



**CITY OF NEWPORT  
PLANNING COMMISSION MEETING  
NEWPORT CITY HALL  
NOVEMBER 14, 2013 – 6:00 P.M.**

Chairperson:	Dan Lund	City Administrator:	Deb Hill
Vice-Chair:	Matt Prestegaard	Executive Analyst:	Renee Helm
Commissioner:	Janice Anderson	Council Liaison:	Tom Ingemann
Commissioner:	Susan Lindoo		
Commissioner:	Anthony Mahmood		

**AGENDA**

**1. CALL TO ORDER**

**2. ROLL CALL**

**3. APPROVAL OF PLANNING COMMISSION MINUTES**

A. Planning Commission Minutes of October 10, 2013

**4. APPOINTMENTS WITH COMMISSION**

- A. Discussion Regarding Accessory Structure Size in the RE District
- B. Discussion Regarding Breweries

**5. COMMISSION & STAFF REPORTS**

**6. NEW BUSINESS**

**7. ANNOUNCEMENTS**

A. Upcoming Meetings and Events:

- |  |                        |           |
|--|------------------------|-----------|
| 1. City Council Meeting                            | November 21, 2013      | 5:30 p.m. |
| 2. City Offices Closed due to Thanksgiving Holiday | November 28 - 29, 2013 |           |
| 3. City Council Meeting                            | December 5, 2013       | 5:30 p.m. |
| 4. Planning Commission Meeting                     | December 12, 2013      | 6:00 p.m. |

**8. ADJOURNMENT**



**City of Newport  
Planning Commission Minutes  
September 12, 2013**

**1. CALL TO ORDER**

Chairperson Lund called the meeting to order at 6:02 P.M.

**2. ROLL CALL -**

Commissioners present – Dan Lund, Matt Prestegaard, Anthony Mahmood

Commissioners absent – Janice Anderson, Susan Lindoo,

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

**3. APPROVAL OF PLANNING COMMISSION MINUTES**

**Planning Commission Minutes of September 12, 2013**

**Motion by Mahmood, seconded by Prestegaard, to approve the September 12, 2013 minutes as presented. With 3 Ayes, 0 Nays, 2 Absent, the motion carried.**

**4. APPOINTMENTS WITH COMMISSION**

**A. Resolution No. P.C. 2013-10 - Recommending the Newport City Council Approve a Conditional Use Permit and Variance Requested by Kim Brown for Property Located at 1675 Kolff Road**

Sherri Buss, TKDA Planner, presented on this item as outlined in the October 10, 2013 Planning Commission Packet. Ms. Brown provided the attached survey on October 10, 2013. Based on the survey, Ms. Brown is requesting a variance for a 73 foot sideyard setback instead of the 80 foot sideyard setback that was stated in the Resolution. The pole barn would be located 80 feet from the house.

**Vice-Chair Prestegaard** - Did we clarify if there was any change in the distance from the east property line close to the pump house?

**Ms. Buss** - I think this is a little closer than was shown last time. I think what she's trying to do is stay off of those slopes going to the west as much as possible. Given that that's City property and it's sort of a bit of a jog from the north property line and she actually meets the required setbacks from the front property line it's up to your judgment whether you need to be concerned about that line. I believe the City is planning on maintaining that property for forever.

**Admin. Hill** - Yes.

**Ms. Buss** - So there isn't an impact on any neighbors by having it that close to that little jog out area. In a strict ordinance sense, we would think of that straight northern property line as the side property line and the street property line as the front property line. The jog is a hard thing to deal with. If it were private we might be more concerned about the distance.

**Chairperson Lund** - As long as we're talking about that jog, being out there, I think it will have a significant impact on the slope. It's already a fairly steep slope and they'll be digging into it about eight feet which might have some impact on the City pump house. Without some type of analysis on it I'm not willing to give my blanket.

**Vice-Chair Prestegaard** - Where?

**Chairperson Lund** - Towards that property line that goes north-south, that's a steep slope between where this picture shows the building and the property line. This picture shows the building much further from the property line than the updated drawing. When we were out there today, that's about the steepest slope on the whole property. Newport has had a lot of experience with runoff and drainage issues. Without someone knowing more than I do telling me it's okay I look at that and it looks like it would be a problem. To have a reasonable slope they would need to grade it all out to the City property.

**Ms. Buss** - Or put in a retaining wall. What's your thought on the slope?

**Kim Brown, 1675 Kolff Road** - That's nothing. That area right there wouldn't matter if I did dig into it

**Chairperson Lund** - Well there's a City asset on the other side, including the pump house.

**Ms. Brown** - I understand but my land goes all the way up which he has to survey and mark. I'm asking you for 17 feet.

**Chairperson Lund** - The regulation says 100 feet so you're asking for 73 feet.

**Ms. Brown** - From the pump house property or the road?

**Chairperson Lund** - From any property line the regulation says 100 feet. I know City staff has minimized this property line but if we don't give you a variance the regulation says 100 feet. My point is that the particular problem with the 27 feet is that there's a very steep hill right there to the east line.

**Ms. Brown** - So what are you saying?

**Chairperson Lund** - Well 50 feet, which we were talking about before today, would not seem to have the same issue as the 27 feet.

**Ms. Buss** - So moving it 23 feet to the west to where it's shown now.

**Chairperson Lund** - You were out there today, you know what I'm talking about. That stake was half-way up the hill to the City property so maybe a retaining wall would be good but that's not part of the plan.

**Ms. Buss** - You can make either of those recommendations, that it be moved back and the slope graded to be a 4:1 slope, which I think we would recommend or that there be a retaining wall if it's steeper than that.

**Vice-Chair Prestegaard** - Should we have the Engineer look?

**Chairperson Lund** - I don't know. I don't think we should not address that feature. We've had a lot of runoff problems in Newport and I know the Engineer has been concerned with much smaller projects.

**Ms. Buss** - It's a reasonable comment. We haven't seen this before today. Typically if someone is going to impact a steep slope like that you would require that it be graded to 4:1 or that they do a retaining wall. So those would be the options, move it to the west so that it's off the slope and then grade it to 4:1 or if it's closer have a retaining wall.

**Ms. Brown** - That's fine.

**Chairperson Lund** - We can leave that open because I don't know how steep it really is.

**Ms. Buss** - I think it is steeper than 3:1.

**Anthony Mahmood** - I just assumed that if you would be cutting into it you'd put either a retaining wall up or something else. Because right now that hill is already half-way retained by rocks.

**Vice-Chair Prestegaard** - And some of those will have to move so maybe they can be put to good use.

**Anthony Mahmood** - Yea, my assumption was that she would put a retaining wall up anyways so that the barn didn't get eroded away.

**Ms. Buss** - So it would mean a new condition that would go in as #6 that says something like "Disturbed slopes must be to a maximum 4:1 slope or a retaining wall added to stabilize the slopes."

**Chairperson Lund** - Ok.

**Vice-Chair Prestegaard** - Just to add commentary about the northern boundary, which was the primary reason for our visit today, I think that the line of sight does not seem like a terrific concern after making the adjustment from 50 feet to 73 feet. It was my impression that that was every reasonable move possible. I'm comfortable in that regard.

**Chairperson Lund** - Do we have how close that gets to the spruces between her house and proposed building?

**Ms. Buss** - We were trying to estimate it on that drawing. When we put that pink flag out there that was about the corner of the building and that was 20 feet from the trees.

**Admin. Hill** - It was in that ballpark.

**Vice-Chair Prestegaard** - The existing structure we see on the drawing, that's the garage and not the moveable shed correct?

**Executive Analyst Helm** - Yes.

**Vice-Chair Prestegaard** - It would seem the moveable shed would be closer.

**Chairperson Lund** - I think that other square is the moveable shed.

**Ms. Buss** - Yes, the shaded one is the garage. I think that the shed is at a similar alignment to the trees. When we were out there it looked like the new corner was 15 feet between the proposed building the current shed and the trees were a little further.

**Chairperson Lund** - I have a few comments on the north border. When I was out there, it seems to me that you couldn't see the neighbors' property but we received letters from the neighbors and they seem quite concerned so we need to balance that. I would say the dominant factor in the necessity of this variance isn't so much the property but the size of the building. If anything, that makes me want to consider the neighbors' concerns even more because this is a massive structure. That being said, this is a unique property in Newport and if there were any property in Newport where a horse shed should go, it should be here.

**Vice-Chair Prestegaard** - Did you drive up to the pump house?

**Chairperson Lund** - No, could you see the neighbors' houses from there?

**Vice-Chair Prestegaard** - Yes, from the pump house. In the other direction, towards the property, there was not apparent visibility, at least with the vegetation now. And that's a higher elevation

**Ms. Buss** - So you couldn't see her house from the pump house?

**Vice-Chair Prestegaard** - I suppose if I stood in the right place, probably. I'm sure it's a different situation in the winter.

**Chairperson Lund** - How wide is the City's property?

**Ms. Buss** - 70 feet. So between the City's property and the 73 foot setback, there's 143 feet between the building and the neighbors' properties which is an advantage because they get a little 40 foot buffer from the 100 foot regulation.

**Anthony Mahmood** - My opinion is that it would be a beautiful structure for her and I think it's one of the reasons she bought that property. Going into the woods and trying to see the houses, I don't see the big problems that they were writing about.

**Chairperson Lund** - I understand their concern. Right now that 73 feet is mainly buckthorn and maybe box elder trees. The ones that would be taken up were minimal. I think moving it from 50 feet to 73 feet is a fair amount of additional buffer.

**Vice-Chair Prestegaard** - It's a reasonable accommodation. One of the neighbor's concerns was that it seemed to be in the line of sight in regards to the height of the building but the proposed building is four feet less than the house and the grading between the house and building seems flat so unless the concern is somehow about the width I'm not sure I see the issue.

**Chairperson Lund** - I think it'll look like a big barn structure in the winter but it'll be 143 feet from the property line. Do either of you have any further comments on the issue about the slope and pump house? Do you think adding those conditions would address it?

**Anthony Mahmood** - I think those are fine.

**Vice-Chair Prestegaard** - Maybe adding one further condition if the Engineer wants to come up with a third option.

**Chairperson Lund** - Those two are pretty standard aren't they?

**Ms. Buss** - Yes.

**Chairperson Lund** - That would need to be approved by the building permit? I know in general, retaining walls less than four feet don't need to go through the permit process. Could we add that whatever the slope design is it needs to go through the permitting process as part of the building?

**Ms. Buss** - Yes, we can say that he needs to review the grading and slope plan. If the slope goes beyond something he can review he'll have John review it.

**Chairperson Lund** - Ok.

**Vice-Chair Prestegaard** - I'll make a motion to approve Resolution No. P.C. 2013-10 with the adjusted language that instead of an 80 foot setback it'll be a 73 foot setback plus the conditions that we discussed about the 4:1 grading and/or retaining wall.

**Chairperson Lund** - Does it specifically state the 27 foot setback from the pump house?

**Ms. Buss** - I can add that.

**Motion by Prestegaard, seconded by Mahmood, to approve Resolution No. P.C. 2013-10 as amended recommending the City Council approve a Conditional Use Permit and Variance requested by Kim Brown for property located at 1675 Kolff Road. With 3 Ayes, 0 Nays, 2 Absent, the motion carried.**

**Ms. Buss** - It'll go in the next City Council packet.

**B. Resolution No. P.C. 2013-11 - Recommending the Newport City Council Approve a Zoning Amendment to Section 1330 General District Regulations and Section 1350 Nonresidential Districts**

Executive Analyst Helm presented on this item as outlined in the October 10, 2013 Planning Commission Packet.

**Vice-Chair Prestegaard** - In regards to the first bullet, I thought the point was to have the barbed wire no lower than eight feet.

**Executive Analyst Helm** - Yes, so it needs to be at least eight feet in height.

**Chairperson Lund** - He means he doesn't want any barbed wire below eight feet.

**Vice-Chair Prestegaard** - It implies that you could have an eight foot barbed wire fence and the barbed wire could be from the ground.

**Executive Analyst Helm** - So you want the fence to be eight feet and then barbed wire would start above that?

**Vice-Chair Prestegaard** - Yes.

**Chairperson Lund** - Did you measure the fence around the tank farm?

**Executive Analyst Helm** - Public Works did and they said it's about eight feet in height to the top of the barbed wire.

**Chairperson Lund** - What about to the bottom?

**Executive Analyst Helm** - He said about six feet.

**Chairperson Lund** - We don't want it to be easy for people to cut themselves. I don't have any problem with that fence.

**Vice-Chairperson Prestegaard** - I think our point was that we don't want barbed wire 1 1/2 feet off the ground.

**Ms. Buss** - So the barbed wire must be at least six feet from the ground and cannot extend beyond eight feet.

**Chairperson Lund** - Do we care about the maximum?

**Vice-Chair Prestegaard** - I don't.

**Executive Analyst Helm** - So the barbed wire shall start at least six feet off the ground?

**Chairperson Lund** - Yes.

**Councilman Ingemann** - I was under the impression that you wanted to include electric fences not replace barbed wire with them.

**Executive Analyst Helm** - In the RE District, they had asked to replace barbed wire with electric.

**Chairperson Lund** - Do you think we should leave it in?

**Councilman Ingemann** - I would say include electric so you can have either or.

**Vice-Chair Prestegaard** - We wouldn't be taking it away. The question was whether anyone would be inclined, from this day forward, to install a barbed wire fence. So not the grandfathered fences.

**Chairperson Lund** - Kim's property is the largest on the hill and the other are around two to three acres. It would seem unfriendly to put up barbed wire around a two acre property. Was that your thought on it?

**Vice-Chair Prestegaard** - I couldn't imagine a need.

**Chairperson Lund** - My thought was that by excluding barbed wire it would prevent some antisocial behavior.

**Vice-Chair Prestegaard** - There can always be a variance for barbed wire. How many parcels could behave as farm properties?

**Ms. Buss** - Not many.

**Chairperson Lund** - I agree that barbed wire has a significant use in 10, 20, 40 acre properties but in a realm of two acre properties.

**Executive Analyst Helm** - Kim Brown's is the largest residential and it's just over eight acres.

**Ms. Buss** - I would say the rest are between two and five acres.

**Vice-Chair Prestegaard** - There's not any off of Bailey or Military that are in that?

**Ms. Buss** - That property that David Newman had, was that one or multiple parcels? That's most likely to get subdivided. I don't think there's anything comparable to Kim's that someone would use for farming. I'm sure livestock are only allowed in the RE District and I think the minimum acreage is five.

**Executive Analyst Helm** - For farm animals, there needs to be at least four acres for the first animal and then one acre for each additional.

**Vice-Chair Prestegaard** - So I'm comfortable leaving that as written.

**Chairperson Lund** - Is there a situation where it would make sense to use a barbed wire fence?

**Vice-Chair Prestegaard** - I don't know.

**Chairperson Lund** - I think it's ok, we're not that rural anymore. You'll have kids running around and they're much more likely to hurt themselves on barbed wire than electric.

**Anthony Mahmood** - We're not saying that people with barbed wire would need to rip it out and replace it.

**Executive Analyst Helm** - No, they would be grandfathered in.

**Vice-Chair Prestegaard** - I'll make a motion to approve Resolution No. P.C. 2013-11 with the amended language that barbed wire must start at least six feet off the ground.

**Motion by Prestegaard, seconded by Mahmood to approve Resolution No. P.C. 2013-11 as amended recommending that the City Council approve a Zoning Amendment to Section 1330 General District Regulations and Section 1350 Nonresidential Districts. With 3 Ayes, 0 Nays, 2 Absent, the motion carried.**

### **C. Discussion Regarding Outdoor Wood Burning Furnaces**

Sherri Buss, TKDA Planner, presented on this item as outlined in the October 10, 2013 Planning Commission Packet. After the Packet was sent out it was brought to staff's attention that Section 1300 prohibits outdoor furnaces within City limits.

