



**CITY OF NEWPORT
PLANNING COMMISSION MEETING
NEWPORT CITY HALL
AUGUST 14, 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 July 10, 2014

4. APPOINTMENTS WITH COMMISSION

A. **Public Hearing** – To consider an application from Steven Bern for Approval of a Variance for Property Located at 1280 Kolff Court

1. Memos from Sherri Buss and Jon Herdegen
2. Application
3. Resolution No. P.C. 2014-10

B. **Public Hearing** – To consider amendments to the Zoning Code, Section 1300, Section 1330, Section 1350, and Section 1370.07

1. Memo from Sherri Buss
2. Resolution No. P.C. 2014-11
3. Resolution No. P.C. 2014-12

C. Discussion Regarding Request for Zoning Change on Brewery Items

5. COMMISSION & STAFF REPORTS

6. NEW BUSINESS

7. ANNOUNCEMENTS

A. Upcoming Meetings and Events:

- | | | |
|--------------------------------------|--------------------|-----------|
| 1. City Council Meeting | August 21, 2014 | 5:30 p.m. |
| 2. City Offices Closed for Labor Day | September 1, 2014 | |
| 3. City Council Meeting | September 4, 2014 | 5:30 p.m. |
| 4. Planning Commission Meeting | September 11, 2014 | 6:00 p.m. |

8. ADJOURNMENT



**City of Newport
Planning Commission Minutes
July 10, 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 –Renee Eisenbeisz, Executive Analyst; Sherri Buss, TKDA Planner; Tom Ingemann, Council Liaison

3. APPROVAL OF PLANNING COMMISSION MINUTES

A. Planning Commission Minutes of June 12, 2014

Motion by Mahmood, seconded by Haley, to approve the June 12, 2014 minutes as presented. With 5 Ayes, 0 Nays, the motion carried.

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

Sherri Buss, TKDA Planner, presented on this item as outlined in the July 10, 2014 Planning Commission Packet.

Kevin Haley - The curbing that you see coming off of Hastings, will the new curbing extend from there?

Ms. Buss - Yes and they'll create a driveway opening away from that corner and work with the owner on that.

The Public Hearing opened at 6:08 p.m.

Susan Lindoo - According to the regulations, maximum lot coverage is 80% and that is just buildings? So you can have 100% of the lot covered?

Ms. Buss - Yes and in this case, since he's not putting up any new buildings, we're not requiring him to do storm water management.

Matt Prestegaard - The boulevard work would help slightly.

Susan Lindoo - I think it would be nice to have a few trees along the boulevard.

Ms. Buss - We wouldn't require that since he's not changing the site and that's part of the Hastings Avenue right-of-way.

Susan Lindoo - So the City would put up trees?

Ms. Buss - Yes.

Vice-Chair Mahmood - When are they planning on doing Ford Road?

Executive Analyst Eisenbeisz - It's this summer. They're finishing up on this side and then move over to Ford Road, I think they said in August and September.

Vice-Chair Mahmood - And the curbing is down for water sakes?

Ms. Buss - It's usually for storm water, the whole street will get curbing.

Vice-Chair Mahmood - Because you would like to see it have no curbing right?

Tom Long, 2204 Hastings Avenue - In a perfect world, it would be the drive-up type of curb but it doesn't sound like that will happen so we'll need to live with the type of curb they put in.

Kevin Haley - I think it's an incredibly restricted lot and I would encourage us to give him that drive over curb. I drove over there and talked with the neighbors. Tom has been in this community a long time and other businesses encourage us helping him. I also drove around a bit more and the Newport Center has a drive over curb and it works and people use it all the time. If there were a curb there, it would be impossible to use the parking lot.

Ms. Buss - We can take that message back, it's already in the plans.

Executive Analyst Eisenbeisz - Those plans have been set since last year.

Matt Prestegaard - That's important but the approval of the CUP is independent of pursuing a change request in the project.

Ms. Buss - Yes and I know Jon plans to work with him on the location of the driveway.

Susan Lindoo - It seems like a pretty straight-forward CUP.

Bill Sumner, 737 21st Street - I'm a neighbor to this property and would like to see them have an opportunity to bring it up to an attractive business. As a member of the City Council, I like to support the businesses in the City. I stand in favor of this proposal. It's been said, new and used, you'll just be selling used correct?

Mr. Long - Yes.

Ms. Buss - Our use definition allows both.

The Public Hearing closed at 6:17 p.m.

Motion by Haley, seconded by Prestegaard, to approve Resolution No. P.C. 2014-9 as presented recommending that the City Council approve a CUP to allow for a vehicle sales, display and service use at 2204 Hastings Avenue. With 5 Ayes, 0 Nays, the motion carried.

B. Discussion Regarding Fences

Sherri Buss, TKDA Planner, presented on this item as outlined in the July 10, 2014 Planning Commission Packet. The Planning Commission directed the Planner to bring back an ordinance amendment for the August 14 meeting with the following:

- Combine Section 1330.05, Subdivisions 15 and 21 but have separate rules for residential and commercial businesses
- Allow barbed wire fence in all business and industrial districts and require the barbed wire to start at least six feet off the ground and point inwards.
- Require a permit for barbed wire fences in the mixed-use districts for the Zoning Administrator to approve or disapprove with the same requirements for business and industrial districts. Additionally, there cannot be barbed wire in the front of the building.

C. Discussion Regarding Historical Overlay District

Sherri Buss, TKDA Planner, presented on this item as outlined in the July 10, 2014 Planning Commission Packet. The Planning Commission directed the Planner to bring back an ordinance repealing Section 1370.07 for the August 14 meeting. The Planning Commission also requested that the Planner bring back sketches of what someone could do on different size lots in Newport.

5. COMMISSION AND STAFF REPORTS

6. NEW BUSINESS

Chairperson Lund - Have you heard from the Lehrke's lately? I spoke with them and there are two changes they would like us to make.

Executive Analyst Eisenbeisz - I know Deb spoke with them and told them that they need to bring something to us to put on the August agenda and we haven't heard back from them.

Chairperson Lund - The two changes they would like to see are removing the CUP requirement for the brewing and add a microbrewery as a permitted use in the MX-3 District. I think those are the only two things we could do to help them. I know it's a huge investment to put in that brewing equipment so being able to have the option of a microbrewery would help.

Kevin Haley - It's just a change in volume and it'll never be a rattling, tear up the neighborhood type of thing.

Susan Lindoo - So they don't want to be a brewpub?

Chairperson Lund - They want to be a brewpub in the near term but if they got better at brewing then they could move to a microbrewery.

Kevin Haley - All of our licenses are used up right now. If we took the CUP off of there, it won't have any impact on anyone because they're all licensed establishments right now.

Susan Lindoo - So we have the right to say never mind, you don't need a CUP even though our ordinance says that?

Executive Analyst Eisenbeisz - They're asking us to make it a permitted use.

Susan Lindoo - So we would change our ordinance?

Executive Analyst Eisenbeisz - That's what they're asking and Deb told them that they need to bring something to us, we won't put it on the agenda without a request.

Chairperson Lund - Should we put it on the agenda?

Kevin Haley - Let's put it on the agenda.

Executive Analyst Eisenbeisz - We need to see a request from them and what they want.

Chairperson Lund - We can ask you to put something on the agenda.

Susan Lindoo - If they want it why can't they write something up? It doesn't feel right that you two are lobbying for them.

Chairperson Lund - We're not lobbying for them, I'm just telling you what they said. It's very simple changes.

Councilman Ingemann - If odor becomes a problem you have no teeth in your ordinance, require a CUP.

Kevin Haley - We could make that part of the ordinance. As a liquor establishment, if they have people that are causing severe harm in the neighborhood we can take away their license.

Chairperson Lund - I wasn't advocating for them, I was just passing along the message.

Susan Lindoo - I know they want things but I'd feel better if they came here.

Vice-Chair Mahmood - Me too.

Kevin Haley - That's ok.

Chairperson Lund - Ok, we'll wait for them.

Kevin Haley - I live up where people have long driveways and our ordinance requires that if they sell, they need to pave their driveway, which could be two or three hundred feet long. I believe that Woodbury requires the first 25 or 30 feet. Bruce said there was potential soil washing off the street. Similar to Woodbury, we would require the first 25 or 30 feet.

Susan Lindoo - I thought we changed that a couple summers ago.

Executive Analyst Eisenbeisz - We don't have the length they need to pave. I know Bruce was looking to bring this to the City Council at some point.

Matt Prestegaard - It sounds reasonable.

Chairperson Lund - That's separate from zoning?

Executive Analyst Eisenbeisz - Yes, it's in our nuisance chapter.

Vice-Chair Mahmood - Who enforces that because my neighbor sold their house and their driveway washes out into mine all the time and they didn't pave it when it was sold. I brought it to Brian's attention.

Executive Analyst Eisenbeisz - Let me take a look at that because I know there was a condition in a purchasing agreement for a house on High Street that the new owners would take care of it because of the weather.

Kevin Haley - Can we put it on an agenda?

Executive Analyst Eisenbeisz - It was going to go to the City Council in the near future because it's in the nuisance section.

Kevin Haley - Can we put it on as a zoning issue? Doesn't that make sense?

Susan Lindoo - Is that under our jurisdiction?

Executive Analyst Eisenbeisz - I would need to check, I'll talk with Bruce and Deb.

Susan Lindoo - I would suggest you guys take the planning workshops that are being offered now because they are really useful. I think it's a really good workshop.

Executive Analyst Eisenbeisz - I sent out an email a couple weeks ago, I can resend it. The City pays for them.

