the valuation and aesthetics of surrounding uses, and must maintain the character and integrity of the neighborhood, which includes adjacent business and residential uses.

The Planner has included a proposed condition that only vehicles in good, operable condition that are on display for sale may be stored at the site, and that that site must be maintained in a neat and orderly condition, so that the new use does not have negative impacts on the value and aesthetics of adjacent properties and the neighborhood.

The Zoning Ordinance section 1310.10 permits the City to inspect conditionally-permitted uses at any time to determine if the applicant is adhering to the conditional use permit. The Planner has included a condition that the City inspect the Vehicles Sales use within three months of the start of the use, and at least annually after, to monitor compliance with the conditions of the CUP.

The Zoning Ordinance also requires that the proposed use must begin within one year of the date when the CUP is granted.

## **FINDINGS FOR THE CONDITIONAL USE PERMIT REQUEST**

1. The proposed use is a conditionally-permitted use in MX-1 Downtown Zoning District, and the dimensional standards of the site and buildings meet the ordinance requirement.
2. The proposed use is consistent with the Newport Comprehensive Plan, which supports the continuation and redevelopment of commercial uses that are locally-owned, have a "main street" character.
3. The conditions for approval of the proposed use include requirements for development and operation of the business 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 vehicle display and storage, lighting and access on adjacent streets and land uses.

4. The redevelopment of the property with a new use that complies with the performance standards in the ordinance and conditions of the CUP may 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 will not have negative impacts on sensitive environmental features, including surface waters, ground water, wetlands or floodplains.
7. In permitting the 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 that the Council approve a Conditional Use Permit for a Vehicle Sales, Display and Service use. The Planner recommends the following conditions for the proposed uses:

1. The use of the property and buildings shall be consistent with the sketch plan that the applicant submitted to the City on June 16, 2014, with the driveway and access modifications recommended by the City Engineer.
2. The auto repair services shall be limited to light auto repair (no painting or body work) shall only be performed on vehicles that are on display for sale by this business.
3. The applicant shall obtain any federal, state or local licenses or permits needed to operate the Vehicle Sales, Display and Service use.
4. The applicant shall complete an agreement with the City in order to continue the use of the existing driveway access from Hastings Avenue.
5. Driveway access from Ford Road shall be one driveway that is a maximum 36' wide and it shall be located as close to the east property line as possible.



6. Vehicles or other business property shall not be stored or displayed within the City right-of-way on Hastings Avenue or Ford Road, and the business shall comply with the setback requirements of the ordinance.
7. Vehicles that are displayed and stored on the parcel shall be only operable new vehicles or operable used vehicles that are in good working order and of good appearance. No open storage of items other than operable new and used vehicles that are displayed for sale is permitted. The site shall be maintained in a neat and orderly condition.
8. No stacking, crushing, or dismantling of vehicles is permitted on the site.
9. The permitted use on the site does not include automobile painting and body work.
10. 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.
11. Lighting fixtures shall be downcast, cutoff-type fixtures that prevent glare and light from spilling onto adjacent residential areas.
12. The hours of operation shall be 9 a.m. to 7 p.m. Monday through Friday, and 9 a.m. to 3 p.m. on Saturday.
13. 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.
14. The City shall inspect the Vehicle Sales, Display and Repair use within three months after it is established on the site, and at least annually thereafter to monitor compliance with the conditions of the CUP.
15. The new Vehicle Sales, Display and Repair use shall begin operation at the site within one year of the date of approval of the CUP.
16. The applicant shall pay all fees and escrow associated with this application.





PROFESSIONAL SERVICES

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## MEMO

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**To:** Ms. Sherri Buss, City Planner  
Ms. Deb Hill City Administrator

**From:** Jon Herdegen, P.E. – City Engineer

**Subject:** Long CUP Review

**Date:** June 30, 2014

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### **Introduction:**

We have reviewed the CUP application from Tom Long for the operation of a used car dealership at the property located at 2204 Hastings Avenue (corner of Hastings Ave. and Ford Rd.) We offer the following comments for your review and consideration:

### **Engineering Review:**

#### Entrance and Parking Concerns:

We recognize that this property utilizes a driveway access from Hastings Avenue that is currently located on City property. Should the applicant continue to use this access, provisions for it use should be agreed upon by all parties. The property access from Ford Rd is currently allowed along the entire south property line, with the exception of the small amount of curb at the intersection of Hastings Ave. As part of the 2014 Street Improvements project, curb will be constructed on both sides of Ford Road in this location. A new driveway access will be provided from Ford Rd. with a maximum width of 36 feet (per City policy) and the location will be determined with the property owner and City Staff during construction. Due to the close proximity of this parcel to Hastings Avenue, we recommend the new driveway entrance on Ford Road be located as close to the east property line as possible.

The remaining bituminous pavement on the will be removed between the new back of curb and the right-of-way (approximately 33' from existing centerline of Ford Road). The boulevard area will be graded with topsoil and seeded. We recommend that storage of any vehicles or other private property within the City ROW on Hastings Ave. or Ford Rd. is prohibited.

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#### **Offices in Illinois, Iowa, Minnesota, and Wisconsin**

60 Plato Blvd. East, Suite 140, St. Paul, MN 55107-1835

(612) 548-3132 (866) 452-9454

FAX: (763) 786-4574 WEB ADDRESS: [www.msa-ps.com](http://www.msa-ps.com)



# MEMO

TO: Mayor and City Council  
Deb Hill, City Administrator

FROM: Renee Helm, Executive Analyst

DATE: August 8, 2013

SUBJECT: 2204 Hastings Avenue

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## **BACKGROUND**

Tom Long, owner of 2204 Hastings Avenue, attended the July 18, 2013 City Council meeting to request a couple items. The first was a variance from the City's driveway policy. City Engineer John Stewart has attached a memo regarding this request. Secondly, Mr. Long requested that the City rezone his property or issue a Conditional Use Permit to allow for a used car lot.

## **DISCUSSION**

The City did issue a Special Use Permit in November 1972 to operate a used car lot at 2204 Hastings Avenue. According to Mr. Long, there has not been a used car lot on the property since 2010. Currently, this property is located in the MX-2 District, which does not allow used car lots. As such, it would be considered a legal, non-conforming use. Per Section 1320.04 of the City Code, if a legal, non-conforming use is discontinued on a property for a period of one (1) year or more, the property, building, or structure shall conform to the City Code. Since there has not been a used car lot on the property since 2010, the Special Use Permit is no longer valid. As such, Mr. Long has two options. The first is to look for a different land use for this property. The second option is to request a rezoning to a district that allows used car lots. At this time, the MX-1 District is the only one that allows used car lots.

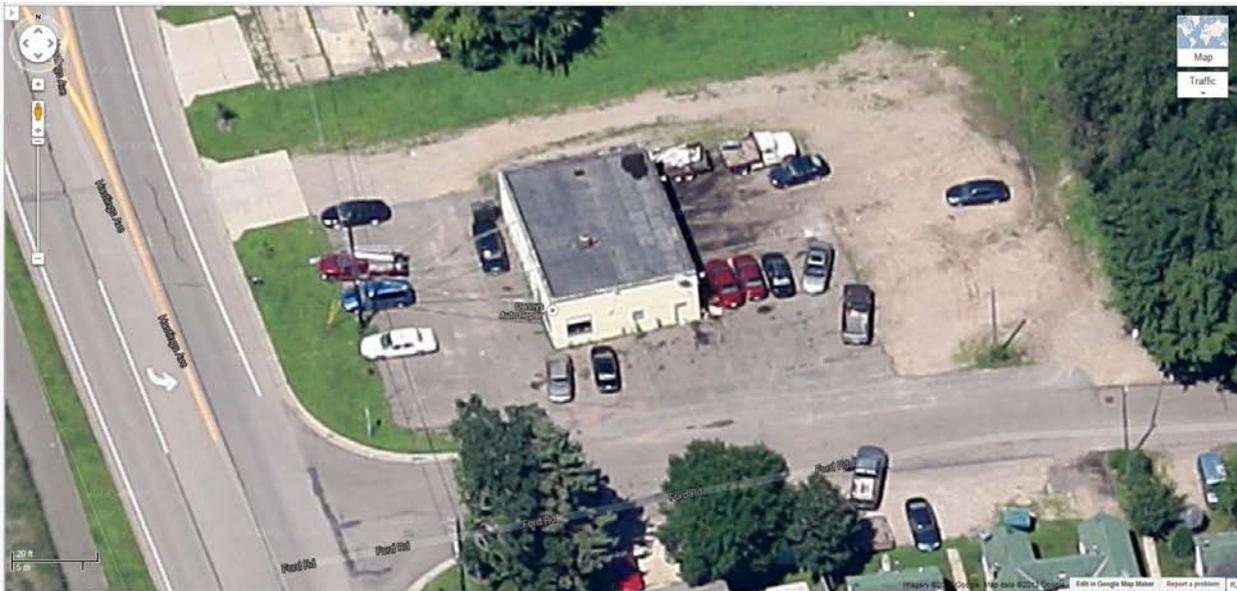
## **RECOMMENDATION**

If Mr. Long wishes to request a rezoning it is recommended that he submit an application, pay the necessary fees, and have a public hearing before the Planning Commission. In order to be on the September 12, 2013 Planning Commission Agenda, Mr. Long would need to submit his application by August 20, 2013.

**To:** Deb Hill - City Administrator & City Council of Newport  
**From:** John Stewart, P.E. - City Engineer  
**Subject:** Tom Long's Driveway Request.  
**Date:** July 25, (For the August 15th Council Meeting)

### Introduction:

Tom Long is the owner of the garage on the NE corner of Ford Road and Hastings Avenue approached the council seeking a variance from the City's Driveway Policy. This property is located on the section of Ford Road that is to be delayed until next year.



Mr. Long's property can be accessed for almost the whole length of his property line on Ford Road and from a driveway on Hastings Avenue abutting the north property line of Mr. Long's property.