**Anthony Mahmood** - Have any residents asked about this?

**Executive Analyst Helm** - I received a call a couple months ago from a resident on third avenue and his lot was pretty small. I told him that it would be on the Planning Commission agenda for discussion and haven't heard back from him.

**Vice-Chair Prestegaard** - The list of cities that don't allow it are a mixture of developed and rural. Those that allowed it I could definitely see where they would have some rural properties of 10 acres plus like Cottage Grove by the river. None of that seems to be present in Newport. We don't have an agricultural district or many properties over the three acre size. My initial reaction is that it doesn't quite seem to fit in.

**Anthony Mahmood** - With the yards being so small around here and us being in a low valley area I could see everyone getting one and it being smoked fill. We've had the ban for how long?

**Executive Analyst Helm** - I think it's been since the mid 2000's.

**Anthony Mahmood** - I don't see why we need to bring it up if no one is asking to have one. If there's a major concern than we can worry about it.

**Chairperson Lund** - I start with the idea that if the City is going to prohibit something we should have a good reason for it. I definitely agree that there's a good reason where we have half acre and less lots and if everyone had one it would be a problem, especially with asthmatic kids. I think it makes sense on that side. If we wanted to open the discussion and talk about the RE District, I think it would be appropriate but no one in the RE District has asked. If you guys think we should table it that would be fine with me but as long as we're talking about it I would be willing to entertain the discussion about what kind of requirements.

**Vice-Chair Prestegaard** - I'm interested by the precedent of these other cities, 5 acres, 3 acres, 10 acres, or 300 foot setback. We have some that are certainly pushing that three acre boundary in the RE District. I'm not sure how many exceed that.

**Ms. Buss** - Typically it's 100 feet from property lines or 300 feet from the nearest residence that is not on the property. Although Eagan has the 300 feet boundary but most that use the 300 feet that's from the nearest residence on an adjoining property.

**Vice-Chair Prestegaard** - Could you do a quick acres to feet?

**Chairperson Lund** - 200 feet squared is about one acre.

**Vice-Chair Prestegaard** - If we looked at precedent and said that it would need to be at least three acres and 300 feet from the nearest property that means it's essentially one and a half acres.

**Ms. Buss** - You'd have to have at least a two acre property to meet those setbacks and your house would need to be in the middle.

**Anthony Mahmood** - Most of them that are three acres have 200 foot setbacks from property lines. If they are five acres or more they're looking at 300 foot setbacks from the nearest building on other properties. In our case, if we're looking at a three acre lot we would want to say probably 200 feet from the property line.

**Chairperson Lund** - Being 200 feet from each property line would be 400 feet squared, which would be a minimum of four acre lot and there might only be two lots that could meet that.

**Ms. Buss** - How big are those lots in the Rumpca development?

**Executive Analyst Helm** - I think the minimum was 10 acres when it was developed but I think some of them were split.

**Ms. Buss** - In the south part there are a few more five to eight acre lots than there are in the area that we were at tonight. All along that dirt road there's some bigger lots.

**Vice-Chair Prestegaard** - That's all RE? I didn't realize that was Newport.

**Ms. Buss** - Yes, across the other side is Cottage Grove and that area you can have these.

**Anthony Mahmood** - Cottage Grove allows them only in agricultural and rural residential districts with a minimum lot size of three acres and 100 feet from all property lines. That would be a little easier than 200 feet.

**Vice-Chair Prestegaard** - Then the question would be what are other things to consider? There's a pollution factor. If an issue were brought to the City we could look to the Cottage Grove requirements as precedent. I'm just trying to think of what other considerations we might have. I'm not sure I can think of others.

**Chairperson Lund** - The more we talk about it the more I'm inclined to table it unless someone in the RE District asks and if someone outside the RE District asks tell them it's prohibited and they could apply for a variance.

**Executive Analyst Helm** - So keep it as is for now until someone asks?

**Chairperson Lund** - If people in the RE District aren't asking for it why open the can of worms. It wouldn't work outside of the RE District.

**Ms. Buss** - I think the PCA would recommend not allowing them because of people with respiratory illnesses.

#### **D. Discussion Regarding Accessory Structure Size in the RE District**

Sherri Buss, TKDA Planner, presented on this item as outlined in the October 10, 2013 Planning Commission Packet.

**Vice-Chair Prestegaard** - What about height?

**Ms. Buss** - Most everyone has the same height requirement as us where it cannot be taller than the house. Some, such as Forest Lake, as a maximum height of 20 feet.

**Chairperson Lund** - My opinion is on the Brown property, the amount of screening there is exceptional but in any more open of an area a building that size would be offensive. If we put something in the Code someone could always come for a variance. If there was another situation like the Brown property I could see it not being a problem to the neighbors.

**Ms. Buss** - I think the tough thing is that there are some five acre properties where someone could meet the setback requirements and come in with a five or six thousand square foot pole structure that would be very visible and you would have very little way of not allowing it. If someone meets the Code requirements we pretty much have to grant the conditional use permit, it's not the same for a variance.

**Chairperson Lund** - What's the most accommodating size restriction of the ones you looked at?

**Ms. Buss** - For the size of lots we were talking about, 3,500 is the max. Someone could have two accessory structures totaling 3,500 square feet. Once you get above 20 acres, it could be considered an agricultural property and then people don't have any standard as long as they are agricultural buildings. Which the Brown building would be if she were on an agricultural lot.

**Chairperson Lund** - I'm inclined to add a definite number just to avoid the situation where someone wants to put up a monstrous building 100 feet from the property line.

**Vice-Chair Prestegaard** - I think so too.

**Chairperson Lund** - Do you have any thoughts on this Tom?

**Councilman Ingemann** - I think we should have something. Now she's got this and someone else will want it.

**Ms. Buss** - I think that's the danger.

**Vice-Chair Prestegaard** - 3,500 seems reasonable.

**Chairperson Lund** - 3,500 for five acres and anything less 2,000?

**Ms. Buss** - Forest Lake is similar, five to ten acres is 3,000 square feet and from two and a half to five acres is 2,500 square feet. Hugo is a little more generous for five to ten acres at 3,500 but it's a little less for the smaller lot sizes.

**Executive Analyst Helm** - That square footage would include any other accessory structure.

**Anthony Mahmood** - So both structures would add up to the max?

**Ms. Buss** - Yes.

**Vice-Chair Prestegaard** - I might propose a mixture of the two since we're starting from no limit. We could choose the most permissive of the two. So five to 9.99 acres we could do 3,500.

**Chairperson Lund** - Do we want to leave that closed on the max size or just five acres or larger?

**Ms. Buss** - No because you don't have agricultural land, so you could say five acres or larger.

**Vice-Chair Prestegaard** - And then if it's two and a half to five acres maybe we could do 2,500 instead of 2,000.

**Executive Analyst Helm** - There are some lots in the RE District that are less than the minimum lot size.

**Chairperson Lund** - Do we have a maximum building size for the rest of it or is it just lot coverage?

**Ms. Buss** - You have some maximums. On the smallest lots in the City the accessory structures can't be more than the primary structure and there's a maximum lot coverage.

**Chairperson Lund** - So in the regular residential areas, the accessory structure can't be bigger than the house?

**Ms. Buss** - Yes and it needs to meet a 25% lot coverage maximum.

**Chairperson Lund** - So maybe we don't say anything for less than two and a half acres. Does that apply to anything less than two and a half acres or just outside the RE District?

**Ms. Buss** - In the RE District, it's a 2,000 square foot maximum unless they get a conditional use permit.

**Executive Analyst Helm** - I was just saying that we would want to address properties in the RE District that are less than two and a half acres.

**Vice-Chair Prestegaard** - So as far down as two acres or even less?

**Executive Analyst Helm** - There may be some properties that are less than two acres.

**Chairperson Lund** - I think we need to cover the whole range.

**Ms. Buss** - So in Hugo, the one and a half to three acre size is 1,500 square feet. You could say something like one to 2.49 acre lots should be 2,000 and then we would be sort of proportional.

**Councilman Ingemann** - You need to realize that in the RE if you have sewer you don't need to have a two acre lot.

**Executive Analyst Helm** - Then you need to meet the same standards as the R-1 District.

**Chairperson Lund** - Is there any reason to be more permissive in the small RE lots than we are in the ones connected to sewer or should we lump all the small ones under the current standard for the sewer lots?

**Ms. Buss** - I think you want to do that.

**Chairperson Lund** - That's what I would say. Anything under two acres.

**Executive Analyst Helm** - The minimum lot size is two acres.

**Chairperson Lund** - So anything under two acres would need to meet the same standards as the R-1 District, and then two acres to 4.99 would be 2,500 and five acres or larger would be 3,500.

**Ms. Buss** - With a maximum of two structures and they would still need to meet setback requirements. Then we'll do away with the section about calculating setbacks for anything above 2,000.

**Chairperson Lund** - I don't know if we want to reduce the setback requirements. If we run through that formula what's a 3,500 square foot building?

**Ms. Buss** - We can continue to do that if you want. Maybe we bring back a proposed ordinance with a couple of drawings of what would be the requirement in terms of setback.

**Chairperson Lund** - If we leave it that could improve our negotiating position.

**Vice-Chair Prestegaard** - That was my feeling to. Is it your concern that somehow the limits will not even make sense or be coherent when considered as a group?

**Ms. Buss** - No, I think we need to look at it as a whole and the easiest way for me to do that is draw it out. Cottage Grove requires a conditional use permit for anything more than 2,500 so maybe you want to say that in the RE District. If it's above 2,000 square feet they will need to meet a higher setback requirement.

**Anthony Mahmood** - Which we already have in there.

**Ms. Buss** - Yes but there's no maximum size.

**Chairperson Lund** - Sounds like there is some desire to make it easier to figure out the setback.

**Ms. Buss** - It's a little complicated. I think we can deal with that. I think it's a good idea to require a conditional use permit for anything above 2,500 square feet and to have a higher setback requirement.

**Chairperson Lund** - So 2,500 would be the building allowed on any lot without a CUP and if you want a building larger than 2,500 on the larger lots you would need a CUP. Is that what you're proposing?

**Ms. Buss** - Yes.

**Vice-Chair Prestegaard** - Up to a maximum of 3,500?

**Chairperson Lund** - Yes.

## **E. Discussion Regarding Rezoning at the Corner of 10th Street and 2nd Avenue**

Admin. Hill presented on this item as outlined in the October 10, 2013 Planning Commission packet.

**Chairperson Lund** - Would you buy both parcels, 121 and 927?

**Admin. Hill** - The small skinny parcel has a garage on it, the larger parcel has the house. They are both in poor shape and need to be taken down.

**Chairperson Lund** - I was thinking of the vacant parcels east of 2nd Avenue but these parcels have a house and shed already? And that's where the City's desire to clean it up comes from?

**Admin. Hill** - Yes, the house needs to be taken down, it has been condemned, the garage is in poor shape.

**Vice-Chair Prestegaard** - What's to the west of 121?

**Admin. Hill** - That would be the Steve Marko home.

**Ms. Buss** - He's well within the shoreland. I think part of what's interesting is that the large lot area, R-1A was really created for a lot of the shoreland lots because under the shoreland ordinance you need to have larger lots. But these parcels aren't really on the River and there's no reason for them to be in that larger lot zoning.

**Vice-Chair Prestegaard** - When you look at the companions to the north of 121 those are riverfront properties. Given that it's not riverfront I can understand the City's position.

**Councilman Ingemann** - Would this be spot zoning?

**Ms. Buss** - No because right next to it is R-1. It looks to me like they used the street as the boundary for the R-1A zone.

**Chairperson Lund** - When we were talking about that proposed regulation about the river coming through for the whole metro area it went beyond the properties immediately adjacent to the River. I know that didn't go through.

**Ms. Buss** - It's coming back. The red dotted line on the zoning map is the Mississippi River Critical Area which includes some of both R-1A and R-1. They're saying that for both of those areas, they would go along with our underline zoning, they're not going to require bigger lot sizes in there. The blue line on the map is the shoreland boundary, I think it's 300 feet from the River. You can see why a lot of those orange properties would be a larger lot size because they're in the shoreland zone.

**Vice-Chair Prestegaard** - Does it bisect the 121 property?

**Admin. Hill** - 121 is within the shoreland boundary. The two properties we're looking at are outside the shoreland.

**Chairperson Lund** - One corner of it is inside the shoreland.

**Anthony Mahmood** - So you're just talking about 927?

**Chairperson Lund** - So if we did this it would be the only property with any portion inside the shoreland zone in the R-1 district.

**Vice-Chair Prestegaard** - I thought the discussion was about both 121 and 927.

**Ms. Buss** - No. In fact if you were going to rezone I think you would want to rezone all of the small ones in R-1A as well. The question is would you be willing to entertain rezoning these to R-1.

**Chairperson Lund** - How big is 927?

**Admin. Hill** - 130 by 200 feet, so 26,000 square feet. I think the minimum in R-1 is 9,100 square feet and these two would be 13,000 square feet.

**Ms. Buss** - The minimum lot size in R-1A is 15,000.

**Chairperson Lund** - I'm not so inclined. It won't help the City's negotiating position if we approve this now anyways.

**Admin. Hill** - We're not asking for approval just if you would entertain it. We haven't purchased the land yet.

**Ms. Buss** - Part of what Deb needs to think about is what the City could do with the lots if the City buys it. She has to think if the City could sell it as one house or two houses.

**Anthony Mahmood** - The question I ask myself is if a single-party came and bought that land and asked the same thing would we do it for them or are we just doing it because it's the City?

**Chairperson Lund** - I agree with that logic.

**Anthony Mahmood** - If I didn't have a problem doing it for an outside party I wouldn't have a problem doing it for the City.

**Vice-Chair Prestegaard** - Could you state your concern?

**Chairperson Lund** - For me, it's outside the character of the lots immediately adjacent and is it really the standard for the R-1A district to only be the lots touching the River or should we decide that lots are a little closer to the watershed should be more sparsely populated. And this one being next to that drainage area is particularly close to the watershed.

**Vice-Chair Prestegaard** - Could someone give me a brief description of the significance of the shoreland boundary?

**Ms. Buss** - The DNR has decided that there's an area adjacent to every river and lake in the State that's called shoreland and its 300 feet for rivers and 1,000 feet around lakes. Within that area there are special regulations such as a larger lot size, setbacks...

**Chairperson Lund** - What is the larger lot size?

**Ms. Buss** - I can't remember off the top of my head because it's different in urban areas. The more significant regulations are setbacks, buildings have to be at least 100 feet back, septic systems need to be at 75 feet back and 30 feet back from the top of the bluff. The potential change the DNR is proposing is a 40 foot setback from the bluff. Also, you're prohibited from removing native vegetation within that setback and you're also supposed to maintain any existing screening from the River. That's why I think most of the lots immediately adjacent are all in the R-1A district so they can regulate that. I'm not sure why those small lots are in there because they're all outside the 300 feet setback and wouldn't need to follow the requirements for the shoreland boundary.

**Anthony Mahmood** - So the only difference between the R-1A and R-1 the lot size?

**Ms. Buss** - Pretty much.

**Executive Analyst Helm** - The setbacks are the same but the maximum lot coverage is different. It's 20% in R-1A and 25% in R-1.

**Chairperson Lund** - You're also aware that the four lots to the east are for sale and have been for years?

**Admin. Hill** - Yes. The plus is that there's water and sewer to these lots. I just want to know what I'm working with so we can make a better judgment.