Chairperson Lund - One more item, the DNR is working on a new set of rules for the River, has the City been involved in that?

Executive Analyst Eisenbeisz - I believe Deb has been, I haven't.

7. ANNOUNCEMENTS

Executive Analyst Eisenbeisz - Booya is July 13 and the parade is on July 12 at 6:30 p.m.

Chairperson Lund - Pioneer Day is August 10 and our next meeting is August 14.

8. ADJOURNMENT

Motion by Mahmood, seconded by Haley, to adjourn the Planning Commission Meeting at 7:03 P.M. With 5 Ayes, 0 Nays, the motion carried.

Signed: _____
Dan Lund, Chairperson

Respectfully submitted,

Renee Eisenbeisz
Executive Analyst



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

Memorandum

To:	City of Newport Planning Commission	Reference:	Bern Variance Request
Copies To:	Deb Hill, City Administrator	Project No.:	15481.006
	Renee Eisenbeisz, Executive Analyst		
	Steve Bern, applicant and property owner		
From:	Sherri Buss, RLA AICP, Planner	Routing:	
Date:	August 4, 2014		

SUBJECT: Bern Variance Request for Garage Expansion

MEETING DATE: August 14, 2014

LOCATION: 1280 Kolff Court

APPLICANT: Steve Bern
1280 Kolff Court

ZONING: RE (Residential Estates District)

60-DAY PERIOD: September 13, 2014

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

BRIEF DESCRIPTION OF THE REQUEST

The applicant is requesting a variance from the required 40-foot front yard setback in the RE District to expand an existing detached garage. He is requesting an 11-foot setback from the property line for the expanded structure. The expansion also requires a variance from the ordinance requirements for expansion of nonconforming structures. The parcel size is .79 acres in size.

BACKGROUND

The applicant is requesting a variance to expand an existing garage on the property at 1280 Kolff Court. He is requesting to expand the garage on the north side, which faces Kolff Court.

The applicant indicated that expansion in other directions would impact existing slopes, retaining walls, mature trees that screen the garage, and drainage patterns in the area. The garage structure will be placed on a paved area that is currently used for parking.

The existing garage is located approximately 27 feet from the north (front) property line. The ordinance requires a minimum 40' front yard setback. Therefore the existing structure is nonconforming. The ordinance section on the expansion of nonconforming structures states that nonconforming buildings may not be expanded by more than 20% of the foundation size, unless the expansion meets all setback, lot coverage, building height and lot dimension standards. The proposed structure does not meet the all setback requirements, and therefore requires a variance from the ordinance requirements related to the expansion of nonconforming structures.

EVALUATION OF THE REQUEST

Comprehensive Plan

The property at Oakridge Drive is located in the Residential Estates (RE) Zoning District. The District goals and policies support residential uses and related accessory uses in the district. The Comprehensive Plan also supports the protection of steep slopes and existing trees and woodlands. The proposed use is consistent with the Comprehensive Plan.

Development Code Requirements: Lot sizes and Setbacks

The minimum lot size in the RE Zoning District is currently 2 acres. The applicant's lot is .79 acres in size, and is therefore a nonconforming lot in the RE District.

The setback requirements in the RE Zoning District are as follows:

- Front yard setback, all structures: 40 feet
- Side yard setback for garages: 20 feet
- Rear yard setback for garages: 20 feet

The applicant is requesting a variance to locate the new garage 11 feet from the front yard lot line on Century Avenue, rather than the required 40 feet. The proposed structure would be located 84' from the nearest side lot line, and approximately 130' from the rear lot line. The proposed structure requires a variance for the front yard setback, and meets the other setback requirements.

The expanded garage is proposed to be located only 11 feet from the road right-of-way. The Planner recommends that if the variance is approved, a condition be included to prohibit parking on the Kolff Court right-of-way from November 1 to April 30, to allow for snow-clearing, and prevent potential property damage and claims against the City.

Number and Size of Accessory Structures

The zoning ordinance permits up to 2 accessory structures with a total footprint that may be no larger in area than the footprint of the principal structure, and a maximum of 2,000 square feet in area on lots that are less than 2 acres in size in the RE District.

The footprint of the existing home is approximately 2,000 square feet. The existing garage is 576 square feet in size, and the applicant is proposing to expand the area by 384 square feet, to



a total of 960 square feet. The total number and size of accessory structures meets the ordinance requirement.

Building Height and Materials

The ordinance requires that the new garage be no taller than the existing home, using the City's definition of building height. The existing garage is a one-story structure that meets this requirement. Building plans were not included in the application, but will be submitted for a building permit. The building inspector will verify that the height of the garage will not exceed the height of the primary structure. The Planner has included a condition that the height of the garage shall meet the ordinance requirement, and shall be verified by the building inspector.

The zoning ordinance requires that all accessory structures over 150 square feet in size be compatible with the principal structure in terms of design, roof style, roof pitch, color and exterior finish materials. The applicant did not submit plans showing the design and materials that proposed for the new garage with his application, but indicated verbally in the application that the new structure will be designed to fit with the existing house and landscape. Design information is required with the building permit application. The Planner has included a condition that City staff shall review the plans showing the design and materials, and they must meet the ordinance requirements.

Lot Coverage

The zoning ordinance allows a maximum 20% lot coverage in the RE District. The planner estimated that the existing lot coverage on the parcel is approximately 14%, based on the aerial photo and building dimensions submitted by the applicant. Since the garage expansion is proposed on an area that is currently paved, the lot coverage would remain approximately 14%. The proposed garage expansion meets the lot coverage requirement.

Stormwater Management

The proposed garage will not exceed the lot coverage requirement. The expansion is proposed to the north to avoid disruption of existing drainage patterns in the neighborhood. The City Engineer reviewed the proposed expansion, and indicated that he and the public works staff have no objections to the proposed garage expansion. No additional stormwater practices are needed to meet the ordinance requirements.

Engineer's Comment

City Engineer Herdegen reviewed the proposed garage expansion, and submitted a memo (July 28) with comments. He noted that "As part of the 2014 Street Improvements project, Kolff Court will be reconstructed this summer. We request the applicant notify the City at least 7 days prior to beginning construction so that we are able to coordinate the work with our general contractor." The Planner included this condition in the conditions proposed for the variance approval.

ORDINANCE REQUIREMENTS FOR EVALUATING A VARIANCE REQUEST

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

- Granting the variance is consistent with the Comprehensive Plan, and in harmony with the general purposes and intent of the zoning ordinance.



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

Findings

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

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

The Comprehensive Plan and Zoning Ordinance state that the purpose of the RE District is to preserve, create and enhance areas for low-density single-family residential dwellings in areas identified in the Comprehensive Plan. The Zoning Ordinance permits residential accessory structures that support the single-family use. The Comprehensive Plan and Zoning Ordinance also seek to protect steep slopes and mature trees. The variance is proposed to help to meet those goals on the subject property. The requested variance is therefore consistent with the goals of the Comprehensive Plan and in harmony with the general purposes of the Zoning Ordinance.

- *The proposed use is reasonable.*

Single family homes and related accessory structures are permitted uses in the RE Zoning District. Therefore, the proposed use is a reasonable use.

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

The practical difficulties related to the expansion of the garage are the result of the location of the existing garage, slopes, retaining walls and mature trees; and the need to maintain the existing drainage patterns in the area. The applicant did not create the practical difficulties.

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



Other properties in the area have garages that are located relatively close to Kolff Court. The existing mature trees on three sides of the expanded structure will screen the garage from view from adjacent homes. The Planner suggests that the addition will not alter the essential single-family character of the area.

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

The variance request is based on practical difficulties related to the location of the existing garage, slopes, retaining walls, mature trees, and the need to preserve existing drainage patterns in the area. The request is not based on economic considerations alone.

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

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

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

The proposed location is the minimum setback needed to accommodate the additional garage space needed, and avoid impacts to existing slopes, retaining walls, and mature trees and maintain the existing drainage patterns. The variance is the minimum action required to eliminate the practical difficulty.

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

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

The findings support granting the variance. The Planning Commission should listen to comments at the public hearing on August 14, discuss the Planner's findings, and make its recommendation to the Council regarding the variance request.

ACTION REQUESTED

The Commission can recommend to the City Council:

1. Approval
2. Approval with conditions
3. Denial with findings



4. Table the request, if additional information is needed to make a decision

PLANNING STAFF FINDINGS AND RECOMMENDATIONS

The Planner recommends that the Planning Commission recommend to the City Council approval of a variance from the front setback requirement and requirements for expansion of nonconforming structures to locate a garage a minimum of 11 feet from the front lot line on the parcel at 1280 Kolff Court.

The Planner finds the following:

1. The variance request is consistent with the Comprehensive Plan's goals to permit single-family uses in the RE Zoning District and protect steep slopes and mature trees.
2. The proposed single-family use and related accessory structure are reasonable uses in the RE District.
3. The practical difficulties are related to the location of the existing garage, slopes, retaining walls and mature trees, and the need to maintain the existing drainage patterns. The owner did not create the practical difficulties.
4. Granting the variance will not alter the essential single-family character of the area.
5. The variance request is based on the practical difficulties related to the existing structures on the parcel and physical character of the property, and not on economic considerations alone.
6. The proposed entry addition will not impair the supply of light or air to adjacent properties, increase street congestion, increase the danger of fire or endanger public safety, or impair property values within the neighborhood.
7. The variance is the minimum front setback in order to accommodate the proposed structure.
8. Granting the variance will not affect access to direct sunlight for solar energy systems.