The photograph shown above is misleading; when the picture was taken Mr. Long had use of adjacent properties. The area shown to have as bituminous surface surrounding the building is approximately congruent with Mr. Long's property lines on the north and east side of his lot.

### Offices in Illinois, Iowa, Minnesota, and Wisconsin

60 Plato Blvd. East, Suite 140, St. Paul, MN 55107

(612) 548-3132 (866) 452-9454

FAX: (763) 786-4574 WEB ADDRESS: [www.msa-ps.com](http://www.msa-ps.com)

## MEMO

Page 2

August 1, 2013 Council Meeting

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Mr. Long explained this at the Council meeting and indicated the property was a used car sales lot. Since the photo was taken the City acquired the property on the north and east sides of the lot and constructed storm water holding ponds. Consequently Mr. Long no longer has the use of the abutting land.

The attached exhibit shows an aerial of the lot overlaid with property lines and proposed construction on Ford Road.

The Ford Road driveway shown on the Exhibit is 32 feet wide (36' with apron wings) compliant with the City's Standard, for a commercial property.

Mr. Long requested that the City allow a variance to construct a drive over curb along the length of his south property line (approximately 100 feet).

Mr. Long explained that he did not have access from the driveway on Hastings Avenue and that he needs the extra driveway width to allow parking against the south wall of the building.

### **Issues:**

1. The driveway along Hastings Avenue does in fact abut a portion of Mr. Long's Lot and as suggested by a Council Member Mr. Long could request an easement over the City owned portion of the driveway to more easily access the northern portion of his lot. The distance between the north property line and the north side of his building is approximately 18 feet. Only parallel parking can be configured in this area.
2. The area between the south property line and the Ford Road right of way is approximately 13.5 feet. Is only wide enough to allow only parallel parking along the south face of the building. To allow perpendicular parking would require that the City allow parking on the street right-of-way. The City has in the past prohibited parking in the boulevard area between the curb line and the
3. Mr. Long Requires access to the paved area on the east side of the lot.

### **Hardship:**

Mr. Long indicated that unless he is granted the variance allowing drive over curb and parking on the City boulevard there is insufficient parking to use the property as a used car lot.

### **City Options:**

We see the city as having 3 options to address Mr. Long's parking issue.

**MEMO**

Page 3

August 1, 2013 Council Meeting

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1. The City denies the requested variance to allow a wider driveway on Ford Road.
2. The City approve a drive over curb for some of Mr. Longs frontage on Ford Road, and permits Mr. Long to use the City boulevard for perpendicular parking.
3. Consider a request from Mr. Long to grant an easement allowing better access to his property from Hastings Avenue.

We suggest that Mr. Long be given an opportunity at the second Council meeting in August to review this memo with Council.

Mr. Long may wish to use the attached exhibit to show how he could configure parking on his property with and without drive over curb.

# City of NEWPORT Planning Request Application

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

Application Date: 6/13/14 Public Hearing Date July 10, 2014

## Applicant Information

Name: Tom Long Telephone: 651-470-4909  
Mailing Address: 6939 LAMAR AVE Telephone: \_\_\_\_\_  
City/State/Zip: Cottage Grove, MN. 55016

## Property Owner Information

Name: \_\_\_\_\_ Telephone: \_\_\_\_\_  
Mailing Address: Same Telephone: \_\_\_\_\_  
City/State/Zip: \_\_\_\_\_

## Project Information

Location of Property: 2204 Hastings Ave.

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

See attached tax statement for parcel / Property # and copy of deed enclosed for Description

Zoning District: \_\_\_\_\_ Flood Plain: AE 0.2% Annual Chance Flood Hazard

- Comprehensive Plan Amendment \$500 or Actual Cost plus \$50 for Additional Staff Hours (10 Hr Min)
- Rezoning \$500 plus Escrow
- Zoning Amendment \$500
- Variance \$300 plus Escrow
- Conditional Use Permit
  - Residential \$300 plus Escrow
  - Commercial \$450 plus Escrow + \$1,000 escrow
- Subdivision Approval
  - Minor Subdivision \$300 plus Escrow and Parkland Dedication Fee
  - Major Subdivision \$500 plus Escrow, \$50 per Lot, \$200 for Final Plat, and 10% of land value or fee for Parkland Dedication Fee
- Other: \_\_\_\_\_
- Applicable Zoning Code Chapter: \_\_\_\_\_
- Review by Engineer Cost: \_\_\_\_\_
- Total Cost: \_\_\_\_\_

*Handwritten notes:*  
to allow for work at  
property will be kept out of  
Very light repair will be done  
The number of cars parked will  
be determined when its determined where  
how many chairs you want

**Escrow Fees**

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

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

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

Present Use of Property: Light Auto Repair

State Reason for Planning Request: to allow for used car dealerships

Proposed hours 9-7 M-F, 9-5 Sat Closed Sunday  
Property will be kept neat and orderly.  
Very light repair will be done in 2 bays for used cars only. The number of cars parked will be determined when its determined where and how many driveways that you allow me.

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

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

SIGNATURE OF APPLICANT: Thomas J. Long

SIGNATURE OF OWNER (IF APPLICABLE): same

For Office Use

Fee: \$1,450 Date Paid: 06/16/14 Receipt #: 2374

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

Public Hearing Date: July 10, 2014

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

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

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



# Conditional Use Permit Application Checklist

Conditional Use Permits are covered under Section 1310.10 of the Zoning Code. Please provide the following information with your application for an Conditional Use Permit.

**GENERAL REQUIREMENTS:**

**INCLUDED IN SUBMITTAL**

- |  |                                     |     |                          |    |
|--|-------------------------------------|-----|--------------------------|----|
| 1. Application Form  | <input checked="" type="checkbox"/> | YES | <input type="checkbox"/> | NO |
| 2. Fees  | <input checked="" type="checkbox"/> | YES | <input type="checkbox"/> | NO |
| 3. Escrow  | <input checked="" type="checkbox"/> | YES | <input type="checkbox"/> | NO |
| 4. Complete legal description and PID number of all parcels included in the request. The legal descriptions must be copied directly from the deed and provided in a word document. | <input checked="" type="checkbox"/> | YES | <input type="checkbox"/> | NO |
| 5. A full description of the request—proposed use of the site, activities proposed, hours of operation, etc. (either on the application form or in a letter)                       | <input checked="" type="checkbox"/> | YES | <input type="checkbox"/> | NO |
| 6. A map, aerial photo or plan showing the parcel in question and all property within five hundred (500) feet of the parcel boundaries   | <input checked="" type="checkbox"/> | YES | <input type="checkbox"/> | NO |
| 7. Site Plan   | <input checked="" type="checkbox"/> | YES | <input type="checkbox"/> | NO |
| • One (1) 11"x17" hard copy and/or one (1) electronic copy. The City may require a larger size plan if needed to adequately review the request.                                    |                                     |     |                          |    |

**Plan Sheet Requirements:**

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

**SITE PLAN REQUIREMENTS - EXISTING AND PROPOSED:**

**INCLUDED IN SUBMITTAL**

- |  |                                     |     |                          |    |
|--|-------------------------------------|-----|--------------------------|----|
| 1. Property lines and dimensions   | <input checked="" type="checkbox"/> | YES | <input type="checkbox"/> | NO |
| 2. Area in acres and square feet   | <input checked="" type="checkbox"/> | YES | <input type="checkbox"/> | NO |
| 3. Existing and proposed building and parking locations and dimensions                                     | <input checked="" type="checkbox"/> | YES | <input type="checkbox"/> | NO |
| 4. Existing and proposed setbacks  | <input type="checkbox"/>            | YES | <input type="checkbox"/> | NO |
| 5. Buildable area and the existing and proposed area of the parcel(s) covered by impervious surfaces       | <input checked="" type="checkbox"/> | YES | <input type="checkbox"/> | NO |
| 6. Existing and proposed driveways <i>See drawings</i>   | <input type="checkbox"/>            | YES | <input type="checkbox"/> | NO |
| 7. Stormwater analysis and proposed best management practices, if required by the City Engineer <i>N/A</i> | <input type="checkbox"/>            | YES | <input type="checkbox"/> | NO |
| 8. Septic system and well (if applicable) <i>N/A</i>   | <input type="checkbox"/>            | YES | <input type="checkbox"/> | NO |

- |   |                              |                             |
|---|------------------------------|-----------------------------|
| 9. Vegetation and landscaping (if applicable to the request)                            | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| 10. Wetland delineation (if applicable)   | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| 11. Topographic contours at 2-foot intervals, bluff line (if applicable)                | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| 12. Waterbodies, Ordinary High Water Level and 100 year flood elevation (if applicable) | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| 13. Other proposed improvements and additional information relevant to the request      | <input type="checkbox"/> YES | <input type="checkbox"/> NO |