**Anthony Mahmood** - Why don't we follow the blue line for the district boundary and rezone all of these.

**Executive Analyst Helm** - The blue line intersects some of the parcels.

**Chairperson Lund** - Part of this parcel is on the other side of the blue line.

**Anthony Mahmood** - There is a precedent set though because further south there are some properties in the R-1 district that are on the west side of the blue line.

**Chairperson Lund** - So if we did divide it, it would still be subject to the requirements of the DNR, at least the southern lot if we cut it in half. I think the current size fits the immediate adjacent neighbors.

**Vice-Chair Prestegaard** - To the west, not the east.

**Chairperson Lund** - That's consistent with the lots by the River though.

**Anthony Mahmood** - My only problem is that it's rezoning for the City's benefit.

**Admin. Hill** - I just want to know if you would entertain it so that I can get a better idea for the value.

**Vice-Chair Prestegaard** - I could make an argument that it's for the community's benefit if the structure is about to be condemned, it's not just the City that benefits. I should probably drive down there, I don't know enough to be able to say that I couldn't support it.

**Admin. Hill** - Ok, I can move forward assuming it may be just the one lot. If we do buy it wouldn't prohibit us from asking you to rezone to bring in more tax base.

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

## **6. NEW BUSINESS**

## **7. ANNOUNCEMENTS**

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

- |                              |                  |                         |
|------------------------------|------------------|-------------------------|
| 1. City Council Meeting      | October 17, 2013 | 5:30 p.m.               |
| 2. Park Board Meeting        | October 24, 2013 | 7:00 p.m.               |
| 3. Buckthorn Removal Day     | October 26, 2013 | 9:00 a.m. to 12:00 p.m. |
| 4. School District Elections | November 5, 2013 | 7:00 a.m. to 8:00 p.m.  |

## **8. ADJOURNMENT**

**Motion by Prestegaard, seconded by Mahmood, to adjourn the Planning Commission Meeting at 7:33 P.M. With 3 Ayes, 0 Nays, 2 Absent, the motion carried.**

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

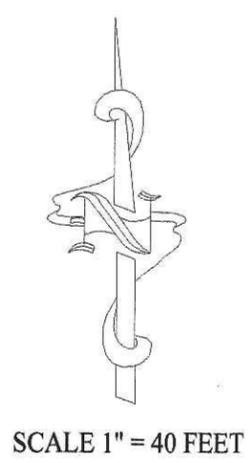
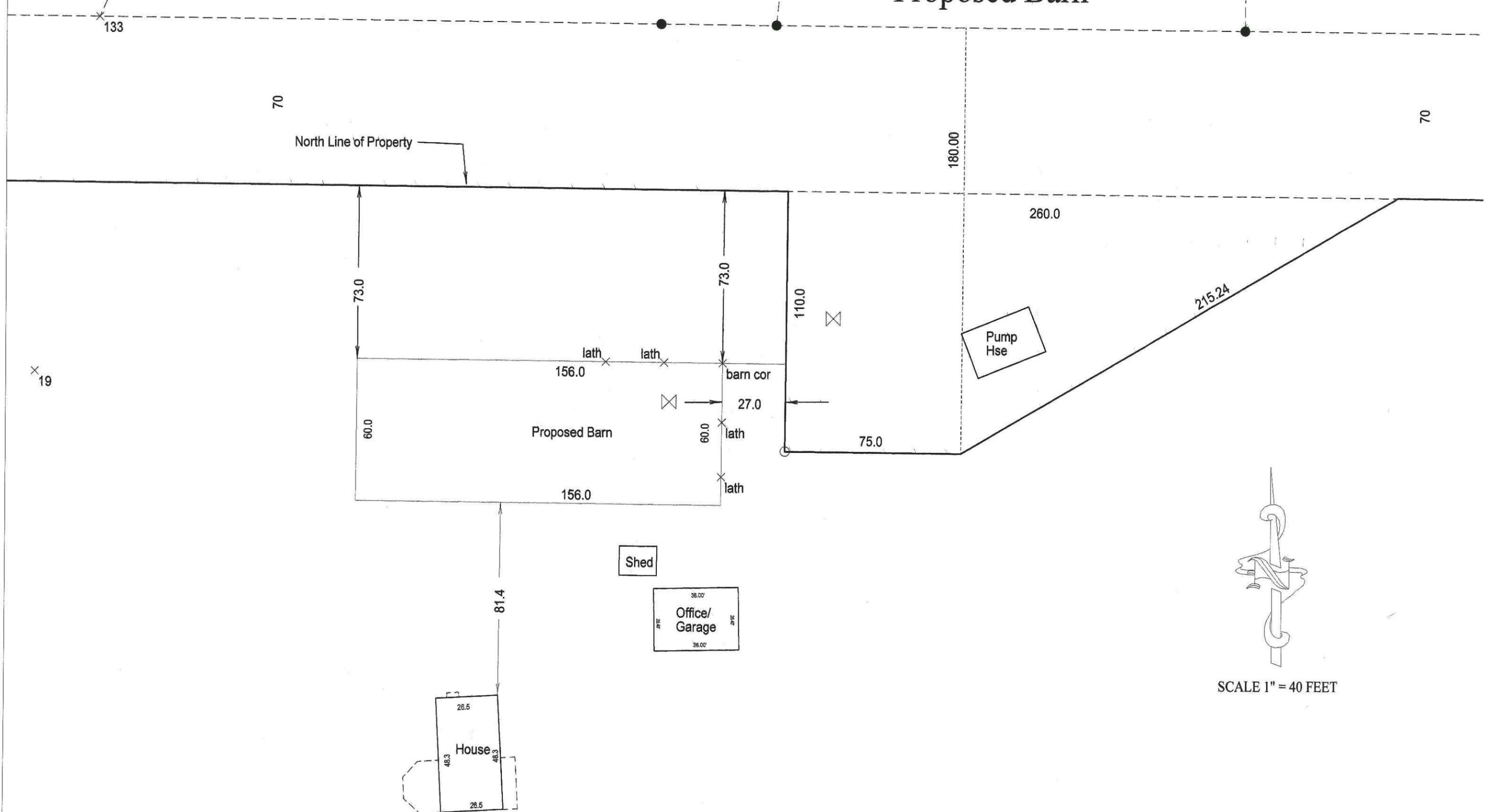
Respectfully submitted,

Renee Helm  
Executive Analyst

# McGibbon Land Surveying

2214 Tower Ct.  
Woodbury, MN 55125  
(651) 442-9823

# Concept Sketch for Proposed Barn





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

## Memorandum

<b>To:</b>	Newport Planning Commission	<b>Reference:</b>	Proposed Changes to Accessory Structures Ordinance
<b>Copies To:</b>	Deb Hill, City Administrator		
	Renee Helm, Executive Analyst		
<b>From:</b>	Sherri Buss, RLA, AICP, Planner	<b>Project No.:</b>	15252.000
<b>Date:</b>	November 6, 2013	<b>Routing:</b>	

At the October Planning Commission meeting, we talked about potential changes to the Accessory Structures section of the zoning ordinance (Section 1340.04). The potential changes focused on the size of structures that would be permitted in the Residential Estates (RE) District, required setbacks, and permits. The Commission requested that staff create a couple of examples to illustrate proposed changes.

Attached is a copy of the ordinance with proposed revisions. In addition to revising the section on structures in the RE District, I have also included some ideas from the Cottage Grove and Forest Lake ordinances for you to consider. Examples illustrating how the new standards could work on a 3.4-acre lot and an 8.76-acre lot (Kim Brown’s lot) in the RE District are also attached.

Key changes include:

- Added item regarding no construction of accessory buildings before primary structure and building permit requirements. This has always been required, but it was not located in this section of the ordinance. Most ordinances include these basic requirements in the accessory structures section.
- Added a table with the proposed number and area of accessory structures in the RE District, using the Planning Commission’s recommendations from October.
- Maintained the requirement for additional setbacks above 2,000 square feet. Please review this requirements with the examples that illustrate how it would work on two typical parcels in the RE District.
- Added a requirement related to potential subdivision of properties so that this does not result in “orphan” accessory structures or nonconforming structures. This is common in other ordinances.
- Added a requirement that accessory structures cannot be used as dwellings. This provision is also common in other ordinances.
- Clarified references to accessory structure requirements in the Shoreland and Floodplain Overlay Districts.

Please review the draft changes for our discussion on November 14.

**Section 1340 - Residential Districts**

**1340.01 Purpose**

The residential districts are established to accomplish the general purposes of this Chapter and for the following specific purposes:

- A. To preserve existing living qualities of residential neighborhoods;
- B. To ensure future high quality amenities including, but not limited to, the provision of adequate light, air, privacy, freedom from noise and convenience of access to property;
- C. To increase convenience and comfort by providing usable open space and recreation space on the same lot as the housing units they serve;
- D. To prevent additions or alterations of structures which would damage the character or desirability of existing residential areas;
- E. To protect residential areas, to the extent possible and appropriate in each area, against unduly heavy motor vehicle traffic;
- F. To encourage a variety of dwelling types and a wide range of population densities with emphasis on home ownership; and
- G. To implement the goals and policies of the Comprehensive Plan.

**1340.02 Intent.**

The specific intent of each residential district is as follows:

**Subd. 1 RE - Residential Estate District.** This district shall be intended:

- A. For residential areas without public utilities;
- B. To preserve lands in their natural state or in agricultural uses pending the proper timing for the economical provision of utilities, streets, parks, and other public facilities so that orderly development will occur; and
- C. To preserve and extend areas for single-family dwellings at very low densities within spacious environments
- D. Any lot or parcel of land located in a Residential Estates Zone (RE) served by municipal sewer shall be treated as a Single Family Residential (R-1) parcel and shall be required to meet all requirements of R-1 zoning. (see Ordinance No. 98-2).

**Subd. 2 R-1A - River Residential District.** This district shall be intended to preserve, create, and enhance areas for low-density single-family development along and near the Mississippi River where public utilities are available.

**Subd. 3 R-1 - Low Density Single Family Residential District.** This district shall be intended to preserve, create and enhance areas for low-density single-family dwelling development as an extension of existing residential areas and to allow low-density development in areas indicated as such in the comprehensive plan where public utilities are available;

**Subd. 4 R-2 - Medium Density Residential District.** This district shall be intended to allow development of townhouses, row houses, and other types of low-density multifamily units in areas consistent with the comprehensive plan and serviced by public utilities;

**Subd. 5 R-3 - High Density Residential District.** This district shall be intended to create, preserve and enhance areas for multi-family use at higher densities for both permanent and more transient families. It is typically appropriate only in areas served by public utilities, with good accessibility to thoroughfares, public services, commercial areas, and where such development fits the comprehensive plan and planning policies.

**1340.03 Residential Lot Area, Depth, Width, Coverage, Setbacks and Heights.**

The following minimum requirements shall be required in all residential districts:

	RE	R-1A	R-1	R-2	R-3
<b>Minimum Lot Area per Unit (Square Feet)</b>					
Dwellings, single-family	2 Acres	15,000	9,100	9,100	9,100
Dwellings, two family	--	--	--	7,800	7,800
Dwellings, more than two family	--	--	--	5,750	3,000
Other uses	2 Acres	1 Acre	1 Acre	1 Acre	1 Acre
Minimum Lot Depth in Feet	200	150	130	130	130
<b>Minimum Lot Width in Feet (Number in parenthesis is the lot width for a corner lot)</b>					
Dwellings, single-family	160 / (200)	100 / (120)	70 / (90)	70 / (90)	70 / (90)
Dwellings, two family	--	--	--	120 / (140)	120 / (140)
Dwellings, more than two family	--	--	--	120 / (140)	120 / (140)
Other uses	160	100	70	120	120
Minimum Front Yard in Feet***	40	30	30	30	30
<b>Minimum Side Yard in Feet (Number in parenthesis is the setback for a corner lot, street side)</b>					
Dwellings, single-family or two family	20 / (40)	10 / (30)**	10 / (30)**	10 / (30)	10 / (30)
Dwellings, more than two family	--	--	--	20 / (40)	20 / (40)
Garages or Accessory Structures***	20 / (40)	5 / (30)	5 / (30)	10 / (30)	10 / (30)
Other uses	20	30	30	20	20
<b>Minimum Rear Yard in Feet</b>					
Dwellings, single-family or two family	50	30	30	30	30
Dwellings, more than two family	--	--	--	30	30
Garages or Accessory Structures***	10	5	5	30	30
Other uses	50	40	40	40	40
Maximum Lot Coverage, All Structures	20%	20%	25%	30%	30%
Maximum Building Height in Feet ***	35 feet or 3 stories, whichever is greater, in all districts, but in no case higher than 1,000 feet U.S.G.S. sea level elevation. <a href="#">25 feet in Shoreland Management Overlay District</a>				
Public Sewer Required	No	Yes	Yes	Yes	Yes

\* Regardless of the setback standards noted in this table, the distance between a proposed foundation wall and an existing foundation wall on an adjacent lot may not be less than fifteen (15) feet

\*\* Side setbacks for substandard lot widths in R-1A: 10% of lot width (25% for Corner Lot, Street Side). Side setbacks for substandard lot widths in R-1: 15% of lot width (33% for Corner Lot, Street Side)

\*\*\*See additional standards in Subsection 1340.04.

**1340.04 Single Family Residential Garage, Accessory Structure and Driveway Standards.**

The following standards shall apply to all garages and accessory structures for single family homes and duplexes in all zoning districts, and shall be in addition to the standards in Subsections 1340.03, 1370.03 (Shoreland Management District) and 1370.05 (Floodplain Management Districts). The intent of these standards shall be to reduce the impact of multiple vehicles and of large accessory structures on the residential character of the City.

**Subd. 1 Construction.** No accessory building or structure shall be constructed on a lot prior to construction of the primary structure. Building permits are required for all accessory structures.

**Number.** A residential lot, other than a river riparian lot, may have no more than two (2) accessory structures. A river riparian lot may have a guest cottage and a water-oriented accessory structure as regulated in Section 1370 of this Chapter, the Shoreland Management Section.

**Subd. 2 Height.** No garage, whether attached or detached, nor any accessory structure shall be taller than the principal structure on the lot as measured by the building height definition from Section 1300.01 Subd. 16 Building Height.

**Subd. 3 Square Footage.** Except in the RE district, the total footprint of all garage space, whether attached or detached, and of all accessory structure space shall be no larger than the footprint of the principal structure, except that a residential lot shall be allowed at least five hundred (500) square feet of garage space, as long as the required setbacks and other standards are met.

In the **RE d**istrict, the number and size of accessory structures permitted on residential lots is as follows:

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<u>Size of Parcel in RE DISTRICT</u>	<u>Number of Accessory Structures</u>	<u>Total Area of Accessory Structures (footprint)</u>
<u>Less than 2 acres</u>	<u>2</u>	<u>Total footprint of all structures may be no larger than the footprint of the principal structure. Minimum 500 square feet of accessory structures is permitted on all parcels if required setbacks are met.</u>
<u>2.0-4.99Acres</u>	<u>2</u>	<u>2500 square feet</u>
<u>5.0 Acres or greater</u>	<u>2</u>	<u>Up to 2,500 total square feet is permitted. 2,500 total square feet to 3,500 maximum total square feet of accessory structures may be permitted with a Conditional Use Permit.</u>

~~the footprint of all accessory structure space may be larger than the footprint of the principal structure, but no larger than two thousand (2,000) square feet in area except on individual parcels in excess of 3 acres as authorized through a conditional use permit.~~

**Subd 4 Structure Area in the RE District between 2,500 and 3,500 square feet.** In order for the footprint of all accessory structures in the RE district to exceed 2,0500 square feet, the following conditions must be satisfied through obtaining a conditional use permit pursuant to Section 1310.10 of this Chapter:

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- A. The parcel shall not be re-platted, split or subdivided such that it results in a lot size of less than 3 acres without first removing or altering the structure so that it conforms to the standards in this chapter.