The Planner recommends the following conditions:

1. The proposed garage shall conform to the plan submitted to the City and dated July 16, 2014. The minimum garage setback from the front lot line shall be 11 feet.
2. The Applicant shall obtain a building permit for the proposed garage.
3. The garage shall be no taller than the principal structure.
4. The design of the proposed garage shall be compatible with the principle structure in terms of design, roof style, roof pitch, color and exterior finish materials. The design information shall be included with the building permit application and reviewed by City staff to determine consistency with the ordinance requirements.
5. The applicant shall notify the City at least 7 days prior to beginning construction so that the City can coordinate the work with the general contractor for the 2014 Street Improvements project.



6. Parking shall be prohibited on the Kolff Court right-of-way between November 1 and April 30.
7. The applicant shall pay all fees and escrow associated with this application.





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MEMO

To: Ms. Sherri Buss, City Planner
From: Jon Herdegen, P.E. – Project Engineer
Subject: Steven Bern Variance Request – 1280 Kolff Court
Date: July 28, 2014

We reviewed the variance application submitted by Mr. Bern for his property located at 1280 Kolff Court. We understand that the applicant is proposing to construct a garage addition approximately 31' from the existing edge Kolff Court (11' from the north property line). We have conducted a site visit and discussed the proposed variance request with the Public Works Staff. We do not have any objections to the proposed garage location.

As part of the 2014 Street Improvements project, Kolff Court will be reconstructed this summer. We request the applicant notify the City at least 7 days prior to beginning construction so that we are able to coordinate the work with our general contractor.

If you have any further questions or concerns, please contact me directly at (612) 548-3124 or jherdegen@msa-ps.com. Thank you very much.

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

Page 1 of 1

City of NEWPORT Planning Request Application

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

Application Date: JULY 10, 2014 Public Hearing Date August 14, 2014

Applicant Information

Name: STEVEN BERN Telephone: 651 271 6082
Mailing Address: 1280 KOLFF CT Telephone: _____
City/State/Zip: NEWPORT MN 55055

Property Owner Information

Name: STEVEN BERN Telephone: 651 271 6082
Mailing Address: 1280 KOLFF CT Telephone: _____
City/State/Zip: NEWPORT MN 55055

Project Information

Location of Property: 1280 KOLFF CT.

Legal Description of Property (Must match description on the Deed) and P.I.D. #: _____
SEE ATTACHED

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

Escrow Fees

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

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

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

Present Use of Property: RESIDENTIAL

State Reason for Planning Request: SEE ATTACHES

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: Steven A. Bern

SIGNATURE OF OWNER (IF APPLICABLE): _____

For Office Use

Fee: \$800 Date Paid: 07/16/14 Receipt #: _____

Publication of Notice Date: _____

Public Hearing Date: August 14, 2014

P.C. Resolution #: _____

Council Action Date: _____

Council Resolution #: _____

Check from Steven Bern



Variance Application Checklist

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

GENERAL REQUIREMENTS:

INCLUDED IN SUBMITTAL

- | | | |
|---|---|-----------------------------|
| 1. Application Form, signed by Owner and Applicant | <input checked="" type="checkbox"/> YES | <input type="checkbox"/> NO |
| 2. Fees | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| 3. Escrow | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| 4. Complete legal description and PID number of all parcels included in the request. The legal descriptions must be copied directly from the deed and provided in a word document. | <input checked="" type="checkbox"/> YES | <input type="checkbox"/> NO |
| 5. A statement fully describing the request and the Practical Difficulties (see second page) | <input checked="" type="checkbox"/> YES | <input type="checkbox"/> NO |
| 6. A map, aerial photo or plat showing the parcel in question and all property within five hundred (500) feet of the parcel boundaries. | <input checked="" type="checkbox"/> YES | <input type="checkbox"/> NO |
| 7. Site Plan | <input checked="" type="checkbox"/> YES | <input type="checkbox"/> NO |
| <ul style="list-style-type: none"> • 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 locations and dimensions | <input checked="" type="checkbox"/> YES | <input type="checkbox"/> NO |
| 4. Existing and proposed setbacks | <input checked="" type="checkbox"/> YES | <input type="checkbox"/> NO |
| 5. Buildable area and area of site covered by existing and proposed impervious surfaces | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| 6. Driveways | <input checked="" type="checkbox"/> YES | <input type="checkbox"/> NO |
| 7. Septic system and well (if applicable) | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| 8. Vegetation and landscaping (if applicable to the request) | <input checked="" type="checkbox"/> YES | <input type="checkbox"/> NO |

Property Address:
1280 Kolff Court
Newport, MN 55055

Legal Description:
PT E1/2 OF SW1/4 OF SE1/4 COM @ A STONE MON @ SE COR OF SW1/4 OF SE1/4 OF
SEC 25 THN N ON SD E LN OF SW1/4 OF SE1/4 200 FT THN W @ RT ANG 431 FT TO POB
OF TRACT THN CONT W ON AFORSD LN 194.4 FT THN N 192 FT THN SELY 198 FT TO A
POINT 160FT N FROM POB THEN S 160 FT TO POB Section 25 Township 028 Range 022

PID:
25.028.22.43.0012

Parcel size: 34,232 SF (0.786 acres)

Aerial View:

structure to fit in with the existing house and fit in with the existing landscape. Applicant's last expansion project was an major addition that won an award from the City of Newport.

Note: the pictures show the existing and proposed footprints of the various structures, and do not show an expected roof eave overhang of up to 18". If the eave is included in the variance, then the requested setback would need to accommodate an additional 18": ie, 29.5' from the edge of the road, and 9.5' from the property line.

Reference is made to attached pictures, which were taken at points indicated with red ink in the Plan drawing.

Picture 1 shows the front of the existing garage and a truck located between the north garage wall and a privacy fence. The proposed garage structure would encompass the area occupied by the truck, and extend beyond the privacy fence shown at right.

Picture 2 shows a better view of the privacy fence. It is believed the essential character of the property will not be altered because the new garage structure will largely encompass an area used as a parking spot currently, and the whole structure is situated away from the house.

Picture 3 shows one view of the rear grade. Two large trees may be seen proximate the existing garage structure.

Picture 5 shows the two tiers of retaining walls necessary to accommodate the garage structure.