APPENDIX B

N/A



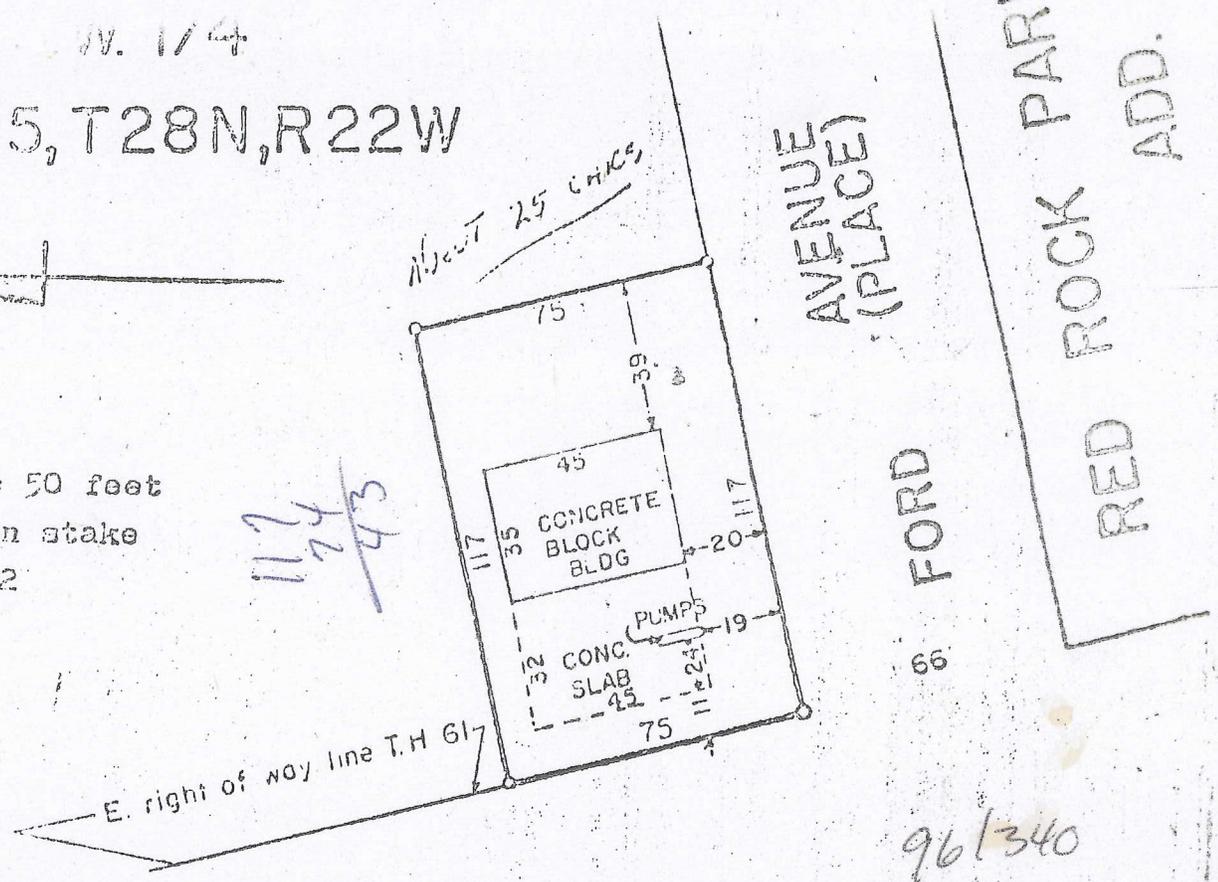
Beginning at the intersection of the north line of Ford Avenue with the Easterly right-of-way line of State Highway Number 61, and running thence East along said North line of Ford Avenue 117 feet to an iron pipe monument; thence North at right angles with said North line of said Ford Avenue 75 feet to an iron pipe monument, thence West on a line parallel to and 75 feet North of said North line of Ford Avenue, to the intersection of said parallel line with said Easterly line of said Highway, thence Southerly along said Easterly line of said Highway 75 feet to the point of beginning. All of the same lying and being in the County of Washington, State of Minnesota, and containing 0.2 acres, more or less.

ENTERED IN TRANSFER RECORD  
WASHINGTON COUNTY, MINNESOTA  
*August 12, 2005*  
MOLLY F. O'ROURKE, AUDITOR-TREASURER  
BY *[Signature]* DEPUTY  
*25.028.22.30.806*

N. T. 1/4, W. 1/4

SECTION 25, T28N, R22W

Scale 1 Inch = 50 feet  
Noted iron stake  
October 23, 1972



E. right of way line T.H 61

AVENUE (PLACE)

RED ROCK PAR  
ADD.

FORD

66

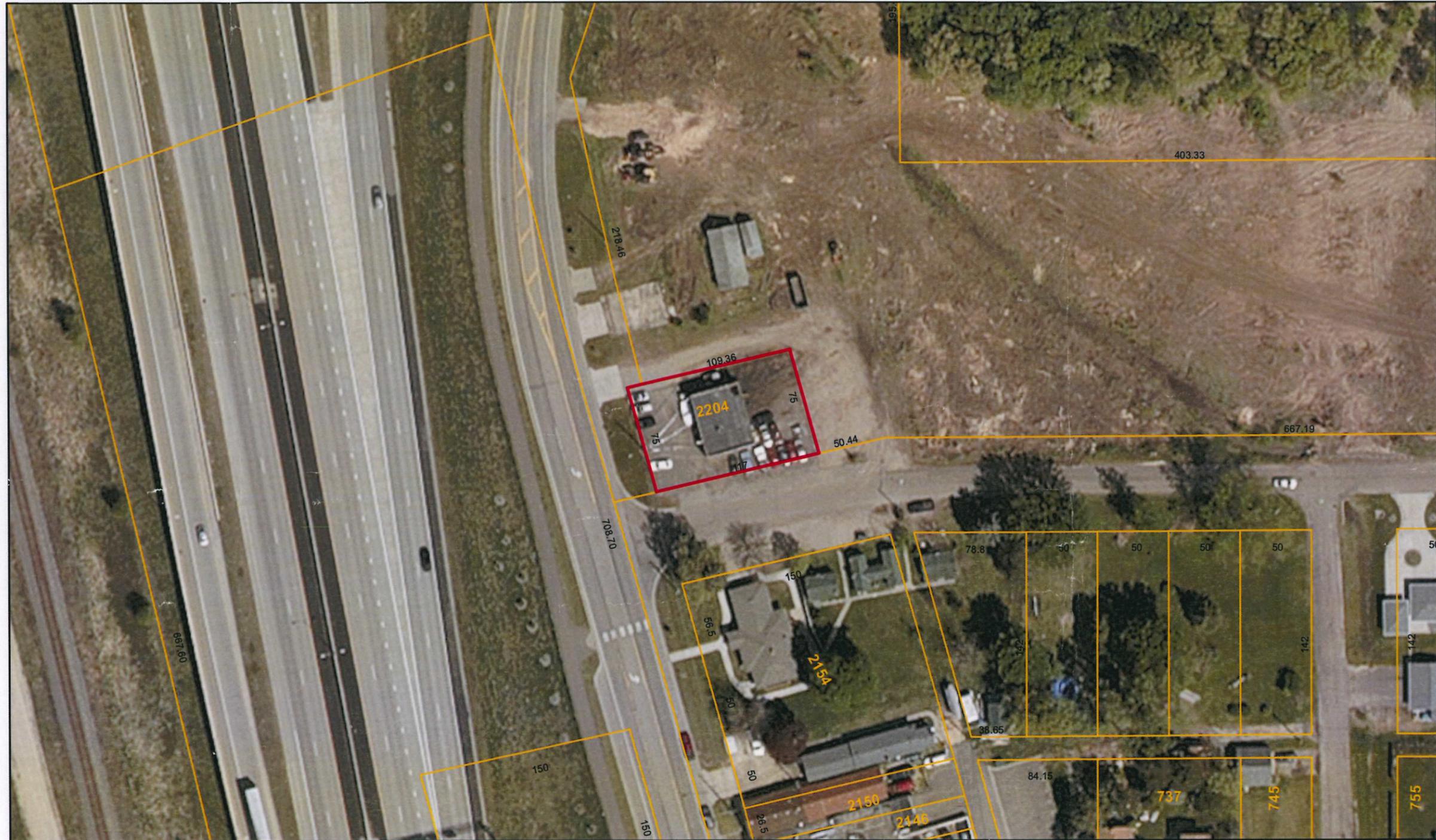
96/340

certificate of survey of all that part of the Northwest Quarter (N.W. 1/4) of the Southwest Quarter (S.W. 1/4) of Section 25, Township 28 North, Range 22 West, described as follows to wit: Beginning at the intersection of the north line of Ford Avenue with the easterly right of way of State Highway No. 61 and thence East along said north line of Ford Avenue 117 feet to an iron pipe monument; thence North at right angles with said north line of said Ford Avenue 75 feet to an iron pipe monument; thence West on a line parallel to and 75 feet from said north line of Ford Avenue, to the intersection of said parallel north said easterly line of said highway; thence Southerly along said easterly line of said Highway 75 feet to the point of beginning. All of the above lying and being in the County of Washington, State of Minnesota, and containing 0.2 acres, more or less. Location of building as shown.

I hereby certify that this survey was prepared by me or under my direct supervision and that I am a duly Registered Land Surveyor under the laws of the State of Minnesota.