- B. The site must demonstrate that the accessory structures do not encroach upon existing septic systems and that an alternative septic system area is protected.
- C. Plantings consisting of a combination of trees and shrubs shall be installed within the set back area providing a buffer between the accessory structure (s) and future development on adjacent property.
- D. Any accessory structure or garage other than a garage attached to the principal structure on the site shall not be placed closer to the public right-of-way that constitutes the front yard of the parcel than the primary structure unless the structure is completely screened from public view by natural vegetation including trees and shrubbery.
- E. All the other subdivisions of this section apply to the RE district.

**Subd. 4 Compatibility.** All accessory structures of any size shall be constructed of durable, finished materials and shall be compatible in color to the principal structure. All accessory structures over one hundred fifty (150) square feet in area shall be compatible with the principal structure in terms of design, roof style, roof pitch, color, and exterior finish materials.

**Subd. 5 Additional Setback, Square Feet.** A garage, whether attached or detached, or an accessory structure shall provide an additional one (1) foot of setback beyond the minimum front, side, or rear yard setbacks required in Subsection 1340.03, for every twenty (20) square feet of area over nine hundred (900) square feet of area in garages or accessory structures on the lot, except:

- A. An addition to an existing accessory structure which cannot meet the additional setbacks described above may extend an existing building edge at the existing setback line, but no closer to the lot line than the existing setback, and in no case closer than the minimum setbacks set forth in Subsection 1340.03.
- B. Such an extended building edge may be no more than thirty-six (36) feet in length along any single property line. Any portion of an extended building edge longer than thirty-six (36) feet in length must meet the additional setbacks described above in this Subdivision.
- C. In the RE district, a garage, whether attached or detached, or an accessory structure shall provide an additional one (1) foot of setback beyond the minimum front and side yard setbacks required in Subsection 1340.03 up to a total maximum setback of one hundred (100) feet, for every forty (40) square feet of area over two thousand (2,000) square feet of area in garages or accessory structures on the lot. The rear yard setback for structures larger than 2,000 square feet shall have a maximum setback of fifty (50') feet.

**Subd. 6 Additional Setbacks, Height.** A detached garage or an accessory structure shall provide an additional two (2) foot of setback beyond the minimum required front, side, or rear yard setbacks for every one (1) foot of height of its eave line over eight (8) feet.

**Subd. 7 Door Openings.** In the RE district, on lots at least three acres in size, there shall be no limit on the height of door openings for garages or other accessory structures. In all other cases, all door openings shall be eight (8) feet in height or less, except that one door opening in one accessory structure per lot may be a maximum of twelve (12) feet in height. In all districts, any door opening over eight (8) feet in height shall be turned perpendicular to the front lot line so as not to face any public street, or, if facing a public street, it shall be set back an additional ten (10) feet beyond the

minimum front yard setback required in Subsection 1340.03 for every one (1) foot of height of the door opening over eight (8) feet.

**Subd. 8 Subdivision.** No land shall be subdivided so as to have an accessory structure without a primary structure, or to have a larger building or structure than permitted by this ordinance. When a property is developed or redeveloped and an existing accessory structure made nonconforming, the structure must be brought into conformance as part of the development approval or removed from the property.

**Subd. 9 Use of Accessory Structures.** No accessory building shall at any time be used as a habitable building.

**Subd. 810 Intermodal container or shipping containers.** All intermodal containers in residential districts shall be considered to be accessory structures, and shall meet all code requirements for accessory structures in residential districts, including those in Sections 1340.03, 1340.04, 1370.03 and 1370.05.

**Subd. 911 Driveways.** One driveway access to a public roadway is permitted for each lot.

**1340.041 Covered Storage Building Standards.**

The intent of this section is to regulate the installation and maintenance of covered storage buildings, also known as tent garages or temporary carports. More specifically the intent of this section is to minimize the potential for these structures to become unsightly as seen from public right-of-ways or adjacent residential properties. The following standards and conditions apply to covered storage buildings:

**Subd. 1 Permitted As Accessory Structures.** “Covered Storage Buildings” are a permitted use as an accessory structure only in residential districts and shall not be permitted in General Business, Light Industrial, General Industrial, and Industrial Storage Districts or for any commercial use or purpose within the ~~MX 1 Mixed Use “Downtown” or MX 2 Mixed Use “Mainstreet”~~ Mixed-Use Districts. Covered Storage Buildings shall comply with the standards outlined in Section 1340.04. In addition, the following criteria shall be applied to covered storage buildings permitted as an accessory structure:

- A. Placement on Lot: The structure shall not be located in any front yard.
- B. Screening: The structure shall be screened from public right-of-way and adjacent property with shrubbery, trees or fencing.
- C. Maintenance: Lawn areas around the structure shall be kept clear of tall weeds and grass. The condition of the structure shall comply with the standards found in Ordinance 2002-11, Chapter 8. Section 811 Building and Property Maintenance.
- D. Number per Residential Lot: Only one (1) structure shall be permitted per residential lot.

**Subd. 2 Allowed with Conditions:**

- A. Placement on Lot: Structures shall not be placed in any front yard or adjacent to the driveway if located in the front yard. All other building setbacks must be met as established by the underlying zoning district.

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- B. Maintenance: Lawn areas around the structure shall be kept clear of tall weeds and grass.
- C. Lot Coverage and Structure Height: Except as provided herein, all standards relating to structure height, lot coverage, and number of accessory structures on the lot as outlined in Section 1340.04 shall be met.

**Subd. 3 Building Permit Required.** Installation of covered storage buildings over 336 square feet or 10 feet in height require a building permit from building inspections.

**1340.05 Credits and Allowances for Multiple Dwellings.**

The following lot area credits and allowances shall be applied for multiple dwellings in R-2 and R-3 districts but in no event shall the minimum lot area with allowances be less than five thousand (5,000) square feet per dwelling unit in the R-2 district nor less than two thousand two hundred (2,200) square feet in the R-3 district based on the following schedule:

- A. For each parking space provided within or beneath a principal structure, subtract three hundred (300) square feet;
- B. If the site upon which the multiple dwelling is being constructed is adjacent to a site zoned for a commercial use, subtract three hundred (300) square feet;
- C. If the adjacent site is zoned R-1 or R-1A, add three hundred (300) square feet per unit for that portion of the multiple dwelling site within one hundred fifty (150) feet of the R-1 or R-1A district;
- D. If the total lot coverage is less than twenty (20) percent, subtract one hundred fifty (150) square feet per unit;
- E. For each unit containing bedrooms in excess of two (2), add three hundred (300) square feet.

**1340.06 Special Regulations for the R-2 and R-3 Residential Districts.**

**Subd. 1 Minimum Floor Area for Multiple Family Dwellings.** The minimum floor area of an efficiency dwelling unit shall be not less than four hundred (400) net square feet, that of a one-bedroom dwelling unit shall be not less than seven hundred (700) net square feet, and that of a two-bedroom dwelling unit shall be not less than nine hundred (900) net square feet. Units containing three (3) or more bedrooms shall have an additional one hundred fifty (150) net square feet of floor area for each bedroom in excess of two (2) bedrooms.

For purposes of measurement, the net floor area of a dwelling unit shall mean that area within a building used as a single dwelling unit, and shall be measured from the inside walls to the center of partitions bounding the dwelling unit being measured, but shall not include public stairways, public entries, public foyers, public balconies, or unenclosed public porches, separate utility rooms, furnace areas or rooms, storage areas not within the apartment, or garages.

**Subd. 2 Design and Construction Requirements.**

- A. Design Review. If a Conditional Use Permit is required, the plans for a multiple dwelling must be approved by the City Council upon a recommendation by the Planning Commission after review of the plans set forth in paragraph (B) below. The Planning Commission and

Council may designate conditions or guarantees in connection with the Conditional Use Permit, which will substantially secure the provisions of the district. In granting the permit, the Planning Commission and council shall consider the requirements of paragraph (B) below and may consider other factors affecting the public health, safety and welfare.

- B. **Building Design and Construction.** A building permit and Conditional Use Permit, if required, for a multiple dwelling building shall not be issued unless the applicant's building plans, including the site plan, are certified by an architect registered in the state stating that the design of the building and site has been prepared under his direct supervision. Any building of type I or II construction, as provided in the state building code, shall have its electrical, mechanical and structural systems designed by registered engineers. Provisions of this paragraph shall not prohibit the preparation of the site plan by a professional site planner. Such plans shall include the following:
  - 1. Complete details of the proposed site development including location of buildings, driveways, parking spaces, lot dimensions, lot area and yard dimensions;
  - 2. Complete landscaping plans including species and size of trees and shrubs proposed;
  - 3. Complete plans for proposed sidewalks to service parking, recreation and service areas within the proposed development;
  - 4. Complete plans for storm water drainage systems sufficient to drain and dispose of all surface water accumulations within the area;
  - 5. Complete structural, electrical and mechanical plans for the buildings;
  - 6. Complete plans and specifications for exterior wall finishes proposed for all principal and accessory buildings.
- C. **Type of Construction.** Any building more than two and one-half (2 1/2) stories in height shall be of type I or type II construction as provided in the state building code.
- D. **Efficiency Dwelling Units.** No more than twenty (20) percent of the dwelling units in any one (1) building shall be efficiency dwelling units.
- E. **Closets and Bulk Storage.** The following minimum amounts of closet and bulk storage shall be provided for each dwelling unit:
  - 1. One-bedroom unit: ten (10) lineal feet of closet space and eighty (80) cubic feet of bulk storage. Only closet space having a minimum clear finish to finish depth of two (2) feet, zero (0) inches, shall be considered in determining the lineal feet of closet provided;
  - 2. Two-bedroom unit: twenty-four (24) lineal feet of closet space and one hundred (100) cubic feet of bulk storage. Only closet space having a minimum clear finish to finish depth of two (2) feet, zero (0) inches, shall be considered in determining the lineal feet of closet provided;
  - 3. Three (3) or more bedrooms: for each bedroom in excess of two (2) in any one (1) dwelling unit, an additional ten (10) lineal feet of closet space and fifty (50) cubic feet of bulk storage volume shall be required.

- F. Sound. Party and corridor partitions and floor systems shall be of a type rated by a laboratory regularly engaged in sound testing as capable of accomplishing an average sound transmission loss (using a nine-frequency test) of not less than fifty (50) decibels. Door systems between corridors and dwelling units shall be of solid core construction and include gaskets and closure plates. Room relationships, hallway designs, door and window placements and plumbing and ventilating installations shall be such that they assist in the control of sound transmission from unit to unit.
- G. Projecting air conditioning and heating units. Air conditioning or heating units projecting through exterior walls or windows shall be so located and designed that they neither unnecessarily generate nor transmit sound nor disrupt the architectural amenities of the building. Units projecting more four (4) inches beyond the exterior finish of a building wall shall be permitted only with the written consent of the building inspector, which shall be given when building structural systems prevent compliance.
- H. Trash incinerators and garbage. Except with townhouse and multiple residence sites of four (4) or less units, no exterior trash or garbage disposal or storage shall be permitted. In the case of townhouse and multiple residences with four (4) or less units, there shall be no exterior incineration, and any storage shall be completely enclosed by walls 6' in height.
- I. Elevators. Any multiple residence building of three (3) stories or more shall be equipped with at least one (1) public elevator.
- J. Accessory Buildings. Exteriors of accessory buildings shall have the same exterior finish as the principal structure.

**Subd. 3 Recreations and Open Space.** Multiple family residential projects shall contain an adequate amount of land for park, recreation or local open space use, exclusive of sump and drainage areas which shall not be less than twenty (20) percent of the gross area of the property and shall consist principally of land within the building setback lines.

**1340.07 Special Regulations for All Residential Districts.**

**Subd. 1 Dwelling and Manufactured Single Family Dwellings.** All dwellings and manufactured single-family dwellings constructed or established after the adoption of this Code shall meet the following criteria:

- A. The dwelling and manufactured single-family dwelling shall be placed on and secured to a permanent foundation of concrete, masonry, or treated wood;
- B. The dwelling and manufactured single-family dwelling shall have a minimum length and width of twenty (20) feet at all points, providing that such measurements shall not include overhangs and other projections beyond the principal exterior walls;
- C. The dwelling and manufactured single-family dwelling shall include an attached or detached private garage on the lot;
- D. The dwelling shall comply with the state building code and the manufactured single family dwelling shall comply with applicable Minnesota Statutes.

**Subd. 2 Home Occupations.** All home occupations shall meet the following requirements:

- A. The number of employees shall be limited to one (1) person in addition to family members residing within the home;
- B. The area within the dwelling used by the home occupation shall not exceed twenty (20) percent of the dwelling's livable floor area;
- C. On-site sales shall be prohibited, except those clearly incidental to services provided in the dwelling;
- D. Any interior or exterior alterations of a dwelling for a home occupation shall be prohibited, except those customarily found in a dwelling;
- E. Vehicles associated with a home occupation shall be limited to one automobile, pick-up truck or van on the premises, which shall be parked in a garage if the name of the home occupation or advertising appears on the vehicle. Any vehicles associated with a rural home occupation must be parked in a specified storage area or accessory structure;
- F. Unusual parking and traffic patterns shall not be created, which are not normally found in the neighborhood, and in no case shall customer vehicles be parked on public or private roads;
- G. Only one (1) sign shall be permitted. Such sign shall be a non-illuminated nameplate of not more than three (3) square feet in area, and shall be attached to the entrance of the dwelling and, in the case of a rural home occupation; it may be attached to the dwelling or the accessory structure.

**Subd. 3 Residential Building Design Review Standards.** All residential units proposed for construction on existing vacant lots or lots that become vacant by reason of demolition or destruction of existing structures within the R-1 District west of State Trunk Highway 61 shall require a Design Permit, and shall be reviewed according to the following process and standards:

- A. Site Plan Review and Review Process
  - 1. Initial Meeting. The Applicant shall first meet with the Zoning Administrator. The Zoning Administrator will explain the goals and intent of the Design Permit, Site Plan and Design Review process, along with the guidelines, application requirements and schedule.
  - 2. Design Permit, Site Plan and Building Elevations. The Applicant shall apply for a Design Permit for the proposed residential building. The application shall include submission of a Site Plan to the City and approval of a Design Permit before building permits are issued for new residential buildings on a vacant lot. The site plan shall be drawn to scale and show the following: site location, all proposed buildings, driveways, sidewalks, and other impervious surfaces, the number of dwelling units the building is intended to accommodate, and building elevations drawn to scale.
  - 3. Application Submission and Filing Fee. The Applicant must submit the Site Plan and building elevations to the City along with a permit application and filing fee set by the City Council.