TENNIS
651-459-1687

Pajkiy
Court



#3

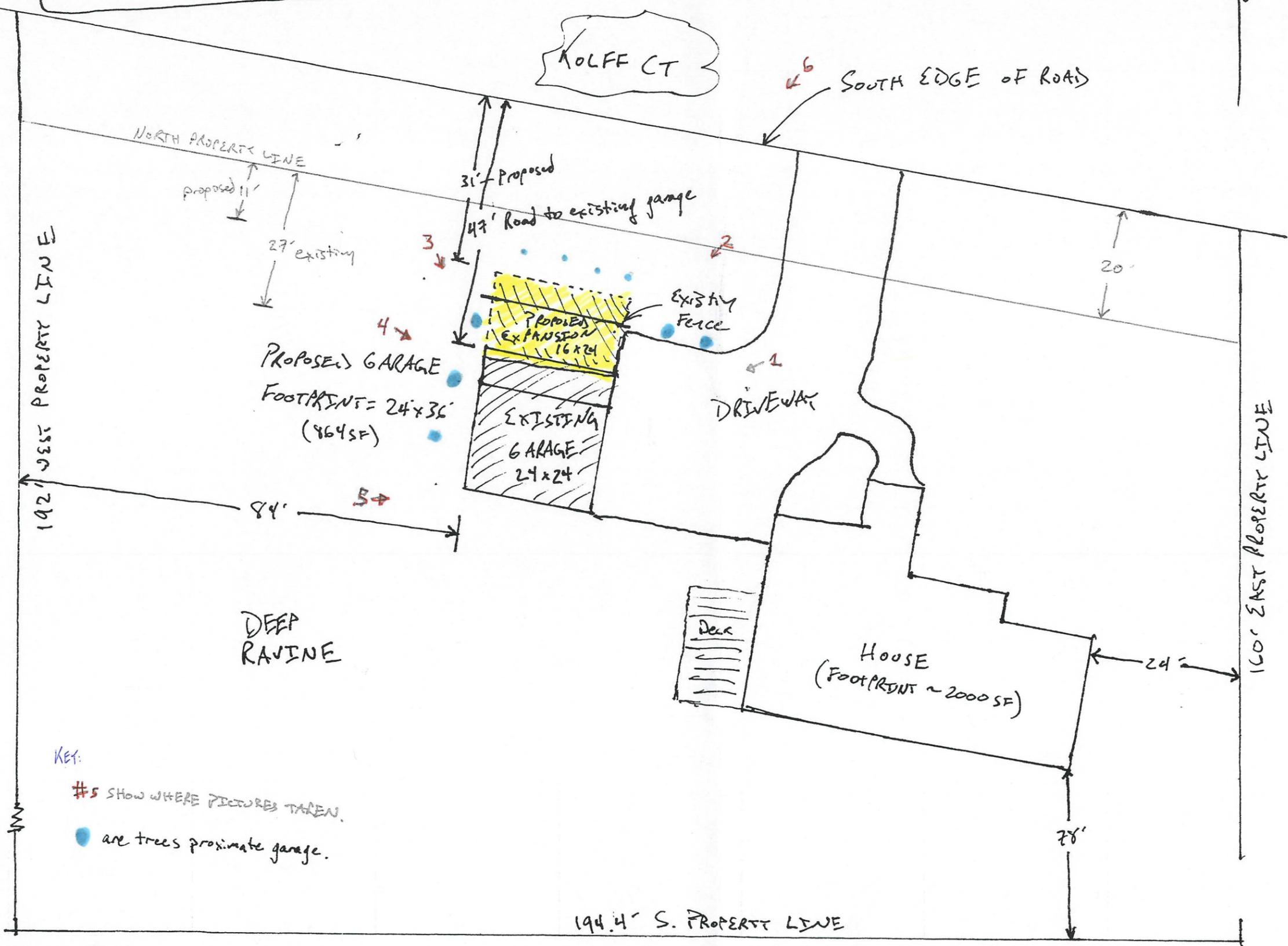






#6

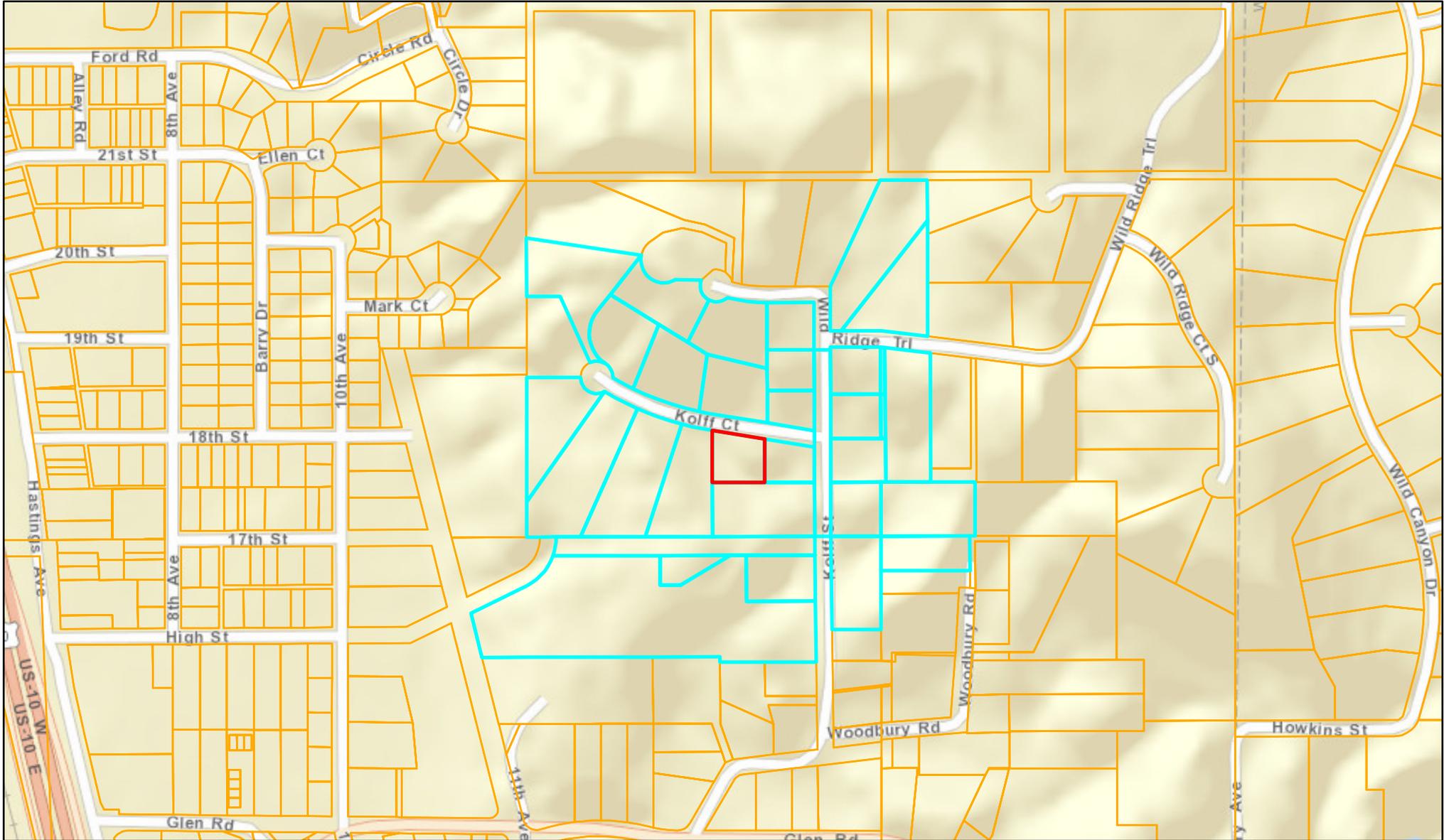
1280 KOLFF CT. GARAGE EXPANSION PROJECT



KEY:
 #5 SHOW WHERE PICTURES TAKEN.
 ● are trees proximate garage.

OWNER: STEVEN BERN (651) 271 6082
 1280 KOLFF CT
 NEWPORT, MN 55055

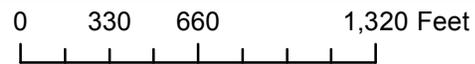
Prepared 7/8/2014



Parcel ID: 2502822430012

Parcel Address:
1280 KOLFF CT, CITY OF NEWPORT

Created on 7/16/2014



**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.

**CITY OF NEWPORT
PLANNING COMMISSION**

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

Notice is hereby given that the Newport Planning Commission will hold a Public Hearing on Thursday, August 14, 2014, at 6:00 p.m. or as soon thereafter, in the City Hall Council Chambers at the Newport City Hall, 596 7th Ave., Newport, MN, to consider an application from Steven Bern, 1280 Kolff Court, Newport, MN 55055, for approval of a variance at the same location. The request is for a front yard variance.

Said property is legally described as:

PID# 25.028.22.43.0012 - PT E1/2 OF SW1/4 OF SE1/4 COM @ A STONE MON @ SE COR OF SW1/4 OF SE1/4 OF SEC 25 THN N ON SD E LN OF SW1/4 OF SE1/4 200 FT THN W @ RT ANG 431 FT TO POB OF TRACT THN CONT W ON AFORS LN 194.4 FT THN N 192 FT THN SELY 198 FT TO A POINT 160FT N FROM POB THEN S 160 FT TO POB Section 25 Township 028 Range 022

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

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

Dated this 21st day of July, 2014

Deb Hill
City Administrator

(Publish in the Washington County Bulletin Wednesday, July 30, 2014)

ADDRESS/PID #	OWNER	OWNER'S MAILING ADDRESS	CITY, STATE, ZIP
1775 KOLFF STREET	AKERS JONATHAN R	1775 KOLFF STREET	NEWPORT MN 55055
25.028.22.44.0028	ALBRECHT SUSAN J & NANCY DESMOND	1520 WILD RIDGE TRAIL	NEWPORT MN 55055
1265 KOLFF COURT	ANDERSON ROBERT W & JANICE A	1265 KOLFF COURT	NEWPORT MN 55055
1800 KOLFF STREET	BAILEY DUANE D & DESIREE F	1800 KOLFF STREET	NEWPORT MN 55055
1675 KOLFF ROAD	BROWN KIM L	1675 KOLFF ROAD	NEWPORT MN 55055
1240 KOLFF COURT	BUTTERY HOWARD J	1240 KOLFF COURT	NEWPORT MN 55055
1275 KOLFF COURT	CHAMBERLAIN MICHAEL	1275 KOLFF COURT	NEWPORT MN 55055
36.028.22.12.0001	CITY OF NEWPORT	596 7TH AVENUE	NEWPORT MN 55055
36.028.22.12.0029	CITY OF NEWPORT	596 7TH AVENUE	NEWPORT MN 55055
1900 KOLFF STREET	ELKIN ERIC W & MARGARET H	1900 KOLFF STREET	NEWPORT MN 55055
1921 KOLFF STREET	ELLNER PATRICK S & MIRENDA A M	1921 KOLFF STREET	NEWPORT MN 55055
1285 KOLFF COURT	GONZALEZ HERMAN & JILL	1285 KOLFF COURT	NEWPORT MN 55055
1420 WILD RIDGE TRAIL	GRAVES ROBERT W & BETH M	1420 WILD RIDGE TRAIL	NEWPORT MN 55055
1270 WILD RIDGE TRAIL	HOFFA JOEL R & JUNE M	1270 WILD RIDGE TRAIL	NEWPORT MN 55055
1820 KOLFF STREET	JACOBSON LIVING TRS	1820 KOLFF STREET	NEWPORT MN 55055
1698 KOLFF STREET	LESSARD JENNIFER A & ROMNES C & CARRIE D	PO BOX 222	COTTAGE GROVE, MN 55016
1280 WILD RIDGE TRAIL	LINDOO SUSAN J & WOLESKY & MICHAEL R WO	1280 WILD RIDGE TRAIL	NEWPORT MN 55055
1830 KOLFF STREET	MURPHY TIMOTHY P & LINDA L	1830 KOLFF STREET	NEWPORT MN 55055
1345 WILD RIDGE TRAIL	MUYSKENS STEPHEN G & NANCY J	1345 WILD RIDGE TRAIL	NEWPORT MN 55055
1250 KOLFF COURT	NIEBUHR ROBERT H	1250 KOLFF COURT	NEWPORT MN 55055
1821 KOLFF STREET	PAWLIK ROBERT C & N SHIRLEY	1821 KOLFF STREET	NEWPORT MN 55055
1270 KOLFF COURT	ROBINSON JEFFREY C & BEVERLY	1270 KOLFF COURT	NEWPORT MN 55055
36.028.22.11.0036	SANCHEZ GILBERT G & GRACE L	7780 MILITARY ROAD	WOODBURY, MN 55129
1260 KOLFF COURT	SCHWEIHS RUSSELL P	1260 KOLFF COURT	NEWPORT MN 55055
25.028.22.44.0005	TAX FORF LAND-STATE OF MN	14949 62ND ST N	STILLWATER MN 55082
25.028.22.44.0006	TAX FORF LAND-STATE OF MN	14949 62ND ST N	STILLWATER MN 55082
1295 KOLFF COURT	THOEMKE RUSSELL G & SHELLY J	1295 KOLFF COURT	NEWPORT MN 55055
1271 WILD RIDGE TRAIL	VANVOORST ANGELA M & KEVIN L	1271 WILD RIDGE TRAIL	NEWPORT MN 55055
1911 KOLFF STREET	WAMSTAD BRUCE L & LORI A	1911 KOLFF STREET	NEWPORT MN 55055
1355 WILD RIDGE TRAIL	WRIGHT THOMAS C & BRENDA M	1355 WILD RIDGE TRAIL	NEWPORT MN 55055
1817 KOLFF STREET	YANGXIAVUA CURTIS & MICHELLE YANG	1817 KOLFF STREET	NEWPORT MN 55055