*[Signature]*  
 Reg. Prof. Engineer and Land Surveyor Cert. No. 567

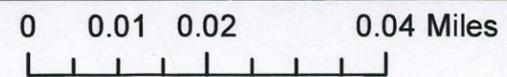
10/28/72



Parcel ID: 2502822320006

Parcel Address:  
2204 HASTINGS AVE, CITY OF NEWPORT

Created on 4/24/2014

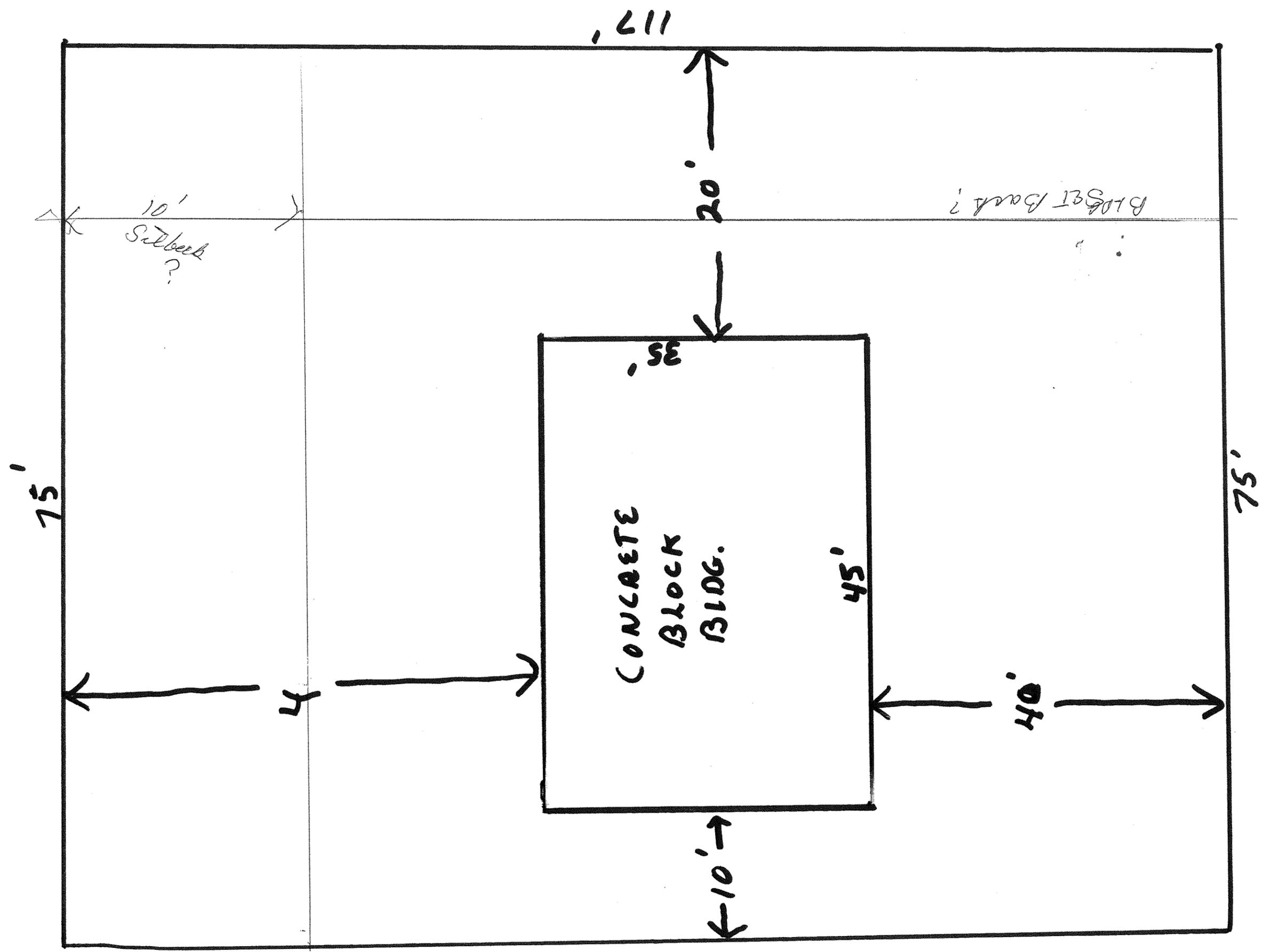


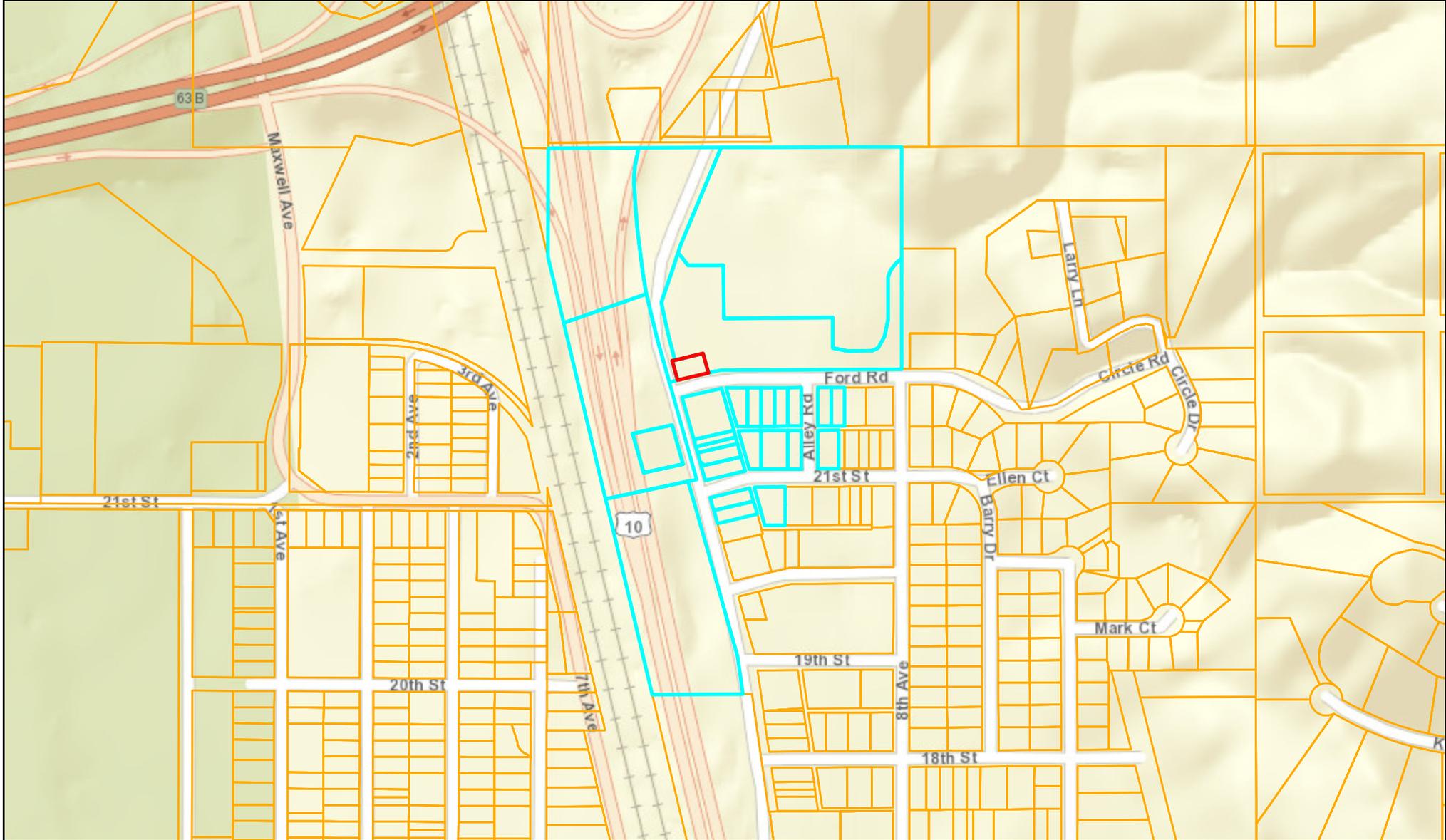
**MAP FOR REFERENCE ONLY  
NOT A LEGAL DOCUMENT**

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

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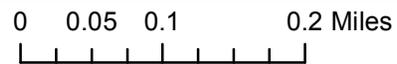
→ S





Parcel ID: 2502822320006

Parcel Address:  
2204 HASTINGS AVE, CITY OF NEWPORT



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

**CITY OF NEWPORT  
PLANNING COMMISSION**

**NOTICE OF PUBLIC HEARING  
TO CONSIDER A REQUEST FOR A REZONING**

Notice is hereby given that the Newport Planning Commission will hold a Public Hearing on Thursday, June 12th, at 6:00 P.M. or as soon thereafter, in the City Hall Council Chambers at the Newport City Hall, 596 7<sup>th</sup> Ave., Newport, MN, to consider an application from Thomas Long, 6939 Lamar Avenue, Cottage Grove, MN 55016 for a Rezoning Request for 2204 Hastings Avenue. The request is to rezone the parcel from MX-2 (Commercial) to MX-1 (Downtown) to allow for businesses such as a vehicle sales.

**Said property is legally described as:**

**PID#25.028.22.32.0006** - PT NW1/4-SW1/4 BEG @ INTERSECTION OF N LN OF FORD AVE WITH ELY R/W LN OF HWY 61 & RUN THN E ALG SD N LN OF FORD AVE 117 FT TO AN IRON PIPE MON THN N @ RT ANG WITH SD N LN OF SD FORD AVE 75FT TO AN IRON PIPE THN W ON LN PARL TO & 75 FT N OF SD N LN OF FORD AVE TO INTERSECTION OF SD PARL LN WITH SD ELY LN OF SD HWY THN SLY ALG SD ELY LN OF SD HWY 75 FT TO POB SECTION 25 TOWNSHIP 028 RANGE 022

The Planning Request is governed under Chapter 13, Zoning, Section 1310.02, Subdivision 3 Application for Rezoning of the Newport City Code adopted by the Newport City Council on June 5, 1997.