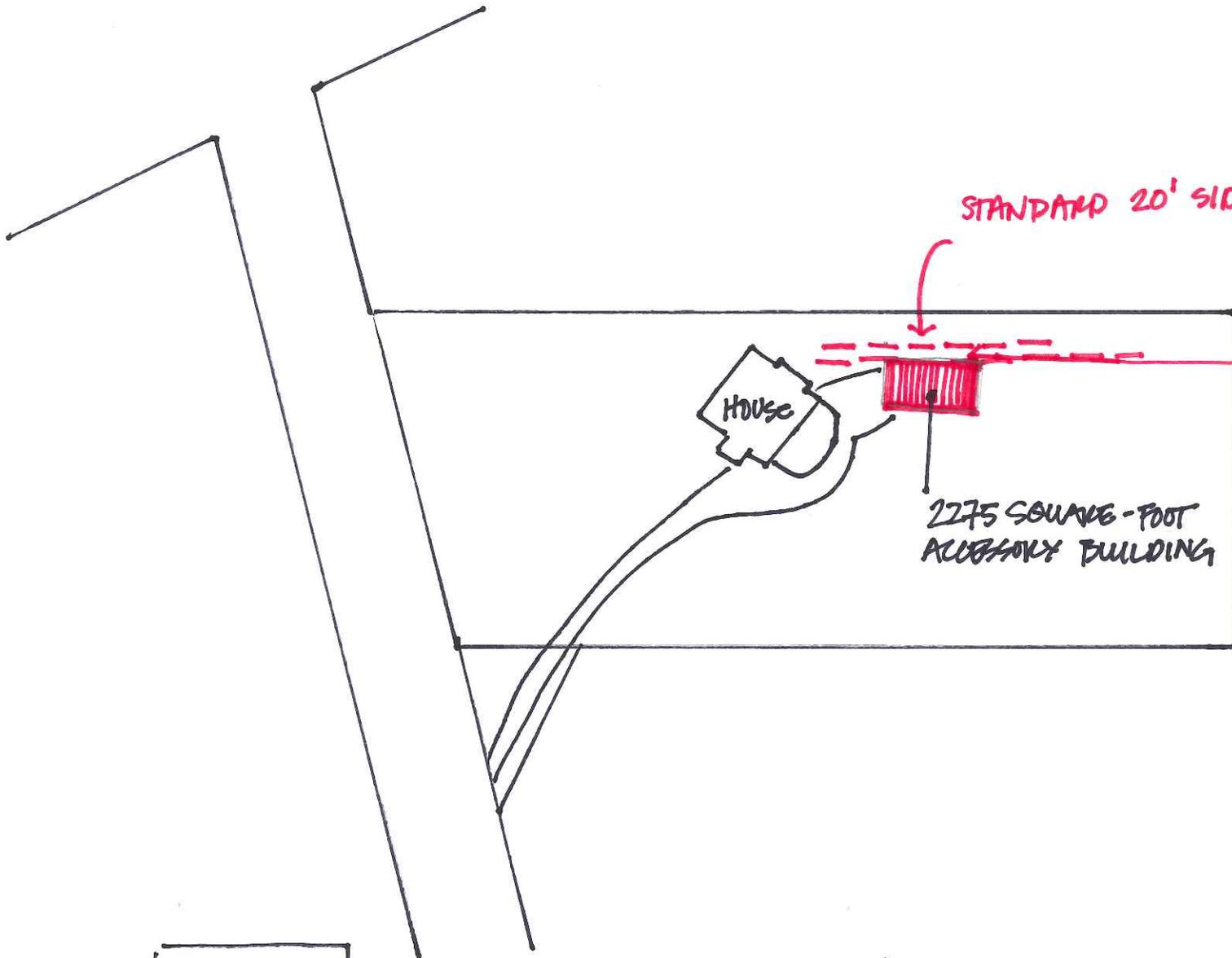
4. Site Plan Review. The Zoning Administrator shall review and may approve the site plans and Design Permit. The Zoning Administrator shall notify the Planning Commission of all approved plans. The Zoning Administrator may request that the Planning Commission review the site plan and building elevations and provide comments or recommend conditions for approval. The Planning Commission may hold a public hearing on the application. Notice of the public hearing must be published in the City legal newspaper at least 10 days before the hearing and notice mailed to property owners within 350 feet of the site. At the hearing, the Planning Commission will either recommend approval, approval with conditions, or disapproval of the proposed Site Plan.
5. HPC Review: The Zoning Administrator may refer the site plan and elevations to the Newport Heritage Preservation Commission for review if the site is adjacent to or would impact an identified historic structure or site. HPC comments shall be presented at the public hearing.
6. Approval. If the application is approved, the Zoning Administrator will issue a Design Permit to the applicant and a copy to the Building Inspector.
7. Appeal. The applicant or any interested person aggrieved with the Zoning Administrator's decision may, within 10 days, revise and resubmit the application to the Zoning Administrator or appeal the decision to the City Council.
8. Building Permit: After the application is approved, the plans may be completed and submitted to the Building Inspector for Building Permit review. The final plans will also be reviewed for Design Permit compliance by the Zoning Administrator. The Building Inspector or Zoning Administrator will monitor compliance with the Design Permit and any conditions of approval.

**B. Building Design Standards**

1. Relationship to Adjacent Buildings. All new buildings proposed on existing vacant lots or lots that become vacant through demolition shall relate to the design of adjacent traditional buildings in scale, size, proportions and character. This can be achieved by maintaining similar setbacks, façade divisions and proportions, porch elements, roof form and lines, rhythms and proportions of openings, building materials, details and colors. Historic architectural styles need not be replicated.
2. A primary entrance shall face an improved abutting street or be located off of a front porch, foyer, courtyard or similar architectural feature, and set back at least eight (8) feet from the side lot line.
3. For principal structures, above grade window and door openings shall comprise at least fifteen (15) percent of the total area of exterior walls facing a public street or sidewalk. In addition, above grade window and door openings shall comprise at least ten (10) percent of the total area of all exterior walls. Windows in garage doors shall count as openings; the area of garage doors themselves shall not count as openings. Windows shall be clear or translucent.
4. Residential structures shall be set back far enough from the street to provide a private yard area between the boulevard and the front door. Landscaping, steps, porches, grade

changes, and low ornamental fences or walls may be used to provide increased privacy and livability.

5. Building materials and architectural treatments used on sides of buildings facing an abutting public street and on accessory structures should be similar to those used on principal facades.
6. The design and siting of the building should seek to preserve existing trees on the site and immediately adjacent lots. The landscape design should consider permeable materials for paths and driveways to protect existing mature trees in sensitive areas.



STANDARD 20' SIDE SETBACK (1340.03)  
TABLE

ADDITIONAL 7' SETBACK  
(1340.04)

2275 SQUARE-FOOT  
ACCESSORY BUILDING

- 2275 sq. ft. structure is 275 sq. ft. over 2000 sq. ft.
- $275 \div 40 = 6.85$ , so rounded to 7' additional setback.

EXAMPLE

3.4-Acre lot in PE District  
1651-11<sup>th</sup> Avenue

↓ Bluff Line (approximate)  
30% Slopes or greater

20' STANDARD SETBACK - 1340.03 TABLE

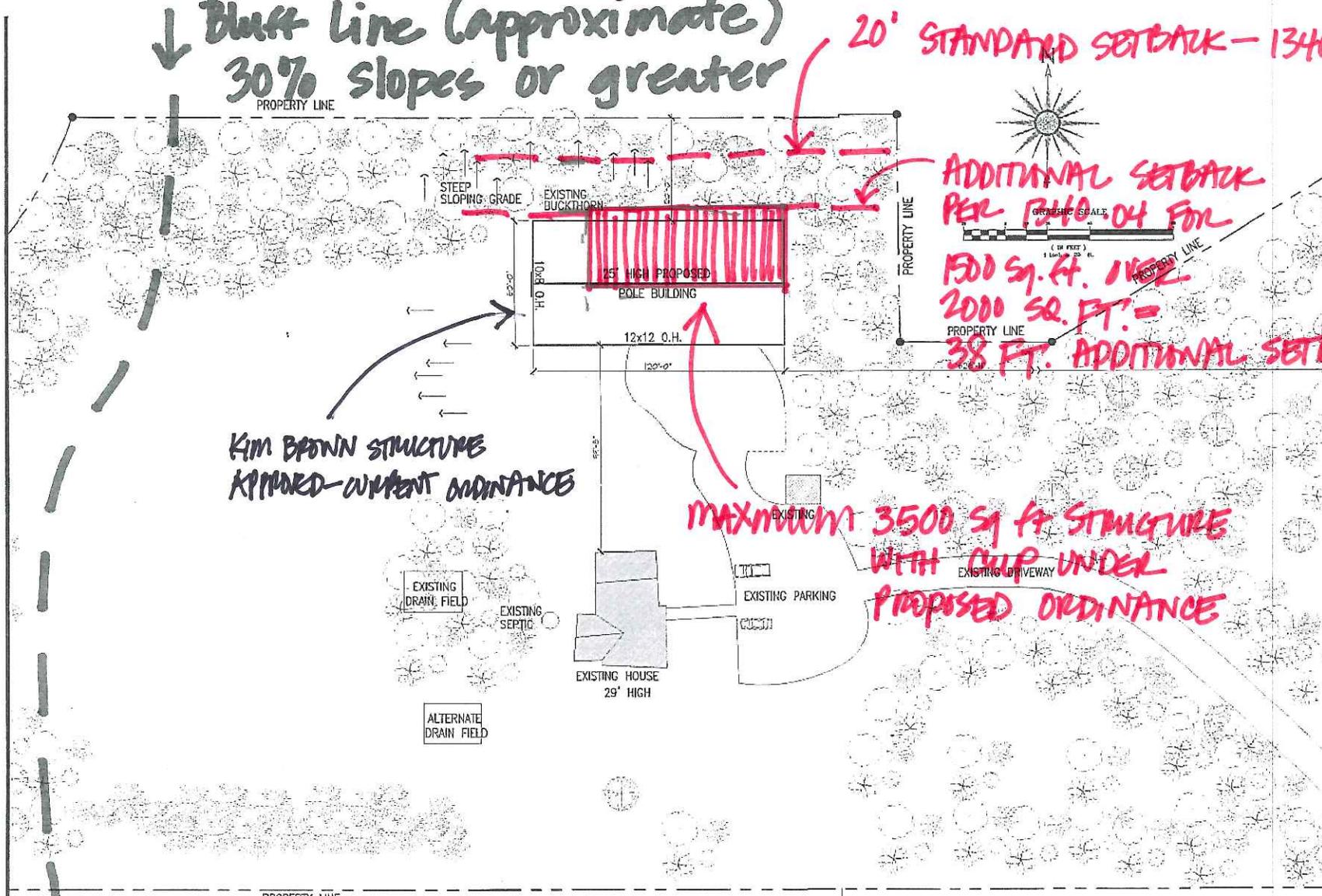
ADDITIONAL SETBACK PER R140.04 FOR

1500 SQ. FT. OVER  
2000 SQ. FT. =

38 FT. ADDITIONAL SETBACK

KIM BROWN STRUCTURE  
APPROVED CURRENT ORDINANCE

MAXIMUM 3500 SQ FT STRUCTURE  
WITH CUP UNDER  
PROPOSED ORDINANCE



1675 KOLFF ST.  
NEWPORT, MN  
651.238.0666  
KIM BROWN / OWNER

Issue Date: 6/27/2013

Drawn By:  
E. THORNE  
612.802.1252

ALL DIMENSIONS AND  
CONDITIONS TO BE  
VERIFIED BY OTHERS

Sheet Title:  
PROPOSED  
SITE  
PLAN

Sheet Number:

AS1

©2013

EXAMPLE - 8.76 ACRE PARCEL IN RE DISTRICT  
1675 KOLFF RD

PROPOSED SITE PLAN  
SCALE: 1" = 20'-0"



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

## Memorandum

<b>To:</b>	Newport Planning Commission	<b>Reference:</b>	Proposed new uses—Brewpubs, Taprooms and Breweries
<b>Copies To:</b>	Deb Hill, City Administrator		
	Renee Helm, Executive Analyst		
<b>From:</b>	Sherri Buss, RLA, AICP, Planner	<b>Project No.:</b>	15252.000
<b>Date:</b>	November 6, 2013	<b>Routing:</b>	

### Background

Autumn and Derrick Lehrke are considering purchasing the Red Rock Saloon on 21<sup>st</sup> Avenue. Their plans include development of a microbrewery and taproom at that site. Microbreweries, taprooms and craft breweries are growing in popularity, and sprouting up in many communities around the Twin Cities. Minneapolis, for example, had 29 microbreweries and 19 brew pubs in 2012.

Newport does not currently allow any of the brewery-related uses in its zoning ordinance. These uses could bring new business and interest to the City, and could be compatible with and support the vision for some of the MX Districts in the City.

Staff suggest that the Planning Commission discuss the proposed uses, and determine whether the zoning ordinance should be updated to include one or more of the brewery uses and performance standards for those uses.

### Brewery-related Uses

City of St. Paul staff recently completed a planning study related to commercial brewing zoning regulations. Staff have attached a copy of the study memo to provide background for Planning Commission discussion on November 14.

- The memo discusses the variety of potential commercial brewery types, and definitions. Should we consider allowing some of these uses in Newport? Which ones? The use that probably best fits the Lehrke’s proposed business is “small brewery as an accessory use to a bar or restaurant,” but if any of the other types of commercial breweries provide good potential for new business and could fit in Newport, we may consider them as well.

St. Paul’s Zoning Code includes definitions and standards for the following:

- Malt liquor production

- Micro and regional brewery
  - National brewery
  - Small brewery as an accessory use to a bar or restaurant
  - Brew on premises store
  - Bar
- Note where the brewery uses are permitted in Saint Paul. Conditional use permits for brew pub/restaurants are typically required outside the downtown area. (The T classifications on the table are “Traditional Neighborhood Districts,” similar in purpose to Newport’s MX Districts. The “B” classifications are Business Districts, and the “I” classifications are Industrial Districts.
  - The memo notes that Saint Paul’s zoning regulations are relatively permissive and “welcoming” to breweries. Should Newport consider a similar approach to encourage these businesses? What are the issues for residents and other businesses? The Saint Paul staff discuss potential issues beginning on page 9 of the memo.
    - One of the potential issues identified in some neighborhoods that is not discussed in the memo is the desire of breweries to have events or festivals to promote their products. Some neighborhoods in Minneapolis have complained about the impacts of multiple promotional events on surrounding residents.
  - Newport’s ordinance includes a number of general performance standards for non-residential uses, but does not have performance standards tied to individual uses as many ordinances do.

To permit these new uses in the City, at a minimum we should add any new uses to the “use” tables in the ordinance and identify the type of permit needed. The Planning Commission should also consider whether some specific performance standards are needed for some of the new uses.

- Renee has found the City would also need to make some changes to its licensing regulations to allow for microbreweries. She can discuss her findings with the Commission on November 14.





**CITY OF SAINT PAUL**  
*Christopher B. Coleman, Mayor*

25 West Fourth Street  
Saint Paul, MN 55102

Telephone: 651-266-6700  
Facsimile: 651-228-3220

**DATE:** August 7, 2013

**TO:** Neighborhood Planning Committee

**FROM:** Bill Dermody, City Planner, PED  
Ross Haddow, Zoning Intern, DSI

**RE:** Review of zoning study initiated by Resolution 13-256, regarding amending the zoning code text regarding alcohol production (Secs. 63.207, 65.772-82, 66.321, 66.421, and 66.521)

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## **ISSUE**

Councilmember Amy Brendmoen and Councilmember Russ Stark introduced Resolution 13-256 on February 13, 2013, requesting the Planning Commission's study, report, and recommendation regarding proposed amendments to commercial brewing zoning regulations. The resolution calls for facilitating the growth of small, local commercial breweries. (Please see the memo attachments for a copy of the resolution.) The study has been expanded to also address small distilleries and small wineries, as allowed for by the resolution. A significant, but limited Zoning Code amendment allowing small brewers to have taprooms was processed in March 2013 (Ord. 13-14) as directed by the resolution ahead of the full study.