**PLANNING COMMISSION
RESOLUTION NO. P.C. 2014-10**

**A RESOLUTION RECOMMENDING CITY COUNCIL APPROVE A VARIANCE
REQUESTED BY STEVEN BERN, 1280 KOLFF COURT, NEWPORT, MN 55055 FOR
PROPERTY LOCATED 1280 KOLFF COURT, NEWPORT, MN 55055**

WHEREAS, Steven Bern, 1280 Kolff Court, Newport, MN 55055, has submitted a request for a Variance; and

WHEREAS, the property is located at 1280 Kolff Court, Newport, MN 55055, and is more fully legally described as follows:

PID# 25.028.22.43.0012 - PT E1/2 OF SW1/4 OF SE1/4 COM @ A STONE MON @ SE COR OF SW1/4 OF SE1/4 OF SEC 25 THN N ON SD E LN OF SW1/4 OF SE1/4 200 FT THN W @ RT ANG 431 FT TO POB OF TRACT THN CONT W ON AFORS LN 194.4 FT THN N 192 FT THN SELY 198 FT TO A POINT 160FT N FROM POB THEN S 160 FT TO POB Section 25 Township 028 Range 022

WHEREAS, The described property is zoned Residential Estate (RE); and

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

WHEREAS, Following publication, posted, and mailed notice thereof, the Newport Planning Commission held a Public Hearing on August 14, 2014; and

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

1. The variance request is consistent with the Comprehensive Plan's goals to permit single-family uses in the RE Zoning District and protect steep slopes and mature trees.
2. The proposed single-family use and related accessory structure are reasonable uses in the RE District.
3. The practical difficulties are related to the location of the existing garage, slopes, retaining walls and mature trees, and the need to maintain the existing drainage patterns. The owner did not create the practical difficulties.
4. Granting the variance will not alter the essential single-family character of the area.
5. The variance request is based on the practical difficulties related to the existing structures on the parcel and physical character of the property, and not on economic considerations alone.
6. The proposed entry addition will not impair the supply of light or air to adjacent properties, increase street congestion, increase the danger of fire or endanger public safety, or impair property values within the neighborhood.
7. The variance is the minimum front setback in order to accommodate the proposed structure.

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

NOW, THEREFORE, BE IT FURTHER RESOLVED That the Newport Planning Commission **Hereby Recommends Newport City Council Approval** for a Variance to Allow a Front Yard Setback of 11 feet and a Variance from the requirements for expansion of a nonconforming structure with the following conditions:

1. The proposed garage shall conform to the plan submitted to the City and dated July 16, 2014. The minimum garage setback from the front lot line shall be 11 feet.
2. The Applicant shall obtain a building permit for the proposed garage.
3. The garage shall be no taller than the principal structure.
4. The design of the proposed garage shall be compatible with the principle structure in terms of design, roof style, roof pitch, color and exterior finish materials. The design information shall be included with the building permit application and reviewed by City staff to determine consistency with the ordinance requirements.
5. The applicant shall notify the City at least 7 days prior to beginning construction so that the City can coordinate the work with the general contractor for the 2014 Street Improvements project.
6. Parking shall be prohibited on the Kolff Court right-of-way between November 1 and April 30.
7. The applicant shall pay all fees and escrow associated with this application.

Adopted this 14th day of August, 2014 by the Newport Planning Commission.

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

Signed: _____
Dan Lund, Chairperson

ATTEST: _____
Deb Hill, City Administrator



MEMO

TO: Newport Planning Commission
Deb Hill, City Administrator

FROM: Renee Eisenbeisz, Executive Analyst

DATE: August 5, 2014

SUBJECT: Resolutions No. P.C. 2014-11 and 2014-12

BACKGROUND

Please find attached Resolution No. P.C. 2014-11 and Resolution No. P.C. 2014-12 which recommends the City Council amend Sections 1300, 1330, 1350 and 1370.07. The amendments are before you for the below reasons:

- Section 1300 - Staff is recommending that Section 1300.01, Subd. 82 be removed.
- Section 1330 - The Planning Commission discussed amending Section 1330.05, Subd. 15 and 21 regarding fences. Please see Sherri's memo regarding these amendments.
- Section 1350 - Staff is recommending that Section 1350.14(A) be amended to include lot coverage for single-family homes in mixed-use districts.
- Section 1370.07 - The Planning Commission discussed repealing Section 1370.07. Please see Sherri's memo regarding this amendment.

DISCUSSION

Mobile Homes - Per Section 1300.01, Subd. 82, mobile homes have the same meaning as manufactured single-family dwellings but are only allowed in the RE District with a CUP whereas manufactured dwellings are allowed in all residential districts. Since mobile homes are not allowed in every district like the manufactured homes, staff is recommending that this Subdivision be removed so as not to confuse individuals. Additionally, staff can determine if a home is considered mobile when an individual submits a CUP application.

Lot Coverage - The Planning Commission and City Council recently discussed and approved increasing the lot coverage for single-family homes in the residential districts. However, there are several single-family homes in the four mixed-use districts where the lot coverage maximums range from 50% to 100%. Staff is recommending that a row be added to the table in Section 1350.14(A) requiring single-family homes in the mixed-use districts to comply with the 35% requirement as well.

RECOMMENDATION

It is recommended that the Planning Commission approve Resolution No. P.C. 2014-11 and Resolution No. P.C. 2014-12.



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

Memorandum

To:	Newport Planning Commission	Reference:	Fence Ordinance and Historic Neighborhood Conservation Overlay—Ordinance Amendment:
Copies To:	Deb Hill, City Administrator Renee Eisenbeisz, Executive Analyst	Project No.:	15482.000
From:	Sherri Buss, RLA AICP, Planner	Routing:	
Date:	August 4, 2014		

The Planning Commission will hold public hearings on ordinance amendments that would modify the current fence regulations and would repeal the current Heritage Preservation Overlay District from the Zoning Ordinance. The Commission has discussed these ordinance amendments at previous meetings.

Fence Ordinance Amendments

A copy of Section 1330, Subd. 15 is attached. The proposed amendments respond to the Planning Commission discussion at the July meeting, and include:

- Combining the current Subd. 15 and Subd. 21, which address fencing in business/industrial districts and residential districts, respectively, into one section.
- Including barbed wire as a fence material in the business and industrial district, with restrictions on design, location and height, as discussed by the Commission.
- Permitting barbed wire in MX districts for security purposes with an Administrative permit and the same requirements as the business and industrial districts, and indicating that barbed wire fences are not included in front yards in the MX Districts.
- A minor edit to require that fences in all districts be at least 1 foot from public walkways. This was included in a couple of the examples we looked at, and gives more specific direction that the general statement previously included in the ordinance.

Historic Neighborhood Conservation Overlay District

The Planning Commission has discussed Section 1370.07 (Historic Neighborhood Conservation Overlay District) of the Zoning Ordinance with the Heritage Preservation Commission at previous meetings. The Planning Commission is proposing to delete this Section from the Ordinance for the following reasons:

- Section 1370.07 cannot be implemented in its current form because the City has never designated a Historic Neighborhood Conservation District.

- Neighborhoods must apply for Historic District designation. No neighborhood has expressed interest in this designation.
- The HPC has indicated that it has little interest in designating historic districts in Newport, and indicated that 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 more effective.
- The City has recently adopted Section 1340.07 Subdivision 3, which includes Residential Building Design Review Standards for the R-1 District west of Highway 61, where most historic structures are located. This section of the code requires that new buildings related in scale, size, proportion and character to adjacent existing structures. This section, along with the City's existing standards for lot coverage, building height and setbacks, address the HPC's concerns that new structures be consistent in scale with existing neighborhoods.



- 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. Fences in Business (B) and Industrial (I) Zoning Districts:

~~1)~~ _____ A fence may be placed along a property line provided no physical damage of any kind results to the abutting property.

~~2)~~ _____ ~~That~~ The side of the fence considered the face (the finished side as opposed to the structural supports) shall face the abutting property.

~~0) Except in the I-S, I-1, and I-2 districts, barbed wire may not be used for fences.~~

~~0) Barbed wire for fences in the I-S, I-1, and I-2 districts shall start at least six (6) feet off the ground.~~

~~3)~~ _____ 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.