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

Dated this 19<sup>th</sup> day of May, 2014

Deb Hill  
City Administrator

(Publish in the Washington County Bulletin Wednesday, May 28, 2014)

<b>ADDRESS/PID #</b>	<b>OWNER</b>	<b>OWNER'S MAILING ADDRESS</b>	<b>CITY, STATE, ZIP</b>
25.028.22.32.0016	Central Bank	2270 Frontage Rd W	Stillwater, MN 55082
2104 Hastings Avenue	Central Bank	2270 Frontage Rd W	Stillwater, MN 55082
25.028.22.32.0032	Central Bank	2270 Frontage Rd W	Stillwater, MN 55082
25.028.22.33.0038	Central Bank	2270 Frontage Rd W	Stillwater, MN 55082
25.028.22.32.0034	City of Newport	596 7th Avenue	Newport, MN 55055
730 21st Street	David and Rozlyn Johnson	2064 Hastings Avenue	Newport, MN 55055
755 21st Street	Dawn Bergman	755 21st Street	Newport, MN 55055
2150 Hastings Avenue	Grant Erickson	7874 Cobblestone Ct	Woodbury, MN 55125
2146 Hastings Avenue	Kathryn Decker	229 18th Avenue South	South St. Paul, MN 55075
25.028.22.32.0019	Kathryn Decker	229 18th Avenue South	South St. Paul, MN 55075
2154 Hastings Avenue	Martin Joseph RE LLC	2154 Hastings Avenue #100	Newport, MN 55055
25.028.22.32.0012	Martin Joseph RE LLC	2154 Hastings Avenue #100	Newport, MN 55055
25.028.22.32.0011	Martin Joseph RE LLC	2154 Hastings Avenue #100	Newport, MN 55055
25.028.22.32.0010	Martin Joseph RE LLC	2154 Hastings Avenue #100	Newport, MN 55055
25.028.22.32.0009	Martin Joseph RE LLC	2154 Hastings Avenue #100	Newport, MN 55055
25.028.22.32.0008	Martin Joseph RE LLC	2154 Hastings Avenue #100	Newport, MN 55055
25.028.22.32.0025	Noreen Mooney	770 Ford Road	Newport, MN 55055
770 Ford Road	Noreen Mooney	770 Ford Road	Newport, MN 55055
25.028.22.32.0004	State of MN-Dot	1500 County Road B2 W	Roseville, MN 55113
25.028.22.32.0003	State of MN-Dot	1500 County Road B2 W	Roseville, MN 55113
25.028.22.33.0004	State of MN-Dot	1500 County Road B2 W	Roseville, MN 55113
25.028.22.32.0007	State of MN-Dot	1500 County Road B2 W	Roseville, MN 55113
25.028.22.32.0035	Swanlunds Inc	1222 12th Avenue	Newport, MN 55055
745 21st Street	Timothy Thunborg	745 21st Street	Newport, MN 55055
737 21st Street	William Sumner	737 21st Street	Newport, MN 55055

**PLANNING COMMISSION  
RESOLUTION NO. P.C. 2014-9**

**A RESOLUTION RECOMMENDING THE NEWPORT CITY COUNCIL APPROVE A CONDITIONAL USE PERMIT REQUESTED BY THOMAS LONG, 6939 LAMAR AVENUE, COTTAGE GROVE, MN 55016, FOR PROPERTY LOCATED 2204 HASTINGS AVENUE, NEWPORT, MN 55055**

**WHEREAS**, Thomas Long, 6939 Lamar Avenue, Cottage Grove, MN 55016, has submitted a request for a Conditional Use Permit to allow for a Motor Vehicle Sales, Display and Service Use; and

**WHEREAS**, The proposed rezoning is for property located 2204 Hastings Avenue, Newport, MN 55055, and is more fully legally described as follows:

**PID#25.028.22.32.0006** - PT NW1/4-SW1/4 BEG @ INTERSECTION OF N LN OF FORD AVE WITH ELY R/W LN OF HWY 61 & RUN THN E ALG SD N LN OF FORD AVE 117 FT TO AN IRON PIPE MON THN N @ RT ANG WITH SD N LN OF SD FORD AVE 75FT TO AN IRON PIPE THN W ON LN PARL TO & 75 FT N OF SD N LN OF FORD AVE TO INTERSECTION OF SD PARL LN WITH SD ELY LN OF SD HWY THN SLY ALG SD ELY LN OF SD HWY 75 FT TO POB SECTION 25 TOWNSHIP 028 RANGE 022

**WHEREAS**, The described property is zoned MX-1 Downtown; 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 July 10, 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 a conditionally-permitted use in MX-1 Downtown Zoning District, and the dimensional standards of the site and buildings meet the ordinance requirement.
2. The proposed use is consistent with the Newport Comprehensive Plan, which supports the continuation and redevelopment of commercial uses that are locally-owned, have a “main street” character.
3. The conditions for approval of the proposed use include requirements for development and operation of the business 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 vehicle display and storage, lighting and access on adjacent streets and land uses.

4. The redevelopment of the property with a new use that complies with the performance standards in the ordinance and conditions of the CUP may 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 will not have negative impacts on sensitive environmental features, including surface waters, ground water, wetlands or floodplains.
7. In permitting the 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 use of the property and buildings shall be consistent with the sketch plan that the applicant submitted to the City on June 16, 2014, with the driveway and access modifications recommended by the City Engineer.
2. The auto repair services shall be limited to light auto repair (no painting or body work) shall only be performed on vehicles that are on display for sale by this business.
3. The applicant shall obtain any federal, state or local licenses or permits needed to operate the Vehicle Sales, Display and Service use.
4. The applicant shall complete an agreement with the City in order to continue the use of the existing driveway access from Hastings Avenue.
5. Driveway access from Ford Road shall be one driveway that is a maximum 36' wide and it shall be located as close to the east property line as possible.
6. Vehicles or other business property shall not be stored or displayed within the City right-of-way on Hastings Avenue or Ford Road, and the business shall comply with the setback requirements of the ordinance.
7. Vehicles that are displayed and stored on the parcel shall be only operable new vehicles or operable used vehicles that are in good working order and of good appearance. No open storage of items other than operable new and used vehicles that are displayed for sale is permitted. The site shall be maintained in a neat and orderly condition.
8. No stacking, crushing, or dismantling of vehicles is permitted on the site.
9. The permitted use on the site does not include automobile painting and body work.
10. 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.
11. Lighting fixtures shall be downcast, cutoff-type fixtures that prevent glare and light from spilling onto adjacent residential areas.
12. The hours of operation shall be 9 a.m. to 7 p.m. Monday through Friday, and 9 a.m. to 3 p.m. on Saturday.
13. 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.
14. The City shall inspect the Vehicle Sales, Display and Repair use within three months after it is established on the site, and at least annually thereafter to monitor compliance with the conditions of the CUP.

15. The new Vehicle Sales, Display and Repair use shall begin operation at the site within one year of the date of approval of the CUP.

16. The applicant shall pay all fees and escrow associated with this application.

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

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

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

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



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

## Memorandum

<b>To:</b>	Newport Planning Commission	<b>Reference:</b>	Fence Materials – Ordinance discussion
<b>Copies To:</b>	Deb Hill, City Administrator		
	Renee Eisenbeisz, Executive Analyst		
<b>From:</b>	Sherri Buss, RLA AICP, Planner	<b>Project No.:</b>	15482.000
<b>Date:</b>	June 26, 2014	<b>Routing:</b>	

### Background

The Planning Commission recently made some changes to the ordinance regarding Fences. The Commission raised concerns regarding zoning districts where barbed wired is permitted as a fence material during the review of a recent CUP application. The applicant was required to have barbed wire fencing for his business in order to obtain insurance, but proposed business location was not in one of the City’s Industrial districts.

This memo presents a summary of the current ordinance requirements, and compares the City’s requirements to those in adjacent communities, to provide some background for the Commission’s discussion in July.

### Current Newport Requirements

Section 1330 of the Zoning Ordinance includes the fence requirements for residential and non-residential zoning districts in Subdivisions 15 and 21:

- Subd. 15 (C) permits barbed wire as a fence material only in the Industrial Districts.
  - The barbed wire portion of the fence must start at least 6 feet from ground level.
- Subd. 21 also includes fence requirements for the R and MX districts. It does not address barb wire directly, but rather provides a list of fence materials that may be used in the districts, and includes the option that the Zoning Administrator may approve other fence types.
  - This section allows welded wire fences in the RE District, though section 15 does not address this item

### Other Communities

The Planner reviewed ordinances of the cities of Saint Paul, St. Paul Park, Cottage Grove, Maplewood and Woodbury. Copies of the ordinance sections are attached. In summary:

- Of the 5 communities reviewed, only Woodbury prohibits barbed wire in commercial districts. Woodbury prohibits barbed wire in all platted areas.
- Maplewood permits the use of barbed wire fencing in commercial areas where the base fence is 6 feet or more in height.
- St. Paul Park and Cottage Grove permit barbed wire fence in business and industrial districts, with some conditions and a CUP.
- The City of Saint Paul permits barb wire fences with conditions in non-residential zoning districts, and lots that do not abut residential properties, with some conditions:
  - Barbed wire may not exceed 3 strands, and must be at least 6 feet from fished grade.
  - The request for barbed wire must include an application to the building inspector
  - The city requires a certificate of insurance and annual registration fee for barbed wire fences.

### **Planning Commission Discussion on July 10**

The Planning Commission should review the City's current ordinance and ordinance sections from neighboring communities as background information for the discussion. Some questions to address include the following:

- Should the City permit barbed wire fencing in business districts?
- If yes, should some conditions such as number of strands, height of fence, or permit requirements be included in the ordinance?
- Should the City consolidate the two existing sections of the ordinance that address fences into one section?
- Does the Commission want to recommend any other changes to the fence ordinance?

The Commission may provide direction to staff for an ordinance amendment. The amendment could be noticed and heard at the August meeting.



- 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.

- 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.

COTTAGE GROVE

**11-3-5: FENCES AND WALLS:****A. General Requirements For All Types Of Fences Or Walls:**

1. All chainlink fences must have a top rail, barbed ends must be placed at the bottom of the fence, and vertical posts must be spaced at intervals not to exceed ten feet (10').
2. All fences must be constructed in a substantial, workmanlike manner and of materials reasonably suited for the purpose for which the fence is proposed to be used.
3. All fences must be maintained in a condition of reasonable repair and must not remain in a condition of disrepair or constitute a nuisance.
4. No fence or wall may be closer than one foot (1') from a public walkway.
5. Razor wire fences are prohibited in all districts. Electric fences are prohibited in all districts, unless the property is used to fence livestock and has a minimum of five (5) acres of land. Barbed wire fences are prohibited in all districts, except for industrial zoned properties or properties used to fence livestock and has five (5) or more acres.
6. For fence regulations governing swimming pools, spas and hot tubs, see subsection 9-11-4C of this code.   
*GO TO "C" BELOW FOR COMMERCIAL DISTRICTS*
7. No fence may have boards, planks, or panels larger than one foot (1') in width.
8. All parts of a fence must be on the property of the owner of the fence. The owner of a fence is responsible to verify the location of their property lines.
9. The finished side of any fence or wall must face abutting property or street rights of way.
10. Public buildings and structures, public and private parks, and essential service utilities are exempt from the fence and wall requirements.
11. No fence or wall shall obstruct a motorist's or pedestrian's safe view from the driveway or street.