The following document provides background, analysis, a summary of public input, and a recommendation for action. Due to the length and complexity of the background section, it is broken down into several subsections: legal setting, definitions, current Zoning Code classifications, existing and planned facilities, comparison to other cities – breweries, comparison to other cities – distilleries, comparison to other cities – wineries, parking, odor, truck traffic, fire, and the 5,000 barrels cutoff.

## **BACKGROUND**

The market for small, local breweries has expanded exponentially in recent years across the nation, including in Minnesota and in Saint Paul. Just 5 years ago, Minnesota had only 3 microbreweries and 11 brew pubs; by 2012 it had 29 microbreweries and 19 brew pubs. Additionally, many existing breweries are expanding quickly, including local producers Surly and Fulton. The recent boom is driven in part by changes in state law, but it also reflects the larger trend of shifting consumer preferences away from mainstream national brands toward "craft" brands, whether national (Sam Adams), regional (Summit), or local (Flat Earth). This

zoning study analyzes potential amendments to the Zoning Code that could allow Saint Paul to participate more fully in this growth, consistent with the Comprehensive Plan and sound planning principles.

A more recent nationwide trend of note is the growth of small, craft distilleries. For instance, in Washington, where laws and tax rates are favorable, there are now more than 60 craft distilleries. With recent changes to Minnesota tax rates, several small distilleries have expressed interest in locating in our area. Another potential growth sector is small, craft production of alcoholic cider, sake, or other beverages technically classified as “wine” under State of Minnesota law. Due to the similarities between the various types of craft alcohol production, staff has expanded the study focus to include distilleries and wineries in addition to breweries.

### **Legal Setting**

Alcohol business laws are in tremendous flux across the nation and in Minnesota, with continued change anticipated. After the end of Prohibition in 1933, state laws generally established a “three-tier” system for alcohol (production, distribution, retail), with no overlap between the tiers, as a way to prevent abuses that had occurred in the previous era of legal alcohol sales. The “three tiers” had to be completely separate business entities under these laws. The strict three-tier system has been loosened in recent decades to various degrees on a state-by-state basis. For instance, brew pubs – which produce, sell, and sometimes distribute – are now commonplace. In Minnesota, a significant 2011 amendment (popularly known as the “Surly Bill”) allowed for small brewers to operate taprooms that serve the product directly to consumers. Numerous other amendments to State of Minnesota alcohol law have been discussed and are possible in the future, including allowing small distilleries to operate taprooms and allowing brew pubs to distribute off-site.

Taxation is also in flux and could have a significant effect on the alcohol marketplace. Major tax rate decreases for small brewers and distillers have spurred market growth in Minnesota and elsewhere, while upward adjustments in the definition of “small” are often debated and possible for the future. However, states including Minnesota have also considered increasing alcohol taxes and capturing more money from the growing small brewery sector as a way to balance budgets. These taxation issues are out of the City’s control, but could drastically shape the local scene.

### **\* Definitions**

Definition of terms is helpful in discussing alcohol laws and concepts. The Saint Paul Zoning Code provides definitions and/or standards and conditions for *malt liquor production*, *micro and regional brewery*, *national brewery*, *small brewery as an accessory use to a bar or restaurant*, *brew on premises store*, and *bar*. *Malt liquor production* (Sec. 65.774) is a brewery that produces less than 5,000 barrels per year. A *micro and regional brewery* (Sec. 65.820) is a brewery with the capacity to produce up to 1,000,000 barrels per year. A *national brewery* (Sec. 65.821) produces over 1,000,000 barrels per year. A *small brewery accessory to a bar or restaurant* (Sec. 65.910 (1)), commonly known as a “brew pub,” is generally limited to selling its beer for consumption on the premises where it is brewed, excepting only “growlers” for off-site consumption as defined by State of Minnesota law. A *brew on premises store* (Sec. 65.611)

provides the ingredients and equipment for a customer to brew malt liquor at the store for personal or family consumption. A *bar* (Sec. 65.610) is an establishment that serves wine, beer, or intoxicating liquor for consumption on the premises between midnight and 2 a.m.; notably, a taproom or brew pub would be considered a bar if it were open past midnight and would then be subject to additional standards.

Chapter 409 of the City Code (“Licensing: Intoxicating Liquor”) provides definitions and regulations that generally mirror State of Minnesota law regarding *brew pubs*, *taprooms*, *growlers*, and several other alcohol-related terms. One notable difference between City licensing regulations and State law is that the City limits breweries to 3,500 barrels produced per year if they are to offer growlers, while the State recently raised the limit to 20,000 barrels.

State law provides several other relevant definitions, including for *taproom*, *malt liquor*, *growler*, *wine*, *distilled spirits*, *microdistillery*, and *proof gallon*. A *taproom* is a space on the premises of or adjacent to a brewery where the malt liquor product is sold and consumed on-site. *Malt liquor* is any beer, ale, or other beverage made from malt by fermentation and containing not less than 0.5% alcohol by volume. A *growler* is a 64-ounce container filled by a brewer and sold directly to a customer for off-site consumption. Notably, growler sales are limited to 500 barrels annually and are only permitted by brewers of a certain size (<20,000 barrels per year) and brew pubs. A *brew pub* is not explicitly defined (the State instead uses the phrase “restaurant operated in the place of manufacture”), but regulations limit it to 3,500 barrels per year and prohibit sales to other restaurants or liquor stores, except restaurants owned by the same entity. *Wine* is the traditional product made from the normal alcoholic fermentation of grapes, but also includes vermouth, cider, perry, and sake, so long as the product contains between 0.5% and 24% alcohol by volume. *Distilled spirits* is defined to include whiskey, rum, brandy, gin, and other distilled spirits for nonindustrial use. A *microdistillery* is a distillery producing premium, distilled spirits not exceeding 40,000 proof gallons in a calendar year. A microdistillery can provide samples to customers on-site, but cannot sell its product for on-site consumption like a brewery taproom. A *proof gallon* is one liquid gallon of distilled spirits that is 50% alcohol at 60 degrees Fahrenheit.

Though not explicitly defined by the State or City, a beer barrel is commonly defined as containing 31 gallons and a keg as containing 15.5 gallons.

### **Current Zoning Code Classifications**

Below is a summary table of the current Zoning Code classifications for brewing uses:

T = TRADITIONAL NEIGHBORHOOD,  
 SIMILAR TO NEWPORT'S MX DISTRICTS  
 B = BUSINESS DISTRICTS  
 I = INDUSTRIAL DISTRICTS

Table 1: Saint Paul Zoning Code.

	T1	T2	T3	T4	B1	B2	B3	B4	B5	IR	I1	I2
<b>Brew Pub Restaurant</b>		P/C	P/C	P/C		P	P	P	P	P	P	P
<b>Brew Pub Bar</b>		P/C	P/C	P/C		P/C	P	P	P	P	P	P
<b>Brew on Premises Store</b>		P	P	P		P	P	P	P	P	P	P
<b>Malt Liquor Production</b>		P/C	P/C	P/C		P/C	P	P	P	P	P	P
<b>Micro and Regional Brewery</b>										P	P	P
<b>National Brewery</b>												P

P = Permitted C= Conditional Use Permit

A *small brewery accessory to a bar or restaurant*, or “brew pub”, is allowed wherever restaurants or bars are allowed, including T2-4, B2-5, IR, I1, and I2 districts. For restaurants (including brew pubs) in the T2-4 districts, a conditional use permit is required to exceed a floor area of 15,000 square feet. Notably, restaurants do not typically come close to that size limit. For bars in the T2-4 and B2 districts, a conditional use permit is required to exceed a floor area of 5,000 square feet. Examples of brew pubs include Great Waters Brewing Company, Minneapolis Town Hall Brewery, and Rock Bottom Restaurant & Brewery.

A *brew on premises store* is allowed in the same districts as a brew pub (T2-4, B2-5, IR, I1, and I2), though without the size limitations. A prime example of a brew on premises store is the Vine Park Brewing Company.

*Malt liquor production* (maximum 5,000 barrels/year) is allowed in the same districts as a brew pub (T2-4, B2-5, IR, I1, and I2). The size limit is 15,000 square feet in the T and B2 districts, similar to the size limit for a brew pub restaurant (which is the same amount, but does not apply in B2). Examples most likely meeting the City’s definition of *malt liquor production* include Flat Earth Brewing Company, Steel Toe Brewing (St. Louis Park), Indeed Brewing Company (Minneapolis), and Dangerous Man Brewing (Minneapolis), among many others.

*Micro and regional breweries* (up to 1,000,000 barrels/year) are allowed in IR, I1, and I2 districts. Examples of breweries meeting the City’s definition of *micro and regional brewery* include Summit Brewing Company and Surly Brewing Company.

*National breweries* (over 1,000,000 barrels/year) are allowed only in the I2 district. *National breweries* meeting the City’s definition include Samuel Adams, Miller, Coors, and Budweiser.

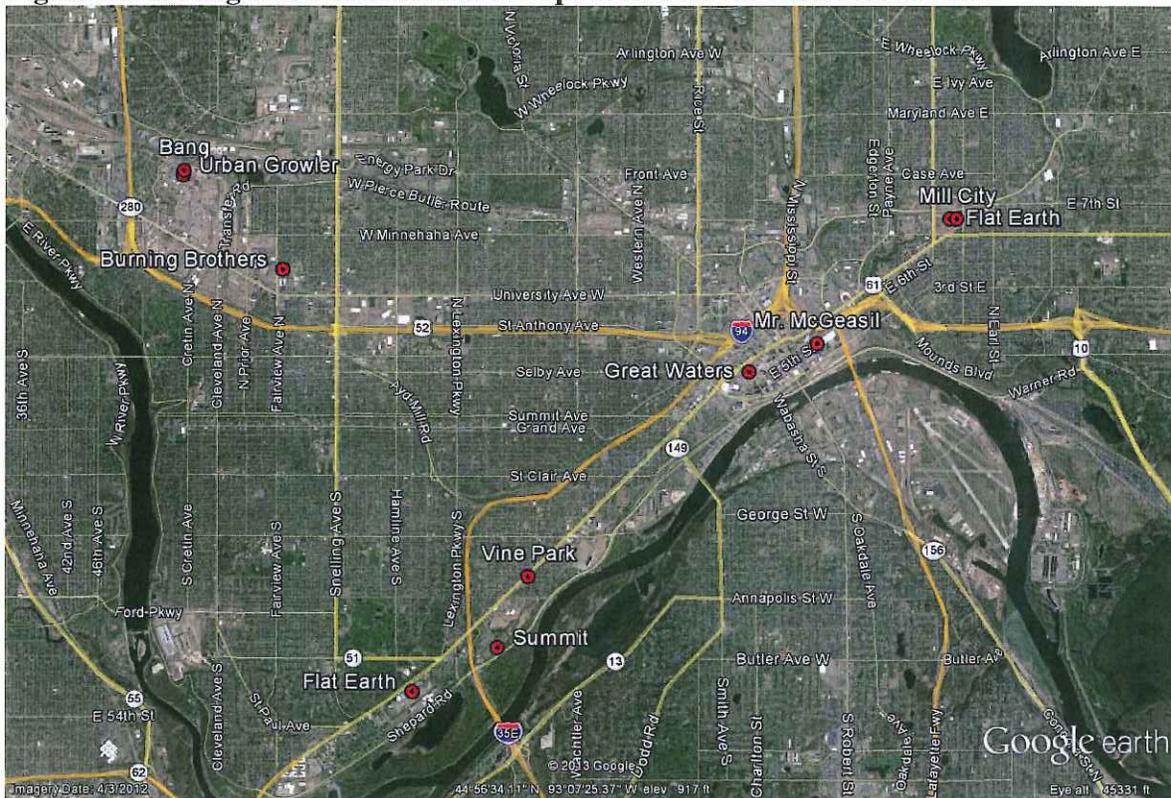
Distilleries and wineries are not currently addressed in the Zoning Code and therefore require determinations of similar use from the Zoning Administrator for each individual case. The Mill City Distillery recently received zoning approval to occupy part of the former Hamm's Brewery, which is zoned I2, making it the first modern distillery approved in Saint Paul.

The full permitted use tables are located within the Zoning Code as Table 66.321 (Traditional Neighborhood Districts), Table 66.421 (Business Districts), and Table 66.521 (Industrial Districts).

### **Existing and Planned Facilities**

Saint Paul currently has four alcohol production facilities, with four new facilities and a relocation/expansion planned in 2013. Great Waters Brewing Company, classified as a *small brewery accessory to a restaurant*, is zoned B4. Summit, a *micro and regional brewery*, is zoned I1. Flat Earth, a malt *liquor production facility*, is zoned I1. Vine Park, a *brew on premises store*, is zoned B1. A relocated/expanded Flat Earth and Mill City Distillery are planned for the former Hamm's Brewery, zoned I2. New malt *liquor production facilities*, Bang Brewing Company and Urban Growler Brewing Company, are planned on neighboring parcels in St. Anthony zoned I2. Another malt *liquor production facility*, Burning Brothers, is planned in Hamline-Midway on property zoned T3. Other new distilleries and a new malt liquor production facility have inquired about property in Saint Paul, but have not yet announced their planned locations.

**Figure 1: Existing and announced alcohol production facilities in Saint Paul.**



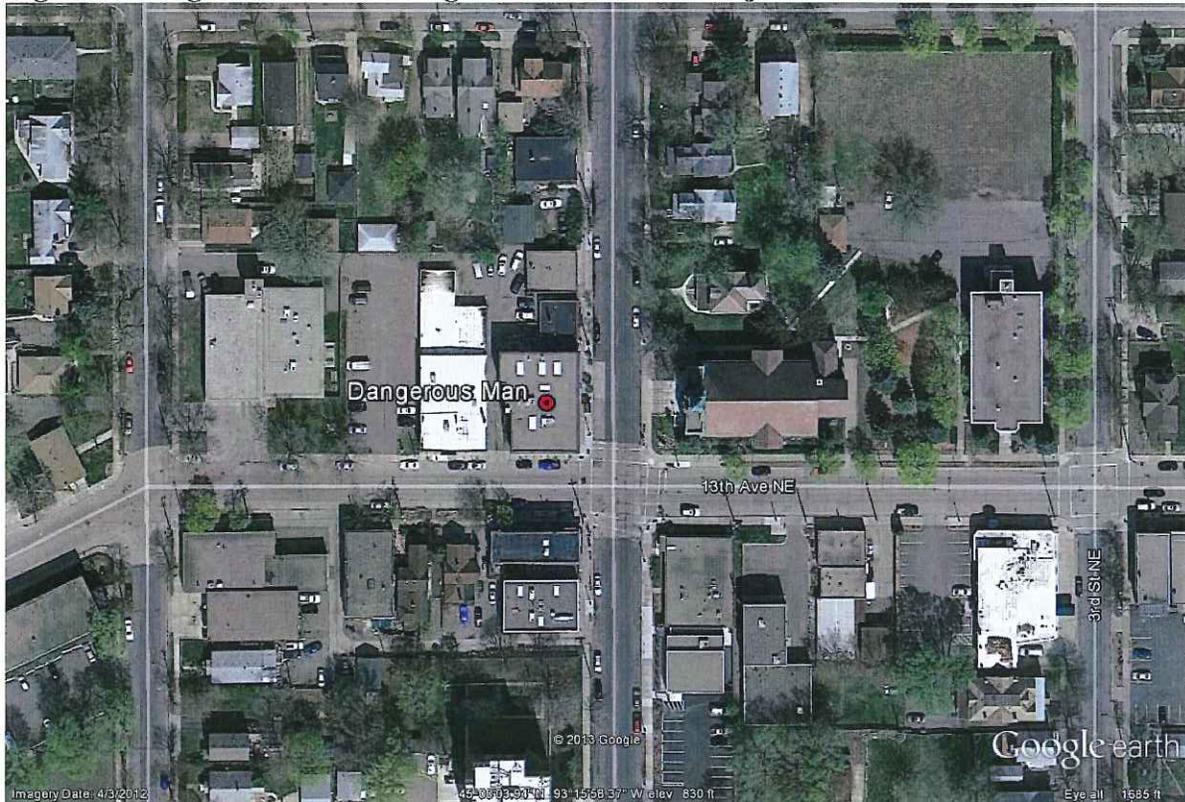
### **Comparisons To Other Cities - Breweries**

Staff researched regulation and location characteristics of breweries in other cities locally and throughout the United States, focusing especially on Minneapolis, Duluth, Dallas, Denver, Portland, and Seattle because of their similarities to Saint Paul. Key findings include that Saint Paul has rather permissive zoning regulations for small breweries compared to many cities nationally and that the primary comparison cities noted above are similarly permissive.