4) A fence shall only be constructed of the following materials:

~~a.~~ Treated wood, cedar, or redwood

~~b.~~ Simulated wood

~~c.~~ Decorative brick or stone

~~d.~~ Wrought iron or aluminum designed to simulate wrought iron

~~e.~~ Coated or non-coated chain link

~~f.~~ Split rail

~~g. Other materials or fence types as approved by the Zoning Administrator.~~ Barbed wire. Barbed wire may be used for top fencing only around Business and Industrial uses where the base fence is at least six (6) feet in height. The barbed wire portion of the fence may not exceed three (3) strands, and shall have arms projecting into the applicant's property on which the barbed wire shall be fastened. The minimum height to the bottom strand of the barbed wire shall not be less than six (6) feet from finished grade.

~~5)~~ _____ A fence may be no more than twelve (12) feet in height.

6) A fence shall not visually screen or interfere with streets, sidewalks, or vehicular traffic. No fence shall be closer than one (1) foot from a public walkway.

7) In the I-S district, a fence at least six (6) feet in height shall be required around all storage tanks.

8) No fence shall be constructed on public rights-of-way.

B. Fences in the Residential (R) and Mixed Use (MX) Zoning Districts:

1) A fence may be placed along a property line provided no physical damage of any kind results to the abutting property.

2) That side of the fence considered being the face (the finished side as opposed to the structural supports) shall face the abutting property.

3) 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.

4) A fence may be no more than four (4) feet in height in the front yard.

5) 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.

6) Except in the RE district, electric fences may not be used.

7) A fence shall not visually screen or interfere with streets, sidewalks, or vehicular traffic. No fence may be closer than one (1) foot from a public walkway.

8) All fences shall be maintained in good condition and appearance.

9) A fence shall only be constructed of the following materials:

a. Treated wood, cedar, or redwood

b. Simulated wood

c. Decorative brick or stone

d. Wrought iron or aluminum designed to simulate wrought iron

e. Coated or non-coated chain link

f. Split rail

g. Other materials or fence types as approved by the Zoning Administrator.

10) Barbed wire fence material may be used for security purposes on the side and rear of non-residential buildings in the MX Districts with the approval of an Administrative Permit by the Zoning Administrator. The barbed wire portion of the fence shall not be placed in the front yard. Barbed wire may be used for top fencing only where the base fence is at least six (6) feet in height. The barbed wire portion of the fence may not exceed three (3) strands, and shall have arms projecting into the applicant's property on which the barbed wire must be fastened. The minimum height to the bottom strand of the barbed wire shall not be less than six (6) feet from finished grade.

11) Except in the RE District, welded wire shall not used for fences on property boundaries.

12) Welded wire may be used in the RE District for fences on property boundaries of rear yards.

13) Welded wire may only be used for small enclosures in all districts to protect vegetation such as trees, gardens, plants, and bushes.

14) Except in the RE District, snow fences may not be used for fences.

15) 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.

—No fence shall be constructed on public rights-of-way.

16)

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

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

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

Subd. 19 Exceptions for Legal Non-Conforming Structures. The standards in this section do not apply to legal non-conforming single family residential structures and properties in Business and Industrial districts, provided they are continuously used for residential purposes only, and provided any additions or alterations to these structures meet the standards of the R-1 district and other

applicable zoning and building code standards. For legal non-conforming non-residential structures in the Business and Industrial districts or for existing non-residential development on properties that are rezoned to a Business or Industrial zoning district, the following exceptions shall apply:

- A. New construction projects for repairs, remodeling, or additions to a structure do not need to meet the standards in this section if the construction increases the size of the building by less than ten (10) percent, or if it increases the assessor's market value by less than twenty (20) percent.
- B. Construction projects involving a building expansion between ten (10) and fifty (50) percent of the size of the building or an increase in assessor's market value between twenty (20) and fifty (50) percent of its value need not meet all the standards of this section, but shall be required to meet a reasonable proportion of the requirements of this section as determined by the Planning Commission, upon the advice of the Zoning Administrator. If two or more smaller projects, over a period of five years or less, together exceed the percentage thresholds in this paragraph, the property shall then meet a reasonable proportion of the requirements as determined by the Zoning Administrator.
- C. Construction projects involving a building expansion over fifty (50) percent of the size of the building or an increase in assessor's market value over fifty (50) percent of its value shall be required to meet all the standards of this section. If two or more smaller projects, over a period of five years or less, together exceed the percentage threshold in this paragraph, the property shall then meet all the standards of this section.
- D. For the purposes of determining compliance with the standards in this section, site work not involving the structures on site shall be considered separately from work on the structures.
 - 1) For legal non-conforming uses, new construction projects for repairs, remodeling, or additions to the parking lot, outdoor spaces, landscaping, or other exterior features do not need to meet the standards in this section if the construction increases the size of these areas by less than ten (10) percent.
 - 2) Construction projects involving an expansion of exterior space between ten (10) and fifty (50) percent of the size of the parking lot or other outdoor space need not meet all the standards of this section, but shall be required to meet a reasonable proportion of the requirements as determined by the Planning Commission, upon the advice of the Zoning Administrator.
 - 3) For the purposes of this section, adding one inch or more of new material to an existing parking lot surface shall be considered an increase of one hundred (100) percent of the area involved.

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

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

- ~~A. A fence may be placed along a property line provided no physical damage of any kind results to the abutting property.~~
- ~~B. That side of the fence considered being the face (the finished side as opposed to the structural supports) shall face the abutting property.~~
- ~~C. A fence in the front yard shall be of one color or pattern, and may not contain or support pictures, signage or lettering visible to a public street or to adjacent properties.~~
- ~~D. A fence may be no more than four (4) feet in height in the front yard.~~
- ~~E. A fence may be no more than six (6) feet in height in a side or rear yard, unless the side or rear lot line is common with the front yard of an abutting lot, in which case the portion of the side or rear lot line equal to the required front yard of the abutting lot may have a fence no more than four (4) feet in height.~~
- ~~F. Except in the RE district, electric fences may not be used.~~
- ~~G. A fence shall not visually screen or interfere with streets, sidewalks, or vehicular traffic.~~
- ~~H. All fences shall be maintained in good condition and appearance.~~
- ~~I. A fence shall only be constructed of the following materials:
 - ~~1) Treated wood, cedar, or redwood~~
 - ~~2) Simulated wood~~
 - ~~3) Decorative brick or stone~~
 - ~~4) Wrought iron or aluminum designed to simulate wrought iron~~
 - ~~5) Coated or non coated chain link~~
 - ~~6) Split rail~~
 - ~~7) Other materials or fence types as approved by the Zoning Administrator.~~~~
- ~~J. Except in the RE District, welded wire may not 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. 221 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. 232 Lighting in the RE, R-1, and R-1A districts. Lighting used to illuminate any exterior area or structure shall be arranged so as to direct the light away from any adjoining property or from the public street.

Subd. 243 Landscaping in the RE, R-1 and R-1A Districts. All areas of land not covered by structures or pavement shall be landscaped with sod, mulch, or rock materials, and landscaped according to the provisions of this section:

- A. At least one (1) overstory tree shall be provided in the front yard for each fifty (50) feet of lot frontage.
- B. There shall be a minimum of one (1) tree for every one thousand (1,000) square feet of non-impervious surface area on the lot.
- C. All landscape materials shall be appropriate to the physical characteristics of the site in terms of hardiness, salt-tolerance, and sun or shade tolerance.
- D. All areas of land not covered by structures, pavement, or landscaping may be covered by natural characteristics, when appropriate.
- E. All areas not otherwise improved in accordance with approved site plans shall be sodded. Exceptions shall be as follows:
 - 1) Seeding of future expansion areas as shown on approved plans.
 - 2) Undisturbed areas containing existing viable natural vegetation that can be maintained free of foreign and noxious plant material.

1350.14 Dimensional Requirements for lots and structures in non-residential districts

A. Non-residential district requirements

Requirements	MX-1	MX-2	MX-3	MX-4	B-1 and B-2	I-1	I-2	I-S
Minimum lot area in square feet	2,400	4,000	None	2,400	15,000	30,000	30,000	30,000
Minimum lot depth in feet	80	100	None	80	150	200	200	200
Minimum lot width in feet	30	40	30	30	100	100	100	100
Maximum lot coverage by all buildings (%)— <u>uses other than Single-Family residential</u>	80%	50%	None	80%	30%	40%	50%	50%
<u>Maximum lot coverage by all impervious surfaces (%)— Single-Family residential uses</u>	<u>35%</u>	<u>35%</u>	<u>35%</u>	<u>35%</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>
<i>Structure setback standards***</i>								
Minimum front yard setback	0	10**	0	0	20	20	20	50
Minimum front yard if across collector or minor street from any residential district	10	10**	10	10	50	50	50	100
Minimum side yard	0	5	5	5	10	20	20	50
Minimum side yard if adjacent to any residential district	10	10	10	10	50	50	50	100
Minimum rear yard	20	20	20	20	20	20	20	50
Minimum rear yard if adjacent to any residential district	20	20	20	20	50	50	50	100
<i>Parking and driving aisle setback in feet</i>								
Minimum front yard	20	Not allowed	Not allowed	20	20	20	20	20
Minimum front yard if across collector or minor street from any R district	50	Not allowed	Not allowed	50	50	50	50	50
Minimum side yard	5	5	5	5	5	5	5	5
Minimum side yard for multifamily,	20	20	20	30	30	30	30	30

**PLANNING COMMISSION
RESOLUTION NO. P.C. 2014-11**

**A RESOLUTION RECOMMENDING CITY COUNCIL APPROVE A ZONING AMENDMENT TO
SECTION 1300 GENERAL, SECTION 1330 GENERAL DISTRICT REGULATIONS, AND SECTION 1350
NON-RESIDENTIAL DISTRICT REGULATIONS**

WHEREAS, The City has been working to clean up language in its Zoning Code; and

WHEREAS, The Planning Commission feels it is advantageous to clean up language regarding mobile homes, fences, and lot coverage for single-family homes in the mixed-use districts; and

WHEREAS, The Planning Commission held a public hearing on this Zoning Amendment at its meeting of Wednesday, August 14, 2014; and

NOW, THEREFORE, BE IT RESOLVED, That the Newport Planning Commission recommends Newport City Council approval of a Zoning Amendment to amend the present language found in *Section 1300 General, Section 1330 General District Regulations, and Section 1350 Non-residential Districts*. They will read as follows:

SECTION 1

That Section 1300.01, Subd. 82, Mobile Home, shall be removed from Section 1300.01 and that the Subdivisions following shall be renumbered accordingly.