**B. Residential Fence Or Wall: All fences or walls must comply with the following:**

1. No fence or wall shall exceed six feet (6') above grade level along rear and side property lines or four feet (4') above grade level in the required front yard.
2. Fences within fifteen feet (15') of the front property line must be less than thirty inches (30") above grade level and not less than fifty percent (50%) transparent.

COTTAWE ORNE

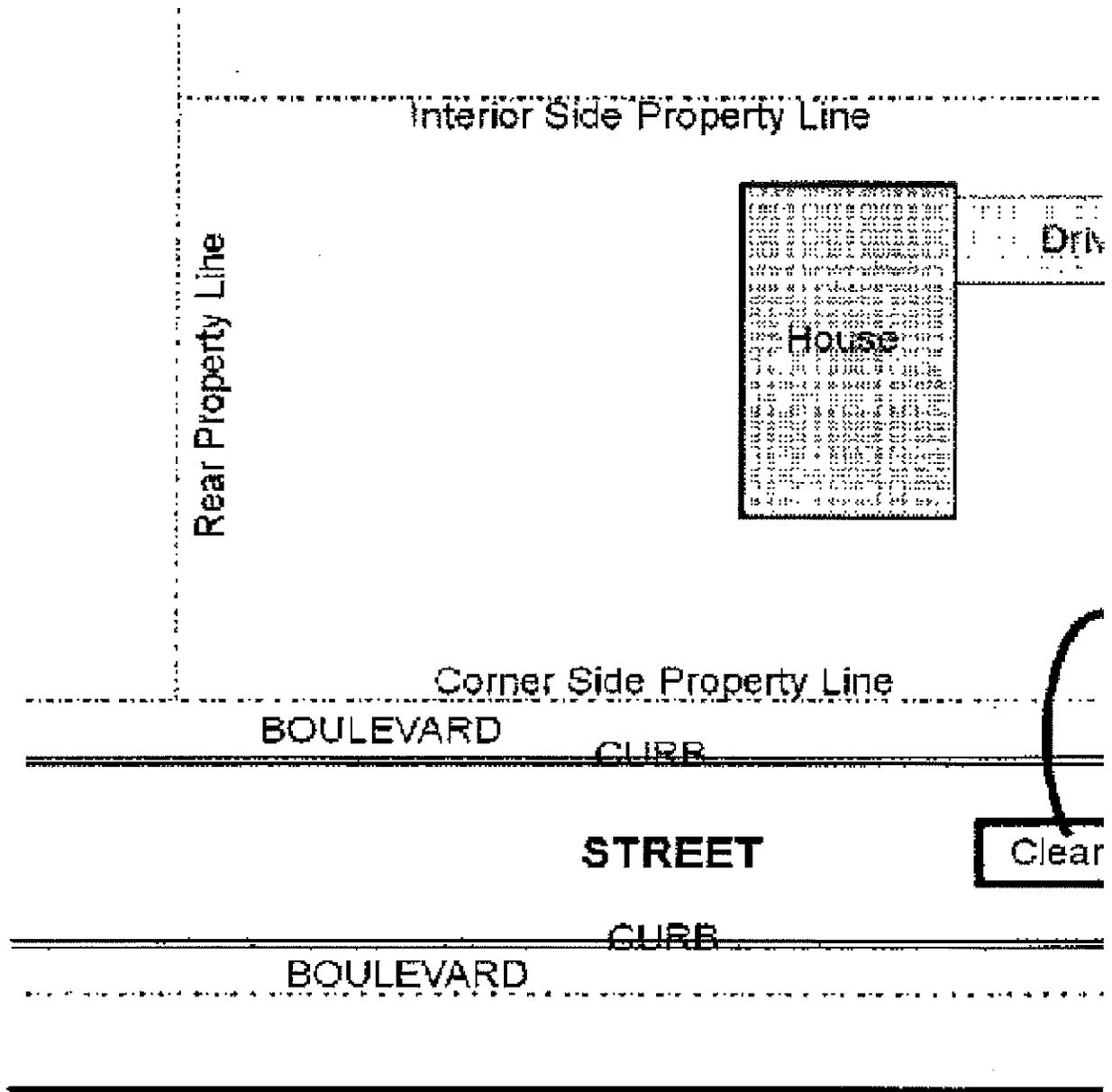
C. Business And Industrial Fence Or Wall: All fences or walls must comply with the following:

1. Fences in business and industrial districts must not exceed eight feet (8') above grade level and are prohibited in the required front yard. Fences in excess of eight feet (8') above grade level and not located in a required front yard require a conditional use permit.
2. Fences in business and industrial districts with barbed wire security extension posts must not exceed a height of six feet (6') (measured without the security extension post) above grade level. The security extension posts must not exceed three feet (3') in length and be angled in such a manner that it does not extend over the owner's property boundary line. Such security fencing is prohibited within a required front yard or within fifty feet (50') of a residential district.

D. Agricultural Fences:

1. Fences for agricultural uses must not be greater than six feet (6') above grade level and may be located along all property boundary lines.

E. Clear View Triangle: On corner lots, no structure or planting in excess of thirty inches (30") above the curb line or less than ten feet (10') above the curb line shall be permitted within a clear view triangle described as that area that begins at the intersection of the front property line and corner side property line and is measured back ten feet (10') along both property lines. Those points are then connected with a straight line.



(Ord. 849, 11-19-2008)

MAPLEWOOD

**Sec. 12-3. Fences.**

- (a) A fence that is within four feet of a property line shall be subject to the following restrictions:
- (1) Fences shall have a maximum height of six feet for residential and ten feet for nonresidential uses.
  - (2) A fence in a front yard that is at least 80 percent opaque must be approved by the director of community development if it is visible from an adjacent dwelling. The director may approve the fence if it does not significantly impair views.
  - (3) A fence is subject to chapter 32, article VII, which pertains to sight obstructions at intersections.
  - (4) The structural supports shall not be on the outside of a fence, facing the adjacent property.
  - (5) Barbed wire fencing shall only be used to fence in livestock on a farm and for top fencing around commercial uses where the base fence is six feet or more high.
  - (6) Fences shall be constructed and maintained in a workmanlike manner.
- (b) The city council may approve variations to this section after notifying the adjacent owners at least ten days before a meeting.

(Code 1982, § 9-3)

ST. PAUL PARK

**Sec. 74-221. Fences.**

- (a) *Location.* All fences shall be located entirely upon the private property of the persons constructing or causing the construction of such fence, unless the owner of the adjoining property agrees, in writing, that such fence may be erected on the division line of the respective properties. No fences shall be allowed on public rights-of-way. Where the property line is not clearly defined, a certificate of survey may be required by the building official to establish the property line.
- (b) *Construction and maintenance.* All fences shall be constructed and maintained to meet the following standards:
- (1) Every fence shall be installed so that the more finished side faces the adjacent property. If the fence has posts on one side, the posts shall be placed on the inside side of the fence.
  - (2) All fences must be constructed in a substantial, workmanlike manner and of materials reasonably suited for the purpose for which the fence is proposed to be used. Every fence shall be erected and maintained straight and plumb, maintained in a condition of reasonable repair, and shall not be allowed to become and remain in a condition of disrepair or danger, or constitute a nuisance, public or private. Any such fence which is or has become dangerous to the public safety, health or welfare is a public nuisance, and the city administrator shall commence proper proceedings for the abatement thereof or take other enforcement action as permitted by code.
  - (3) Chainlink fences, wherever permitted, shall be constructed in such a manner that no barbed ends shall be at the top. Electric and barbed wire fences shall not be permitted, except as provided under subsection (e) of this section.
  - (4) Solid walls in excess of six feet above adjacent ground grades shall be prohibited.
  - (5) Temporary fencing shall be allowed without a permit as follows:
    - a. Snow fences for the purpose of controlling drifting snow provided the fence is four feet in height or less, not within five feet of any side or rear property line, or placed within the public right-of-way. Such fencing shall not be placed prior to November 1 and shall be removed by April 1.
    - b. Erosion control fences are allowed without a permit in all districts in conjunction with a permitted activity necessitating such fencing.
    - c. Fencing of a temporary nature for the protection of excavation and construction sites and/or for the protection of plants or trees during excavation and construction may be allowed without a permit when associated with permitted activities.
- (c) *Private swimming pools.* All fencing around private swimming pools shall comply with chapter 18, article IV.
- (d) *Residential district fences.* In all parts of the city zoned residential, all fences shall conform with district setback requirements and no fence shall be erected or maintained more than four feet in height except that:
- (1) Fences on all corner lots erected within 30 feet of the intersecting property line shall be subject to section 74-223
  - (2)

Subject to other restrictions contained in this section, fences may be constructed to a height of six feet on or along the rear property line, the side property lines and it may return to the front corner of the principal structure.

- (3) Fences along any rear property line which is also the rear property line of an abutting lot may be constructed to a height of six feet.
- (4) Fences along a rear property line which line constitutes the side lot line of an abutting lot shall not exceed six feet in height and shall not exceed four feet in height when abutting a front yard line.
- (5) Fences shall be residential in nature such as chain link, wrought iron, vinyl, split-rail, or board and picket.
- (6) Poultry fencing may be permitted only in association with a permit for the limited keeping of chickens in section 10-10.

(e)

*Business and industrial district fences.* Fences in all business and industrial districts shall not exceed eight feet in height except that:

- (1) Fences abutting residential districts shall conform to those conditions applying to the residential district.
- (2) Fences which are primarily erected as a security measure may have arms projecting into the applicant's property on which barbed wire must be fastened commencing at a point at least seven feet above the ground.
- (3) Fences erected within the required front yard shall not be over six feet in height and shall be of a chainlink construction permitting maximum visibility. (f) Special purpose fences. Fences for special purposes and fences differing in construction, height or length than as required in this section may be permitted in any district in the city by issuance of a conditional use permit approved by the planning commission and city council. Findings shall be made that the fence is necessary to protect, buffer or improve the premises for which the fence is intended.