Generally, Saint Paul's regulations make it possible for small breweries ("malt liquor production") and brew pubs to exist in almost any mixed use, commercial, or industrial district, excepting only the most restrictive districts intended to serve just the surrounding neighbors (B1 and T1), heavy industry (I3), or non-production uses (OS and BC). Many other cities still limit breweries of any size to industrial areas, and some cities limit brew pubs to commercial zones.

Though Saint Paul's regulations are already rather welcoming to breweries, there are several ideas that can be drawn from the primary comparison cities. Minneapolis, distinctively, allows small breweries in their C1 Neighborhood Commercial District, but they have a much more restrictive floor area limit without needing a conditional use permit (1,200 sq. ft. vs. 15,000 sq. ft. in Saint Paul's most similar district). Only one brewery (Dangerous Man) is currently located in a C1 District – it is relatively new, but Minneapolis staff interviewed are not aware of any noise, traffic, or odor issues thus far.

**Figure 2: Dangerous Man Brewing Co. is in a C1 zone adjacent to residences and a church.**



Denver’s regulations stand out as the most permissive – the districts that allow breweries are similar to Saint Paul, but without similar size/output limits specified in their form-based zoning code (a limit of 60,000 barrels per year, vs. 5,000 in Saint Paul, applies only in their mixed use districts). Denver’s larger, established microbreweries are mostly located in industrial areas or near the baseball stadium, though newer ones are located in a variety of settings, including mixed use. None of the newer breweries located near residential properties appear to be producing more than 5,000 barrels per year, and so no lessons can yet be drawn about their land use compatibility at such a capacity.

Nearly all cities nationwide allow microbreweries in industrial districts and brew pubs in commercial/mixed use districts. Also, the primary comparison cities (other than Duluth) allow brew pubs in industrial districts, just as Saint Paul does. The summary table below addresses the more variable regulations regarding breweries in commercial/mixed use districts.

**Table 2: Breweries in Commercial or Mixed Use Districts.**

	Allowed?	Maximum Barrels/ Year	Maximum Sq Ft	Notes
Mpls	Yes	none	1,200	Includes C1 Neighborhood Commercial District
Duluth	Some	none	none	Allowed districts are clustered d'town/lakefront
Dallas	w/ CUP	none	10,000	CUP also required for bars, sometimes required for restaurants and brewpubs
Denver	Yes	60,000 or none	none	CUP if w/in 500 feet of resid. in non-mixed use districts; barrel limit only applies in mixed use districts
Portland	Yes	none	5,000 or 10,000	
Seattle	Yes	none	10,000 or 20,000*	
Saint Paul	Yes	5,000	15,000*	

\* Maximum does not apply in more intense districts (B3-B5 in Saint Paul, equivalent in Seattle)

**Comparisons To Other Cities - Distilleries**

Though some small, craft distilleries have existed for decades, they are generally more of an emerging concept than craft breweries. There were only 323 craft distillers in the country in 2012 based on an American Distilling Institute directory, with nearly half (149) of them concentrated in six states: California, Colorado, New York, Oregon, Texas, and Washington. The major urban concentrations of craft distillers (5+ businesses) were in Portland and Seattle.

Nationwide, zoning regulations that specifically mention small or micro distilleries address them both qualitatively and quantitatively. Quantitative limits identified range from 5,000 gallons per year (Evanston, IL, which also requires a taproom to meet the definition) to 660,000 gallons per year (Nashville). Proof-gallons are also used as a measure in other locations.

The leading distillery cities (Portland and Seattle) do not specifically address small distilleries in their codes. Rather, distilleries are considered subsets of production or light manufacturing uses, much like breweries; all uses fitting the broader production/manufacturing categories are allowed in most commercial and mixed use districts so long as they abide by size restrictions. Some of the distilleries in Portland and Seattle are immediately adjacent to residential uses. Research into property complaints and interviews with city staff have revealed no land use impacts regarding distillery operations. Anecdotally, Portland staff note that distilleries tend to have more of a retail goods element than breweries.

**Figure 3: Oola Distillery in Seattle is surrounded to the south, west, and east by apartments.**



### **Comparisons To Other Cities - Wineries**

Staff research has not discovered any major cities that specifically address small, local wineries (or producers of sake, hard cider, etc.) in urban locations. Some cities, such as those noted above, would likely classify small wineries in the broader production or light manufacturing categories. Sake is addressed in State of Minnesota law to clarify that it can be sold in growlers similarly to that sold by small brewers, a response to a specific situation in Minneapolis. Minneapolis has one sake producer (Moto-i) that is located in a commercial district and functions much like a brew pub, with the sake production being accessory to a restaurant. Portland, Seattle, and Minneapolis, incidentally, each have a hard cider producer in the process of opening this year.

### **Parking**

Parking can become a concern when a brewery adds a taproom due to the increased customer traffic it typically presents. Current practice is to require the production portion of the facility to provide parking based on the limited production/manufacturing Zoning Code entries, while the taproom portion is treated like a restaurant. The same practice would likely apply to distilleries or wineries (sake, cider, etc.) with taprooms, should the State of Minnesota law allow for it. Limited production/manufacturing uses must provide 1 space per 1,000 sq. ft. gross floor area or 1 space per 2,000 sq. ft. if more than 50% of production floor space is occupied by automated machinery. Restaurant uses must provide 1 space per 400 sq. ft. Staff recommends clarifying this current practice through new language in the Zoning Code. The parking requirements are summarized in Table 63.207 of the Zoning Code.

Any taproom or brew pub restaurant that became a *bar* by definition would become subject to the parking regulations applied to bars. A bar is required to provide 1 space per 150 sq. ft. gross floor area.

Notably, Minneapolis currently calculates parking for breweries in industrial areas as if it were a 100% production use, regardless of any taproom space – a significant difference from Saint Paul practice.

### **Odor**

In general, manufacturing processes that create noxious odors detected beyond property lines are often limited to industrial districts. Some non-manufacturing uses regularly found in commercial districts, however, frequently generate smaller-scale odors discernable beyond the property line – particularly restaurants with fryers. The question of whether an odor should be limited to industrial areas seems to be a matter of preferences and expectations, which may be best measured by neighbor complaints. Staff research has found that small breweries, distilleries, and wineries in urban areas do not normally generate odor-based complaints.

Breweries, distilleries, and wineries (sake, cider, etc.) do have the potential to generate odor. Breweries, distilleries, and sake producers, in particular, will generate some odor similar to a bakery when the product is cooked (brewed) and still non-alcoholic. (Sake is actually brewed even though the State of Minnesota classifies it as a “wine”.) This type of cooking odor can be quite noticeable with larger brewers, like Summit. Staff research has found no odor-related complaints against small brewers or distillers in Saint Paul or the primary comparison cities. It is not clear at what operation size the brewing odor becomes plainly noticeable.

A distinctive odor potential from wineries or distilleries comes from drying/rotting byproduct – the problem identified with the former industrial ethanol plant on West 7<sup>th</sup>. Certain distilled liquors, generally those with more flavor, can also produce odors during the aging process. So long as waste products are not left to dry on-site, small wineries and distilleries are not expected to generate significant odors beyond what would be expected from a similarly sized bakery or brewery. Small distilleries in the primary comparison cities have not generated odor complaints.

### **Truck Traffic**

A near-universal land use impact of breweries, distilleries, and wineries is truck traffic, including both inbound delivery of raw materials and outbound delivery of product. The correlation of production and truck traffic is not linear – an annual capacity of an additional 1,000 barrels does not equal a certain amount of additional truck traffic. Small producers have more irregular patterns and generally higher levels of traffic per unit, but often via smaller vehicles with less land use impact like vans or personal trucks. That is, the product is often delivered on-demand for each individual customer (restaurant, liquor store, etc.). Larger regional brewers – our area does not yet have any regional distillers or wine producers – have more regular and larger deliveries, often via semi-truck, typically coordinated through a major distributor who can store the product in their own warehouse. Brewers of an intermediate size often use box trucks.

Staff research has found that there is not enough consistency in brewery facility operations to allow prediction of the increase in truck traffic for a given increase in production. Complicating variables include type of vehicle used (van vs. box truck vs. semi-truck), fullness of vehicle, mix of product containers (can/bottle vs. keg), and amount of on-site storage for grain supplies and finished product. However, the following approximate idealized figures may still be helpful: 1,000 barrels per year = 19 barrels per week = 264 cases (24-packs of cans or bottles) per week = 0.44 box trucks full of outbound product per week (if all in cans or bottles) = 0.2 semi-trucks full of outbound product per week. The idealized figures can be used to generate best-case scenarios (e.g. a 5,000 barrel per year facility could generate as little as 2.2 outbound box trucks per week). It should be emphasized that the idealized figures have not been found to reflect reality – they are at best a starting point for analysis.

### **Fire**

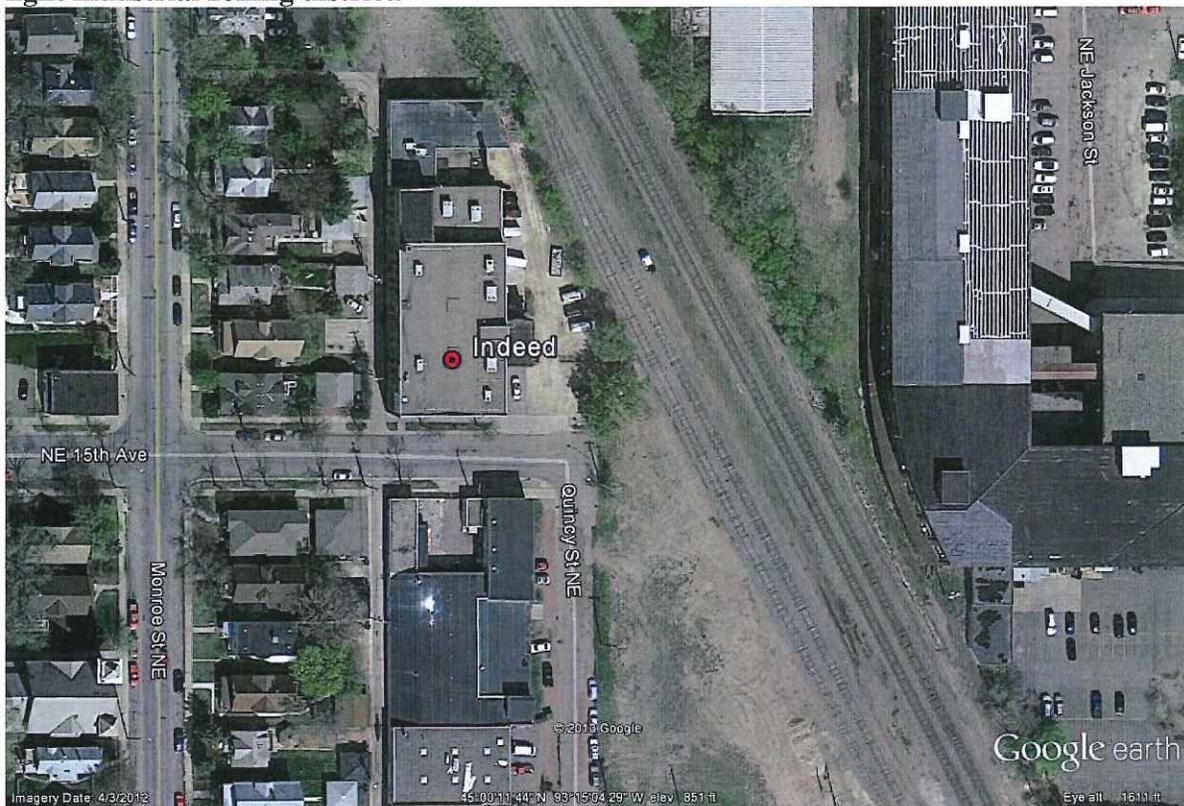
Fire risk is more difficult to measure and predict than other land use impacts because fire is chronologically irregular rather than an ongoing event. Thus, the lack of fire events in similar situations elsewhere is not necessarily predictive. Fire is of particular concern with regard to distilleries' flammable product and breweries'/distilleries' grain storage. The Fire Code addresses both of these concerns and would be applied at the time of building permits. Staff research has not discovered fire to have been an issue with existing small distilleries in urban areas, though fire risk has been used as rationale for limiting distilleries to industrial districts in some jurisdictions. In the primary comparison cities, fire risk does not appear to have been explicitly addressed through zoning.

### **5,000 Barrels Cutoff**

Given current regulations for *malt liquor production* that limit it to 5,000 barrels per year, staff research has particularly focused on the land use impacts of breweries approximately that size or somewhat larger in comparable cities. There are few examples of breweries in that size range across the country that have maintained that size for any length of time. Indeed Brewing of Minneapolis is in the process of doubling its capacity from approximately 3,800 barrels per year to 7,600, with no further expansions announced; thus far, no negative land use impacts have been reported. Indeed Brewing could be an exception to the norm and worth future examination. One niche brewery in Portland has been producing 10,000 barrels/year since about 2010 without land use conflicts, though it is in an industrial-type building not near residential uses. Generally,

breweries producing over approximately 3,000 or 4,000 barrels per year tend to have expansion plans to produce well over 10,000 barrels. Whether the *malt liquor production* limit is set at 5,000 barrels per year, 10,000 barrels, or somewhere in between, the current national market conditions would predict that a brewery exceeding one of those limits would soon surpass all of them – it appears to be within a transition range for breweries expanding their market area reach. It is difficult to predict whether future market conditions would be similar. Also, niche submarkets are particularly difficult to predict since their success will hinge on untested consumer preferences, rather than superiority in the more stable mainstream market.

**Figure 4: Indeed Brewing Company in Minneapolis is located adjacent to residences in a light industrial zoning district.**



## ANALYSIS

Several issues have been identified for analysis in consideration of potential zoning amendments, as addressed below. An analysis of Comprehensive Plan conformity follows.

### Issue #1

**Should the limit of 5,000 barrels per year be adjusted for *malt liquor production*?**

*Malt liquor production* is limited to 5,000 barrels in the T2-4 and B2-5 districts. It is also limited to 15,000 square feet in T2-4 and B2 districts. The primary land use concern with increasing the 5,000 barrel limit is the anticipated increase in heavy truck traffic. However, as noted above, it is impossible to predict the amount of truck traffic based solely on production levels without knowing other details about the particular business operations. Also, it is noted that properties in the affected zoning districts have varying attributes (e.g. distance to residential, location of truck docks) that would significantly influence a brewery's land use impact. For example, please see Figures 5 and 6 below.