SECTION 2

That Section 1330, General District Regulations, and Section 1350, Nonresidential Districts, shall hereby be amended as follows:

Section 1330 - General District Regulations

1330.05 Performance Standards

Subd. 15 Fences.

- A. Fences in Business (B) and Industrial (I) Zoning Districts:
- 1) A fence may be placed along a property line provided no physical damage of any kind results to the abutting property.
 - 2) The side of the fence considered the face (the finished side as opposed to the structural supports) shall face the abutting property.
 - 3) 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.
 - 4) A fence shall only be constructed of the following materials:
 - a. Treated wood, cedar, or redwood
 - b. Simulated wood
 - c. Decorative brick or stone
 - d. Wrought iron or aluminum designed to simulate wrought iron
 - e. Coated or non-coated chain link
 - f. Split rail
 - g. Barbed wire. Barbed wire may be used for top fencing only around Business and Industrial uses where the base fence is at least six (6) feet in height. The barbed wire portion of the fence may not exceed three (3) strands, and shall have arms projecting into the applicant's

property on which the barbed wire shall be fastened. The minimum height to the bottom strand of the barbed wire shall not be less than six (6) feet from finished grade.

- 5) A fence may be no more than twelve (12) feet in height.
- 6) A fence shall not visually screen or interfere with streets, sidewalks, or vehicular traffic. No fence shall be closer than one (f) foot from a public walkway.
- 7) In the I-S district, a fence at least six (6) feet in height shall be required around all storage tanks.
- 8) No fence shall be constructed on public rights-of-way.

B. Fences in the Residential (R) and Mixed Use (MX) Zoning Districts:

- 1) A fence may be placed along a property line provided no physical damage of any kind results to the abutting property.
- 2) That side of the fence considered being the face (the finished side as opposed to the structural supports) shall face the abutting property.
- 3) 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.
- 4) A fence may be no more than four (4) feet in height in the front yard.
- 5) 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.
- 6) Except in the RE district, electric fences may not be used.
- 7) A fence shall not visually screen or interfere with streets, sidewalks, or vehicular traffic. No fence may be closer than one (1) foot from a public walkway.
- 8) All fences shall be maintained in good condition and appearance.
- 9) A fence shall only be constructed of the following materials:
 - a. Treated wood, cedar, or redwood
 - b. Simulated wood
 - c. Decorative brick or stone
 - d. Wrought iron or aluminum designed to simulate wrought iron
 - e. Coated or non-coated chain link
 - f. Split rail
 - g. Other materials or fence types as approved by the Zoning Administrator.
- 10) Barbed wire fence material may be used for security purposes on the side and rear of non-residential buildings in the MX Districts with the approval of an Administrative Permit by the Zoning Administrator. The barbed wire portion of the fence shall not be placed in the front yard. Barbed wire may be used for top fencing only where the base fence is at least six (6) feet in height. The barbed wire portion of the fence may not exceed three (3) strands, and shall have arms projecting into the applicant's property on which the barbed wire must be fastened. The minimum height to the bottom strand of the barbed wire shall not be less than six (6) feet from finished grade.
- 11) Except in the RE District, welded wire shall not used for fences on property boundaries.
- 12) Welded wire may be used in the RE District for fences on property boundaries of rear yards.
- 13) Welded wire may only be used for small enclosures in all districts to protect vegetation such as trees, gardens, plants, and bushes.
- 14) Except in the RE District, snow fences may not be used for fences.
- 15) 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.
- 16) No fence shall be constructed on public rights-of-way.

Subd. 16 Noxious Matter

Subd. 17 Restricted Operations

Subd. 18 Explosives

Subd. 19 Exceptions for Legal Non-Conforming Structures

Subd. 20 Performance Standards in RE, R-1, and R-1A Districts
Subd. 21 Exterior Storage and Screening in RE, R-1, and R-1A Districts
Subd. 22 Lighting in the RE, R-1, and R-1A Districts
Subd. 23 Landscaping in the RE, R-1, and R-1A Districts

Section 1350 - Non-residential Districts

1350.14 Dimensional Requirements for lots and structures in non-residential districts

A. Non-residential district requirements

Requirements	MX-1	MX-2	MX-3	MX-4	B-1 and B-2	I-1	I-2	I-S
Minimum lot area in square feet	2,400	4,000	None	2,400	15,000	30,000	30,000	30,000
Minimum lot depth in feet	80	100	None	80	150	200	200	200
Minimum lot width in feet	30	40	30	30	100	100	100	100
Maximum lot coverage by all buildings (%)—uses other than Single-Family residential	80%	50%	None	80%	30%	40%	50%	50%
Maximum lot coverage by all impervious surfaces (%)—Single-Family residential uses	35%	35%	35%	35%	NA	NA	NA	NA
<i>Structure setback standards***</i>								
Minimum front yard setback	0	10**	0	0	20	20	20	50
Minimum front yard if across collector or minor street from any residential district	10	10**	10	10	50	50	50	100
Minimum side yard	0	5	5	5	10	20	20	50
Minimum side yard if adjacent to any residential district	10	10	10	10	50	50	50	100
Minimum rear yard	20	20	20	20	20	20	20	50
Minimum rear yard if adjacent to any residential district	20	20	20	20	50	50	50	100
<i>Parking and driving aisle setback in feet</i>								
Minimum front yard	20	Not allowed	Not allowed	20	20	20	20	20
Minimum front yard if across	50	Not allowed	Not allowed	50	50	50	50	50

Requirements	MX-1	MX-2	MX-3	MX-4	B-1 and B-2	I-1	I-2	I-S
collector or minor street from any R district								
Minimum side yard	5	5	5	5	5	5	5	5
Minimum side yard for multifamily, commercial, or industrial uses if adjacent to any R district	20	20	20	30	30	30	30	30
Minimum rear yard	5	5	5	5	5	5	5	5
Minimum rear yard if adjacent to any R district	10	10	10	50	50	50	50	50
Maximum building height in feet*	40 3-sty	28 2-sty	See table B.,below	40	40	40	40	40
Maximum height of storage tank in IS district								55
Public utilities required, including sewer	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

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

** See section 1300.08 Exceptions to Front Yard Setbacks

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

Adopted this 14th day of August, 2014 by the Newport Planning Commission.

VOTE: Lund
Mahmood
Lindoo
Prestegaard
Haley

Signed: _____
Dan Lund, Chairperson

ATTEST: _____
Deb Hill, City Administrator

**PLANNING COMMISSION
RESOLUTION NO. P.C. 2014-12**

A RESOLUTION RECOMMENDING CITY COUNCIL REPEAL *SECTION 1370.07 HISTORIC NEIGHBORHOOD CONSERVATION OVERLAY DISTRICT*

WHEREAS, The Planning Commission and Heritage Preservation Commission have discussed Section 1370.07, Historic Neighborhood Conservation Overlay District, at several meetings; and

WHEREAS, This Section cannot be implemented in its current form because the City has never designated a Historic Neighborhood Conservation District; and

WHEREAS, No neighborhood has applied for or expressed interest in a Historic Neighborhood District designation; and

WHEREAS, The Heritage Preservation Commission and Planning Commission agreed that regulations addressing the size and massing of new buildings in historic areas to ensure they are compatible with the character of older neighborhoods in Newport are more effective than historic area designation; and

WHEREAS, The Planning Commission has determined that the Zoning Code has adequate existing regulations that require new structures to be compatible with existing older neighborhoods.

WHEREAS, The Planning Commission held a public hearing on this Zoning Amendment at its meeting of Wednesday, August 14, 2014; and

NOW, THEREFORE, BE IT RESOLVED, That the Newport Planning Commission recommends Newport City Council approval of a Zoning Amendment to repeal *Section 1370.07 Historic Neighborhood Conservation Overlay District*.

Adopted this 14th day of August, 2014 by the Newport Planning Commission.

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

Signed: _____
Dan Lund, Chairperson

ATTEST: _____
Deb Hill, City Administrator



11 East Superior Street, Suite 340
Duluth, MN 55802
218.724.8578
tkda.com

Memorandum

To:	Newport Planning Commission	Reference:	Brewpub and Microbrewery Uses
Copies To:	Deb Hill, City Administrator		
	Renee Eisenbeisz, Executive Analyst		
		Project No.:	15482.000
From:	Sherri Buss, RLA, AICP, Planner	Routing:	
Date:	August 5, 2014		

Background

The City approved an amendment to the Zoning Ordinance in early 2014 that included the following:

- Revised the Mixed Use Districts table to include the Brew on Premises Store and Small Brewery as an Accessory use to a Restaurant or Bar (also called a Brew Pub) as uses that are allowed in the MX Districts. The Brew on Premises Store was approved as a Permitted use, and the Brew Pub was approved as use that would require a Conditional Use Permit because all restaurants in the city that serve alcoholic beverages require a CUP.
- Included the Craft Brewery, Winery and Distillery uses, and Micro- and Regional Breweries as Permitted uses in the Business and I-1 Districts, and Micro- and Regional Breweries as Permitted uses in the I-2 District.