(g) All fences within the boundaries of the RD river development district shall observe the structure setbacks delineated in section 74-795(a).

(h) *Permits required.* It is unlawful for any person to construct or cause to be constructed any fence without first making an application for and securing a permit. A fee in the amount set forth in chapter 42 of this Code shall be paid for all fences constructed in the city. Submission materials are as required by section 74-42. Fees may be waived for fences being placed in conjunction with a separate use permit application.

(Code 1982, § 15.065; Ord. No. 594, § 1, 7-21-03; Ord. No. 643, § 1, 3-16-09; Ord. No. 647, § 6, 5-18-09; Ord. No. 705, § 2, 1-21-14)

approval under the provisions of Legislative Code sections 62.103 and 62.105 shall be constructed nor shall any existing unimproved lot be paved without first obtaining a building permit. Such lots shall not be used until the construction has been completed and approved by the building code officer.

- b. No off-street parking lot or loading and unloading area shall be repaved, modified, reconfigured or enlarged without first obtaining a building permit. The permit fee shall be one (1) percent of the total valuation, with a minimum fee of \$70.00.
- (23) *Tank installation and removal:*
- a. Tank removal: \$167.00.
  - b. Tank installation: One (1) percent of the total valuation, with a minimum fee of \$70.00.
- (24) *Other piping:* Includes process piping and miscellaneous piping that is not otherwise regulated under the state plumbing or mechanical code. The fee for other piping permits: One (1) percent of the total valuation, with a minimum fee of \$70.00.
- (25) *Grading:* For the placement, removal or movement of:
- a. Up to one thousand (1,000) cubic yards of fill, \$32.00 for the first one hundred (100) cubic yards, plus \$23.00 for each one hundred (100) additional cubic yards or fraction thereof.
  - b. Between one thousand one (1,001) and ten thousand (10,000) cubic yards of fill, \$239.00 for the first one thousand (1,000) cubic yards, plus \$19.00 for each additional one thousand (1,000) cubic yards or fraction thereof.
  - c. Between ten thousand one (10,001) and one hundred thousand (100,000) cubic yards of fill, \$410.00 for the first ten thousand (10,000) cubic yards, plus \$87.00 for each additional ten thousand (10,000) cubic yards or fraction thereof.
  - d. Greater than one hundred thousand (100,000) cubic yards of fill, \$1193.00 for the first one hundred thousand (100,000) cubic yards, plus \$48.00 for each additional ten thousand (10,000) cubic yards or fraction thereof.
- (26) Vacant building rehabilitation permit: Two hundred seventy-five dollars (\$275.00).
- (h) *Fees, exemption for city:* The city shall be exempted from the payment of permit fees required under this chapter where work is done by city employees on city-owned property not exclusively leased or rented to a party other than the city.

It is the intent of this paragraph only that payment of fees are waived. Permits as required by other sections of the Saint Paul Legislative Code are to be applied for and issued, inspections are to be made as required and compliance with all other requirements must be made.

(Code 1956, § 25.06; Ord. No. 16792, 5-16-81; Ord. No. 16796, 5-16-81; Ord. No. 16854, 11-19-81; Ord. No. 16899, 3-25-82; Ord. No. 16925, 5-27-82; Ord. No. 16957, 9-21-82; Ord. No. 17051, 9-13-83; Ord. No. 17070, 11-8-83; Ord. No. 17115, 3-13-84; Ord. No. 17151, 8-14-84; Ord. No. 17152, 8-14-84; Ord. No. 17153, 8-14-84; Ord. No. 17250, §§ 3—8, 6-13-85; Ord. No. 17469, § 1, 6-30-87; Ord. No. 17867, §§ 4—9, 8-13-91; C.F. No. 95-517, § 2, 6-21-95; C.F. No. 98-89, § 2, 3-4-98; C.F. No. 99-227, § 1, 4-14-99; C.F. No. 00-61, § 1, 2-9-00; C.F. No. 00-749, § 1, 9-20-00; C.F. No. 00-862, § 1, 11-15-00; C.F. No. 01-11, § 1, 2-7-01; C.F. No. 01-248, § 1, 4-4-01; C.F. No. 01-647, § 1, 7-18-01; C.F. No. 03-33, § 2, 2-12-03; C.F. No. 03-889, § 1, 11-5-03; C.F. No. 04-959, § 1, 11-3-04; C.F. No. 05-294, § 3, 4-27-05; C.F. No. 05-634, § 1, 11-16-05; C.F. No. 06-1132, § 1, 1-24-07; C.F. No. 07-149, § 5, 3-28-07; C.F. No. 07-1003, § 1, 11-14-07; C.F. No. 08-437, § 2, 5-28-08; C.F. No. 08-1080, § 4, 10-22-08; C.F. No. 08-1118, § 1, 11-12-08; C.F. No. 09-983, § 2, 10-28-09; Ord. No. 11-112, § 1, 12-14-11; Ord. No. 12-14, § 1, 3-28-12)

### Sec. 33.07. Fences—Requirements.

- (a) *Permit.* No person shall construct, or cause to be constructed, any fence in the city without first obtaining a permit therefor from the building official.
- (b) *Height of fences.* No fence shall be erected exceeding six (6) feet six (6) inches in height above the sidewalk or finished grade of any lot in a residence district or on any lot occupied for residential purposes. The applicant shall ensure that fences and all supporting structures shall be completely within the boundaries of such lot with no portion encroaching onto adjacent property. All fences erected between the front property line and the front setback line as defined in section 60.207 of the Saint Paul Legislative Code shall be no more than four (4) feet in height. On a corner lot at two intersecting streets in a residential zoning district, no fence, wall or other structure shall be allowed above a height of two (2) feet from sidewalk grade in the triangular area of the lot included within ten (10) feet of the corner along each lot line unless the structure is more than 80 % open. Fences for nonresidential uses in residential zoning districts shall not exceed eight (8) feet in height, except fences around tennis courts, which shall not exceed twelve (12) feet in height, back stop fences, which shall not exceed twenty (20) feet in height, and golf range fences, which shall not exceed thirty (30) feet in height. The selvage end of chain link or metal fences shall be smooth; knuckled ends are permitted, twisted ends are not permitted.
- (c) *Variances.* A variance of the fence height or corner clearance regulations may be granted if, after investigation by the building official, it is found that site, or terrain, or nuisance animal conditions warrant a waiver of the height restrictions. An application fee of seventy dollars (\$70.00) is required for each variance request.
- (d) *Swimming pool fences.* All yards of one- and two-family structures containing swimming pools shall be enclosed by an obscuring fence not less than four (4) feet in height. All yards of residential structures of three (3) or more units and commercial structures containing swimming pools shall be enclosed by an obscuring fence not less than five (5) feet in height. The gates shall be of a self-closing and self-latching type, with the latch on the inside of the gate, not readily available for children to open. Gates shall be capable of being securely locked when the pool is not in use.
- (e) *Barbed wire fences.* No barbed wire fence shall be constructed within the city limits of the city, except for police and correction facilities, unless the following conditions are complied with:
- (1) No fence which uses barbed wire may be built in, or abut, a residentially zoned district or built on or abut a lot occupied residentially.
  - (2) Barbed wire, not exceeding three (3) strands, may be permitted on the top of a fence; providing, that the arms do not project over public property. The minimum height to the bottom strand of the barbed wire shall not be less than six (6) feet from finished grade.
  - (3) In all cases where a barbed wire fence is requested, an application shall be made to the building official.
  - (4) A certificate of insurance indemnifying the City of Saint Paul shall be submitted with the application subject to the approval of the city attorney as to form and in an amount as set forth in Minnesota Statutes, Section 466.04. An annual registration fee of forty-one dollars (\$41.00) shall be paid at the time of the annual certificate of insurance renewal.
- (f) *Electric fences.* No aboveground electric fence shall be constructed within the city limits of the City of Saint Paul, except at Como Zoo for the containment of zoo animals.

(Code 1956, § 25.09; Ord. No. 17250, § 10, 6-13-85; C.F. No. 95-936, § 1, 8-30-95; C.F. No. 96-569, § 1, 8-7-96; C.F. No. 99-750, §§ 10, 11, 9-1-99; C.F. No. 02-309, § 1, 6-5-02; C.F. No. 04-289, 4-14-04; C.F. No. 05-635, § 1, 8-

10-05; C.F. No. 06-1132, § 1, 1-24-07; C.F. No. 07-336, § 1, 6-6-07; C.F. No. 07-526, § 1, 7-11-07; C.F. No. 08-437, § 4, 5-28-08; C.F. No. 08-1118, § 2, 11-12-08)

**Cross reference**— *Additional requirements and conditions pertaining to fences are contained in the zoning code. See the index for the location of specific requirements.*

Woodbury

Woodbury, Minnesota, Code of Ordinances >> - CITY CODE >> Chapter 6 - BUILDINGS AND BUILDING REGULATIONS >> ARTICLE IV. FENCES >>

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ARTICLE IV. FENCES

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Sec. 6-136. Generally.

Sec. 6-137. Appeals.

Sec. 6-138. Maintenance.

Sec. 6-139. Private swimming pools.

Sec. 6-140. Height.

Sec. 6-141. Reserved.

Sec. 6-142. Traffic obstruction.

Sec. 6-143. Placement along property lines.

Sec. 6-144. Placement of face of fence.

Sec. 6-145. Prohibited fencing.

Sec. 6-146. Easements.

Sec. 6-147. Fence materials.

Secs. 6-148—6-199. Reserved.

**Sec. 6-136. Generally.**

Fences are permitted in all yards, subject, however, to the provisions of this article.