**Figures 5 and 6: Properties below show situations (zoned T3 and B2) that could support very different levels of truck traffic, but are treated similarly by the Zoning Code.**



\* Due to the significant variety of land use settings among the affected districts, and due also to the inability to predict levels of heavy truck traffic, a conditional use permit is the best option for accommodating production levels above 5,000 barrels per year in the T2-4 and B2-5 districts. Variables that could be considered through a conditional use permit include presence/location of truck docks, distance to residential uses, and building orientation.

Under the conditional use permit option, any hard upper limit should be set high enough to include production levels that might be deemed appropriate at the best-suited sites located in traditional neighborhood and business districts. It is recommended that the hard limit be set at 20,000 barrels per year.

One reason that raising the 5,000 barrels per year limit might not be desirable is that it could reduce demand for underutilized industrially zoned sites. Related to this, it could entrench production-style uses on sites that were rezoned to traditional neighborhood districts specifically to incentivize a transition from industrial uses to mixed commercial/residential uses. The

recommendation to allow a conditional use permit option predicts that moderately higher production facilities can be compatible with, and perhaps encourage, the mixed uses envisioned for these zoning districts.

### **Issue #2**

#### **Should breweries, including *malt liquor production* or *brew on premises stores*, be allowed in additional zoning districts?**

*Malt liquor production* and *brew on premises stores* are currently allowed in all non-residential districts except T1, B1, OS, BC, and I3. The Zoning Code asserts that the T1 and B1 districts are intended to provide uses that primarily serve the nearby residential areas, while the OS district is intended for non-production service uses, the BC district is for residences converted to low-impact businesses, and I3 is reserved for objectionable or hazardous uses. Certainly, as generally unobjectionable production uses that do not locate in residential buildings, they are not appropriate in the OS, BC, or I3 districts. These uses do serve surrounding residences, as intended for the T1 and B1 districts, but they also generally serve a much larger market area, drawing from other neighborhoods and often other cities. Therefore, these uses are not appropriate in the T1 or B1 districts. No changes to the allowable districts for these uses are proposed.

*National breweries* should continue to be permitted in only the I2 district because of their significant truck traffic and odor impacts. *Micro and regional breweries*, likewise, produce impacts that are more appropriate in industrial districts (IR, I1, I2) than business districts such as B5 or B4.

### **Issue #3**

#### **How should distilleries be defined and regulated?**

Distilleries are not currently addressed in the Zoning Code. The land use impacts of small distilleries are similar to those of small breweries, including truck traffic and odor, but with the additional concern of heightened fire risk. The Fire Code addresses the heightened fire risk of distilleries and would be applied at the time of building permits. Therefore, truck traffic and odor concerns should be the primary determinants of the appropriate zoning districts for distilleries.

Small distilleries have been proven to be compatible in urban areas with regard to truck traffic and odor concerns. It is recommended, therefore, that small distilleries be allowed similarly to *malt liquor production* in traditional neighborhood and business districts because of the similar observed land use impact in comparison cities. An appropriate cap for such a small distillery might be 40,000 proof gallons per year, which is the current State of Minnesota definition for a *microdistillery*, a classification that enjoys significantly lower tax rates than larger distilleries. Proof gallons are an appropriate measurement unit since producers must pay taxes based on them.

**Issue #4**

**How should wineries be defined and regulated?**

A winery should be defined in reference to State of Minnesota law, which currently includes production of the traditional product made from grapes, as well as vermouth, cider, perry, and sake, all of a certain alcohol content. Referring to State law, rather than repeating it, would allow the Zoning Code to remain current if minor changes are made to the State law, such as reclassifying sake as malt liquor, adding products to the list of *wines*, or adjusting the allowable alcohol content.

Staff research has found that most traditional grape-based wineries do not locate in urban areas. However, cider and sake producers do sometimes locate in urban areas and could be part of a growing trend. Staff research has discovered no reason to anticipate that small wineries will have a significantly different impact than *malt liquor production*; therefore, small wineries should be permitted in the same zoning districts and subject to the same conditions. The applicable production limits should be converted from barrels to gallons, since gallons is the measurement unit used for paying taxes and should be readily available.

The proper zoning classification for larger wineries is unclear. Other similarly sized cities do not generally address wineries in their zoning regulations. Additionally, it is not clear whether larger wineries should be an industrial use or an agricultural use. It is recommended, therefore, that large wineries not be addressed in the Zoning Code at this time.

**Issue #5**

**How should parking for taprooms be addressed?**

The taproom portion of a facility is required, as a matter of practice, to provide parking at the same rate as restaurants. This practice should be incorporated into the Zoning Code for clarity and predictability. The most logical place for this item is within the parking table (“Minimum Required Off-Street Parking By Use”) in Sec. 63.207.

**Issue #6**

**Are changes necessary to the definition of *small brewery as an accessory use to a bar or restaurant* (brew pub) in anticipation of any changes to State of Minnesota law that would allow them to sell to liquor stores and restaurants/bars?**

In Saint Paul, any such future small breweries that want to sell beer to liquor stores or restaurants would have to be reclassified under the Zoning Code as *malt liquor production* and abide by those regulations, including (currently) a maximum 5,000 barrels produced per year in certain districts. This is because both the State and City regulations require brew pubs to sell only for on-site consumption (excepting only growlers). A State law change allowing brew pubs to sell to liquor stores and restaurants could force other cities to contend with brew pubs, which usually locate in dense retail locations, morphing into 15,000 barrel-per-year breweries with production-type activities (forklifts, pallets, trucks, etc.). Fortunately, no change is needed to Saint Paul’s Zoning Code in order to deal with those issues. Additionally, Saint Paul provides a reasonable

and practical alternative for this potential business through the *malt liquor production* classification.

### **Issue #7**

#### **Are changes necessary to differentiate a taproom from a bar?**

Currently, a brewery of any size in Saint Paul can open a taproom to serve its product on-site. It is plausible that such a taproom could become extremely popular to the point that production is arguably an accessory use. However, the Zoning Code appears to suitably handle this situation in its current form. In 2012, the Zoning Code was amended to specifically define a *bar* as being open between midnight and 2:00 a.m., indicating that those hours of operation trigger the need for heightened land use regulation such as increased parking provision. A taproom would be considered a *bar* if it were open during those hours.

### **Issue #8**

#### **What naming structure should be used?**

Several brewers and distillers have expressed a desire for better clarity in City regulations. One small clarifying change recommended herein is to rename *malt liquor production* as *craft brewery* to be in line with *micro and regional brewery* and *national brewery*. Likewise, the smaller distilleries and wineries will be called *craft* for consistency. Another possibility considered was the term *nano* (*nano-brewery*, etc.), but that connotes a much smaller facility to many in the industry (i.e. under 500 barrels produced per year). The term *artisan* was also considered, but it also connotes a much smaller facility.

### **Comprehensive Plan**

The Comprehensive Plan calls for implementation of the Economic Development Strategy, a document that contains six broad initiatives intended to strategically benefit economic development in the city. One of the initiatives is a “streamlined development process,” with clear and consistently applied regulations. The proposed text amendments further that initiative by removing an unnecessary regulation on alcohol production.

Additionally, Strategy 1.50 of the Comprehensive Plan’s Land Use Chapter calls for facilitating “the redevelopment of commercial areas where existing buildings are no longer considered functional to accommodate viable retail and businesses.” Though the proposed text amendments are not location-specific, they could facilitate such redevelopment by allowing new types of businesses (small distilleries, small wineries, and somewhat larger breweries) to be considered in these areas.

Similarly, Strategy 2.2 of the Land Use Chapter calls for promoting “the redevelopment of outmoded and non-productive sites and buildings so they can sustain existing industries and attract emerging industries.” Allowing new types of businesses at such locations would help implement this strategy.

Meanwhile, the proposed text amendments do not contradict any Comprehensive Plan goals relating to protection of neighborhoods. Citywide parking, Fire Code, Building Code, and licensing procedures will still need to be followed.

## **PUBLIC INPUT**

Numerous existing and potential Saint Paul brewers and distillers have informed the study through background interviews. Many of them favor making the City's regulations clear and transparent, so as to avoid surprises or uncertainty down the line. Also, several expressed a desire for flexibility to accommodate future expansions of their businesses and/or changes in State of Minnesota law.

## **STAFF RECOMMENDATION**

Staff recommends that the NPC recommend that the Planning Commission release this study and proposed amendments for public review on August 23, 2013 and schedule a public hearing on October 4, 2013.

### **Attachments**

1. Proposed Zoning Code Amendments
2. City Council Resolution 13-256

# Draft Zoning Code Amendments

## ARTICLE II. - 63.200. PARKING REQUIREMENTS

Table 63.207 Minimum Required Off-Street Parking By Use

Land Use	Minimum Number of Parking Spaces
<i>Commercial Uses</i>	
Restaurant, <del>C</del> offee shop, tea house, deli, <del>taproom</del>	1 space per 400 sq. ft. GFA

## ARTICLE V. 65.400. COMMERCIAL USES

### Division 10. 65.770. Limited Production, Processing and Storage

#### **Sec. 65.774~~2~~. ~~Malt liquor production.~~ Brewery, craft.**

A facility with a capacity to manufacture twenty thousand (20,000) or fewer barrels of alcoholic and nonalcoholic malt liquor a year. This definition excludes small breweries operated in conjunction with a bar or restaurant defined herein as an accessory use.

*Standards and conditions ~~in traditional neighborhood and business districts:~~*

- (a) In traditional neighborhood and B2 business districts, a conditional use permit is required for such uses with more than fifteen thousand (15,000) square feet of floor area to ensure size and design compatibility with the particular location.
- (b) ~~Fewer than five thousand (5,000) barrels of malt liquor shall be produced in a year.~~ In all traditional neighborhood and business districts, a conditional use permit is required for facilities with the capacity to manufacture more than five thousand (5,000) barrels of malt liquor a year in order to ensure operational and design compatibility with the particular location.

#### **Sec. 65.773. Distillery, craft.**

A facility that manufactures distilled spirits, as defined by Minn. Stat. § 340A.301, with a capacity to manufacture forty thousand (40,000) or fewer proof gallons a year.

*Standards and conditions:*

In traditional neighborhood and B2 business districts, a conditional use permit is required for such uses with more than fifteen thousand (15,000) square feet of floor area to ensure size and design compatibility with the particular location.

#### **Sec. 65.77~~2~~4. Finishing shop.**

**Sec. 65.7735. Limited production and processing.**

**Sec. 65.7756. Plastic products.**

**Sec. 65.7767. Printing and publishing.**

**Sec. 65.7778. Recycling collection center.**

**Sec. 65.7789. Recycling drop-off station.**

**Sec. 65.7790. Warehousing and storage.**

**Sec. 65.781. Winery, craft.**

A facility that manufactures wine, as defined by Minn. Stat. § 340A.301, with a capacity of six hundred twenty thousand (620,000) or fewer gallons a year.

Standards and conditions:

(a) In traditional neighborhood and B2 business districts, a conditional use permit is required for such uses with more than fifteen thousand (15,000) square feet of floor area to ensure size and design compatibility with the particular location.

(b) In all traditional neighborhood and business districts, a conditional use permit is required for facilities with the capacity to manufacture more than one hundred fifty-five thousand (155,000) gallons a year in order to ensure operational and design compatibility with the particular location.

**Sec. 65.7802. Wholesale establishment.**

**ARTICLE III. 66.300. TRADITIONAL NEIGHBORHOOD DISTRICTS**

**Table 66.321. Principal Uses in Traditional Neighborhood Districts**

Use	T1	T2	T3	T4	Development Standards
<b>Commercial Uses</b>					
<i>Limited Production and Processing</i>					
<del>Malt liquor production</del> <u>Brewery, craft</u>		P/C	P/C	P/C	✓
<u>Distillery, craft</u>		<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>✓</u>
<u>Winery, craft</u>		<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>✓</u>

**ARTICLE IV. 66.400. BUSINESS DISTRICTS**

**Table 66.421. Principal Uses in Business Districts**

Use	OS	B1	BC	B2	B3	B4	B5	Development Standards
<b>Commercial Uses</b>								
<i>Limited Production, Processing and Storage</i>								
Malt liquor production <u>Brewery, craft</u>				P/C	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	✓
<u>Distillery, craft</u>				<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	✓
<u>Winery, craft</u>				<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	✓

**ARTICLE V. 66.500. INDUSTRIAL DISTRICTS**

**Table 66.521. Principal Uses in Industrial Districts**

Use	IR	I1	I2	I3	Development Standards
<b>Commercial Uses</b>					
<i>Limited Production and Processing</i>					
<del>Malt liquor production</del> <u>Brewery, craft</u>	P	P	P		
<u>Distillery, craft</u>	<u>P</u>	<u>P</u>	<u>P</u>		
<u>Winery, craft</u>	<u>P</u>	<u>P</u>	<u>P</u>		



# City of Saint Paul

City Hall and Court House  
15 West Kellogg Boulevard  
Phone: 651-266-8560

## Legislation Text

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File #: RES 13-256, Version: 1

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### Title

Initiating a comprehensive study of zoning regulations pertaining to commercial brewing.

### Body

WHEREAS, the Council of the City of Saint Paul finds that the zoning code's present land use definitions and development standards were adopted at various times and for various purposes intended principally to regulate large commercial brewing operations; and

WHEREAS, the City Council recognizes an increasing trend towards small, local commercial breweries; and

WHEREAS, it appears to the City Council that the zoning code's present standards which regulate large commercial brewing operations may be unnecessarily burdensome to the evolving small-scale commercial brewing industry and the entrepreneurs who need zoning approvals from the City in order to establish small-scale commercial breweries; and

WHEREAS, the City Council desires to support the growth of small, local commercial breweries by undertaking a study to consider text amendments to the zoning code which would clarify, harmonize, and update regulatory language, including a reexamination of definitions based on commercial brewery production limit cut-offs and zoning districts appropriate for locating small commercial brewing businesses; and

WHEREAS, pursuant to Minn. Stat. § 462.357, Subd. 4, the Council may initiate amendments to the zoning code and for the purpose of facilitating the growth of small, local commercial breweries the Council desires to do so; now

THEREFORE, BE IT RESOLVED, that the Council of the City of Saint Paul hereby refers to the planning commission for study, the proposed amendment to Leg. Code § 65.774 as set forth below, and zoning code sections: 65.910; 65.610; 65.774; 65.820; and 65.821; and to receive from the commission a report and recommendation on the said amendment specified sections, and any other zoning code sections which the commission believes may facilitate the Council's intentions, all in accordance with Minn. Stat. § 462.357, Subd. 4; and

BE IT FURTHERE RESOLVED, that the Council, in its desire to assist small, local commercial breweries by enabling these breweries to obtain tap room licenses pursuant to Minn. Stat. § 340A.301, Subd. 6b, the Council specifically commends the following proposed amendment to Leg. Code § 65.774, entitled "malt liquor production" to the commission for its study, report, and recommendation as follows:

Sec. 65.774. Malt liquor production

*Standards and conditions in traditional neighborhood and business districts.*

(a) In traditional neighborhood and B2 business districts, a conditional use permit is required for such uses with more than fifteen thousand (15,000) square feet of floor area to ensure size and design compatibility with the particular location.

(b) Fewer than five thousand (5,000) barrels of malt liquor shall be produced in a year.

~~(c) The malt liquor shall not be sold to customers for consumption on the site where manufactured.~~

AND, BE IT FINALLY RESOLVED, that the Council requests the Commission's review, report, and recommendation on the proposed text amendment to Leg. Code § 65.774 no later than 60 days from the date of reference of this resolution to the commission, as provided under Minn. Stat. § 462.357, Subd. 4.