Since that time, Derrick and Autumn Lehrke have been in contact with staff to request that the Planning Commission review the zoning requirements for the Brew Pub and Craft Brewery uses (a Craft Brewery may brew up to 20,000 barrels of malt liquor per year). Our understanding is that Lehrke’s request that both uses be permitted in the MX-3 District without a Conditional Use Permit. They indicated that their business plan for Opinion Brewing Company includes a Brew Pub in the near term, and may include the addition of a Craft Brewery in the longer term, depending on the demand for their products.

The Opinion Brewing Company, formerly the Red Rock Saloon does not have a CUP for its bar/restaurant use—it was established before the existing code requirements. Based on the desire to add one or more new uses to the existing use, the Lehrke’s would need to apply for a CUP to operate a Brew Pub or Craft Brewery at that location.

Rationale for Requiring a CUP for the Brew pub and Craft Brewery Uses in the MX-3 District

When the Planning Commission made its recommendation regarding the zoning requirements for brew pubs and craft breweries, the CUP requirement was based on the following considerations:

- A CUP is required for all restaurants that serve alcoholic beverages and for all bars in all districts where they are permitted in the City.
- Discussions with other cities indicated that in most cities Brew Pubs and Microbreweries are allowed in commercial and industrial districts only. In commercial districts, most communities require CUP’s. CUP’s are typically not required for Brewery-related uses in Industrial districts. Cities that require CUP’s expressed concerns about the need to manage potential impacts on neighbors, such as :
 - Parking
 - Odors
 - Truck traffic
 - Events
 - Hours of operation
- If the ownership of the brew pub or microbrewery changes, the permit goes “with the land.” A CUP allows the City to set reasonable conditions that apply to the current owner and future owners, and enforce those conditions.

The Planner completed a quick phone survey of other Planners in Cities that permit the Brew Pub and/or Craft Brewery uses (most cities do not distinguish between Craft Breweries and Microbreweries), and found the following:

City	Uses and Districts	Permit Requirement
Excelsior	Microbreweries (including a tap room) are Permitted in the downtown Commercial district. 50% or more of the first floor space must be used for beer sales, tasting or restaurant purposes	CUP required for this use.
Apple Valley	Microbreweries permitted in Industrial Districts	Permitted use in Industrial Districts only
Eagan	Microbreweries are permitted in Industrial Districts. Brew Pubs and Tap Rooms are permitted as accessory uses to microbreweries or restaurants. In all districts where they are permitted, Brew Pubs and Tap Rooms require a Conditional Use Permit because all businesses with on-sale liquor sales require a Conditional Use Permit.	Microbrewery—Permitted Use in Industrial Districts. Brew Pubs and Tap Rooms—Conditional Use Permit
Roseville	Microbreweries/Micro distilleries with a tap room are allowed in Industrial and Business Park districts	Permitted – Business and Industrial Districts only



St. Louis Park	Microbreweries/Tap rooms are permitted in Business Park or Industrial districts, with production limit of 3500 barrels of malt liquor per year	Permitted-Business and Permitted- Business Park and Industrial Districts only
Brooklyn Center	Breweries and Tap Rooms only permitted in Industrial Districts. Tap room and retail sales on site require a Special Use Permit (same as a CUP)	Permitted—Craft and Microbreweries in Industrial Districts. Tap room/sales require Special Use Permit in Industrial Districts
Stillwater	Microbreweries/brew pubs allowed in some Commercial and Business Districts	CUP required in all districts where permitted
Plymouth	Brew pub use is allowed in some Commercial Districts—minimum proportion of food sales required. No request yet in Mixed Use Districts—locations and conditions would be considered on a case-by-case basis. Microbreweries permitted only in Industrial Districts	Permitted uses in Commercial and Industrial Districts
Minnetonka	Brew pubs permitted in all districts where restaurants are permitted, with a CUP. Microbreweries permitted in Industrial Districts	CUP required for brew pubs, just like restaurants; no permit in Industrial Districts
St. Paul	Brew pubs up to 15,000 square feet in size are permitted in some mixed use (Traditional) districts and commercial districts. Small breweries (up to 5,000 barrels per year) are permitted in some mixed use (Traditional) districts up to 15,000 square feet in size. Microbreweries are permitted only in Industrial districts	CUP requirement for brew pubs and craft breweries based on size of business—typically those over 15,000 square feet in size that produce more than 5,000 barrels per year require a CUP.

Issues for the Planning Commission

The Lehrke request includes several issues for Planning Commission consideration:

1. Should Opinion Brewing Company be required to obtain a CUP to operate a Brew Pub in addition to the existing bar/restaurant business? The ordinance requirements should be consistent for all similar businesses.

Typically when existing businesses add a new use, and the new use requires a CUP, then the business needs to obtain a CUP for the business. This would be true for any bar/restaurant in Newport that seeks to add a Brew Pub with the current ordinance.

Do you want to change the ordinance to allow the Brew Pub use as a permitted use for any restaurant with an existing bar? Require only a CUP for restaurants that want to add a Brew Pub that do not currently have on-sale liquor sales?



2. Should Opinion Brewing Company or other existing or new businesses be required to obtain a CUP to operate a Craft Brewery?

Most cities require CUP's for any brewery operation of any size due to potential impacts to neighbors, unless the business is located in an Industrial District. St. Paul is an exception in allowing Craft Breweries in some districts that are similar to Newport's MX Districts as a Permitted use, but there is a size limit (5,000 barrels per year). Other communities have not been willing to make the size distinction because if the Craft Brewery is successful, it is likely to grow larger fairly soon, and is cumbersome to police the changing size of the business, and then require a CUP after the start of operation. St. Paul has a relatively large Inspections Department in comparison to other communities.

In the MX Districts in Newport, this use could be adjacent to residential uses. Should it be permitted without a CUP? If yes, do we need to add performance standards to the code to manage potential impacts to neighbors?



1350.15 Uses in the Non-Residential Districts

A. Mixed Use Districts Uses

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

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

City of Newport

Section 1350 Non-Residential Districts

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

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

B. Business and Industrial District Uses

P=Permitted Use; C=Permitted with a Conditional Use Permit; N=Not Permitted, sf=square feet

Use	B-1	B-2	I-1	I-2	I-S
Civic and Public Uses					
Airports	N	N	C	C	N
Cemetery and/or crematorium	C	N	N	N	N
Day care centers	C	C	C	C	C
Day care centers in a mixed-use building	P	P	C	C	C
Essential services/public utilities	P	P	P	P	P

City of Newport

Section 1350 Non-Residential Districts

Use	B-1	B-2	I-1	I-2	I-S
Funeral Home	P	P	N	N	N
Hospitals	C	C	N	N	N
Medical Clinics	P	P	N	N	N
Military reserve, national guard centers	C	C	N	N	N
Park and public recreation facilities	P	P	P	P	P
Parking Garage (as a principal use)	C	C	N	N	N
Parking Lot, Surface (as a principal use)	N	C	P	P	P
Penal/correctional facilities	N	N	C	C	N
Place of worship and associated facilities, except schools	P	P	N	N	N
Post Office	P	P	N	N	N
Public Facilities including government offices, emergency services facilities, public works facilities, schools, libraries, museums, and other municipally owned or operated facilities	C	C	C	C	C
Sanitary landfill	N	N	C	C	N
Schools-trade, college, vocational, and associated facilities	P	P	C	N	N
Schools for business, trade, dancing, music	C	C	C	N	N
Social, Fraternal clubs and lodges, union halls	P	P	N	N	N
Transit stations and related parking facilities	C	C	N	N	N
Commercial Uses					
Adult uses (bookstore, theater, nightclub, nude or partially nude dancing)	N	N	N	C	C
Animal boarding, grooming, retail sales	N	C	N	N	N
Auto painting and body work	N	N	C	N	N
Auto storage	N	C	C	P	C
Bakery, wholesale	N	C	N	N	N
Biotechnology businesses	C	C	N	N	N
Brewery, craft	P	P	P	N	N
Building materials and services	N	C	N	N	N
Commercial greenhouse operations	C	C	P	N	N
Convenience stores	P	P	N	N	N
Data centers	N	C	N	N	N
Distillery, craft	P	P	P	N	N
Fabrication of apparel, leather products and products from prepared products	N	P	N	N	N
Fabrication of office and computer equipment	N	P	N	N	N
Gas, diesel or other motor fuel retail sales	P	P	N	N	N
Hotels, motels	P	P	N	N	N
Medical, dental or veterinary clinics and laboratories	N	C	N	N	N
Printing, publishing, bookbinding, blueprinting	N	C	N	N	N
Processing and packaging of drugs, pharmaceuticals, perfumes and cosmetics	N	C	N	N	N
Restaurants, traditional or liquor served; bar and grill	P	P	N	N	N
Salvage yards (auto or scrap iron)	N	N	N	P	N
Small brewery or winery as an accessory use to a bar or restaurant	P	P	P	N	N
Storage, mini-storage, cold-storage	N	N	N	N	P
Vehicle Sales, display and Service	N	C	N	N	N

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

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

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

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