*(Code 1985, § 310.02)*

*State law reference— State fence law, Minn. Stat. § 334.03; local fence viewers; legal and sufficient fences, Minn. Stat. § 344.02.*

**Sec. 6-137. Appeals.**

Appeals from the provisions of this article may be made pursuant to the variance procedures in chapter 24, article II, division 5.

*(Code 1985, § 310.03)*

**Sec. 6-138. Maintenance.**

All fences shall be properly maintained with respect to appearance and safety.

*(Code 1985, § 310.02(O))*

**Sec. 6-139. Private swimming pools.**

All fencing around private swimming pools shall comply with chapter 22, article II.

*(Code 1985, § 310.02(N))*

**Sec. 6-140. Height.**

- (a) A fence up to six feet in height may be erected on the rear lot line, the side lot lines and it may return to the front corner of the principal building and shall not be closer to the street than the front corner of the principal building.
- (b) Fences in business and industrial districts may be erected on the lot line to a height of six feet. Fences in these districts may be erected to a height of eight feet with a security arm for barbed wire subject to a special use permit.
- (c) Fences exceeding height limits in business and industrial zoning districts may be erected provided they do not encroach upon front or side yard requirements or within ten feet of a rear lot line. No fence shall exceed the height of the principal structure.
- (d) Fences in excess of 30 inches in height extending across front yards are not permitted in residential platted areas.
- (e) Fences may be up to eight feet in height when located in rear yard with setbacks from property lines as follows:
  - (1) Sides, ten feet.
  - (2) Rear, 35 feet.
- (f) A fence not exceeding four feet high may be erected on the side lot lines forward of the front corner of the principal building.

(Code 1985, § 310.02(A)—(C), (E)—(H), (M))

#### **Sec. 6-141. Reserved.**

*Editor's note—*

Ord. No. 1557, § 1557.07, adopted Sept. 26, 1990, repealed former § 6-141 of the Code, which pertained to required open space for passage of air and derived from the 1985 Code, § 310.02(I).

#### **Sec. 6-142. Traffic obstruction.**

No fence shall be constructed in a manner that would block the view of vehicular traffic or restrict snow plowing of streets.

(Code 1985, § 310.02(D))

#### **Sec. 6-143. Placement along property lines.**

Fences may be placed along property lines provided no damage of any kind results to abutting property. Fences placed on property lines are subject to section 6-146, easements.

(Code 1985, § 310.02(J); Ord. No. 1774, § 1774.01, 6-28-2006)

#### **Sec. 6-144. Placement of face of fence.**

The side of the fence considered to be the face (facing as applied to fence posts) shall face abutting property.

(Code 1985, § 310.02(K))

#### **Sec. 6-145. Prohibited fencing.**

Barbed wire and electric fencing are prohibited in platted areas.

*(Code 1985, § 310.02(L); Ord. No. 1796, § 1796.01, 11-29-2007)*

**Sec. 6-146. Easements.**

Any fence placed within an easement that impedes the access or intended use of that easement may be removed by the city or the city's representative at the owner's expense.

*(Ord. No. 1774, § 1774.02, 6-28-2006)*

**Sec. 6-147. Fence materials.**

In commercial, office, business park and city center zoning districts, fence materials shall be high-quality vinyl-coated chain link (minimum 9 gauge thickness with a required top rail support), brick, stone, wrought iron, decorative metal or other such material as approved by the city.

*(Ord. No. 1778, § 1778.01, 9-27-2006)*

**Secs. 6-148—6-199. Reserved.**



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## Memorandum

<b>To:</b>	Newport Planning Commission	<b>Reference:</b>	Historic Preservation Overlay District and Options
<b>Copies To:</b>	Deb Hill, City Administrator		
	Renee Eisenbeisz, Executive Analyst		
	Robert Vogel, Pathfinder CRM	<b>Project No.:</b>	15482.000
<b>From:</b>	Sherri Buss, RLA, AICP, Planner	<b>Routing:</b>	
<b>Date:</b>	July 1, 2014		

Newport’s Heritage Preservation Commission and Planning Commission members met in January to discuss the City’s existing Historic Neighborhood Conservation Overlay District and current activities. The Commissions discussed the purpose and history of the Overlay District Ordinance, and other planning tools that can help the City to meet its goals for Heritage Preservation. The Commissions met again in March to discuss a variety of options that are available for protecting Heritage Resources.

The Planning Commission requested that the HPC staff provide comments on what approaches might be most useful for Newport. Robert Vogel suggested the following:

- Regulations that address the size and massing of new buildings in historic areas so that they are compatible with existing buildings and the character of older neighborhoods are the HPC’s priority.
- Philosophically, the HPD is not so much interested in regulations that create historic districts, which other communities have done. Newport’s approach has always emphasized voluntary compliance with general preservation standards, establishing partnerships with historic property owners, and providing incentives for property owners to participate in the heritage preservation program.
- Making zoning regulations more “preservation-friendly” is a priority.

The Planning Commission should provide direction to staff on July 10 regarding any next steps in this discussion. Next steps could include:

1. The Commission could recommend that the City remove the existing Historic Neighborhood Conservation Overlay District from the Ordinance, since it has never been used; or a recommendation to modify the ordinance to make it implementable. A summary of the ordinance follows, below.
2. The Commission can review the existing ordinance and activities that the City has in place to address historic resources, and determine that they are adequate to meet the City’s goals for identification and protection of historic resources. A summary the City’s current efforts and ordinance requirements is included, below.

3. The Commission may recommend that staff bring some options for other changes to the ordinance to address massing or other characteristics of infill or redevelopment in the older areas of Newport. Several communities in the Metro Area (Edina, Minneapolis and Saint Paul) have recently looked at this issue and evaluated a variety of options. We can use the information they gathered to provide some ideas for Commission consideration.

### **Existing Neighborhood Conservation Overlay District Ordinance**

The goals of the Overlay District section of the Zoning Ordinance include the following

- To retain and enhance cohesive streetscapes that possess an identify of time and place;
- To assure that new construction in the Heritage Neighborhood Conservation Overlay District (HNCOD) is compatible with the character of the historic neighborhood;
- To protect and enhance the City's attractions to residents, tourists, and visitors;
- To promote the use of older buildings and neighborhoods for the education, pleasure and welfare of the people of Newport

At this time, no HNCOD has been identified in the City, and therefore the ordinance is not being implemented.

The ordinance says that the mechanism for including land within the City in the Overlay District is by a voluntary petition. The ordinance envisions that neighborhood residents who wish to be part of a District would voluntarily apply to create a HNCOD. The ordinance includes criteria for the establishment of a District. After an HNCOD is established, the ordinance provides a permit process for reviewing proposed building demolition, construction of new buildings or moving buildings within a district. The process includes HPC review and recommendation, approval of permits by the City Administrator, and an appeals process through the City Council. The ordinance proposes that the City Council shall adopt guidelines for the review of permit applications.

To date, no neighborhood has applied for designation as an HNCOD, and the City has not adopted heritage preservation guidelines for the review of permit applications. Should the City remove the Overlay District from the Zoning Ordinance, or modify it to be implementable?

### **Other Tools that Newport is currently using to address Heritage Preservation goals**

The City currently addresses heritage preservation in a variety of ways:

- *A chapter on heritage preservation in the Comprehensive Plan*, including an inventory of historic sites and resources, and goals and policies for heritage resources.
- Heritage Commission review and comment on zoning applications or building permits that could affect or are near historic properties. The HPC and its staff reviewed and commented on several projects and buildings in 2013.
- Historic Building or Site Designation. Building owners, citizens or governments may seek national, state or local designation of historic buildings or sites. This designation may protect the building or site from the impacts of adjacent activities, but does not



protect the historic character of the surrounding neighborhood. Historic Designation may make the building or site eligible for tax credits or other financial support.

Newport has no properties on the National Register of Historic Places. It does have a local Newport Heritage Landmark Program. The City Council has designated 21 properties as Newport Heritage Landmarks (see list attached in Annual Report for 2013.)

- *Residential Building Design Review Standards.* Section 1340, Subd. 3, of the Zoning Ordinance includes standards for reviewing construction on existing vacant lots within the R-1 District west of Highway 61. These standards are intended to ensure that the exterior design in-fill residential buildings in the older part of Newport are compatible in some basic ways with the existing residential buildings in the R-1 District. The standards are based on similar standards adopted a few years ago by the City of Saint Paul.
  - Applicants for building permits must also apply for a Design Review permit. The review is completed by City staff, and staff can request that the HPC and/or Planning Commission review the building plans if needed.
  - The standards require that the new buildings maintain similar setbacks, façade proportions, building elements (such as porches or roof forms), building materials, details and colors as buildings in the area. The ordinance does not require that the building design replicate historic architectural styles.
  - Above grade window and door openings must comprise at least 15% of the total area of exterior walls facing public streets or sidewalks, and at least 10% of the area of other exterior walls
  - Residential buildings must be set back far enough from the street to provide a private yard area between the boulevard and front door.
  - Building materials and architectural treatments used on sides of buildings facing public streets and on accessory structures should be similar to those used on the principal façade.
  - The design and siting of buildings should seek to preserve existing trees on the site and immediately adjacent lots. Landscape design should consider permeable materials for paths and driveways if needed to protect existing mature trees on the lot.

### **Other Options for Addressing Heritage Preservation through Planning and Zoning Activities**

The Cities of Edina, Minneapolis and Saint Paul are dealing with a large number of “tear downs” in older neighborhoods. The new homes are often significantly larger than the homes they replace. These cities have been working on a number of approaches that recognize the need to renew neighborhoods and provide homes that meet current tastes and standards, while not overwhelming existing homes, eliminating sunlight, and addressing other impacts. These items go beyond the items included in Newport’s design standards, and include a discussion of both regulatory and incentive approaches. They specifically address the “massing” issues raised by the HPC as a concern in Newport, with requirements for larger setbacks above a designated building height, and other requirements.

If the Planning Commission would like to look at additional options to address compatibility of in-fill development with existing older neighborhoods, the Planner can bring additional information about the options other communities have identified to the August meeting.

