



**City of Newport
Planning Commission Minutes
February 11, 2016**

1. CALL TO ORDER

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

2. ROLL CALL

Commissioners Present – Anthony Mahmood, Kevin Haley, Matt Prestegaard, Marvin Taylor, David Tweeten (arrived at 6:02 p.m.)

Commissioners absent –

Also present – Deb Hill, City Administrator, Renee Eisenbeisz, Asst. to the City Administrator, Sherri Buss, TKDA Planner.

3. APPROVAL OF PLANNING COMMISSION MINUTES

A. Planning Commission Minutes of the January 14, 2016 Meeting.

Motion by Haley, seconded by Prestegaard to approve the January 14, 2016 Meeting Minutes. With 4 ayes, 0 Nays, motion carries.

4. APPOINTMENTS WITH COMMISSION

A. Public Hearing – To consider a request from Kim Brown for an interim Use Permit for property located at 1675 Kolff Street

Sherri Buss, TKDA Planner, presented on this item as outlined in the February 11, 2016 Planning Commission packet.

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

Peder Wallace, 1651 11th Ave. –Spoke about pasture concerns. Manure handling, # of animals in pasture. Bad smell in the summer time when wind is out of the north. Concerned about the amount of flies from the manure. Also concerned about groundwater contamination from the manure. Peter asked Sherri if there are any environmental studies that could be done on the site. Peter said that he has a private well that is located about 150 feet from the pasture and is concerned that it could be affected. He is also concerned about his close proximity to Kim Brown’s property affecting his property value and overall quality of life. He said that he would be fine with her having two horses but no more. Peter does not support allowing her to have more horses than allowed in the existing ordinance. He also asked about the process for grading on Kim Brown’s property. Does not like the manure dust blowing on his property.

Commissioner Prestegaard– Asked Sherri Buss to clarification on the reasoning behind the six animal limit in the City’s animal ordinance.

Ms. Buss – Stated that the six animal limit is in the animal ordinance and not the zoning ordinance. She then asked Asst. to the Administrator Eisenbeisz to talk about the City Council’s amendment of the animal ordinance.

Asst. to the Administrator Eisenbeisz – Talked about the City Council’s amendment of the animal ordinance in December which allows one animal per acre.

Commissioner Prestegaard – Asked about getting more information on the grading process.

Kim Brown, 1675 Kolff St. – Spoke about grading. She has 10 horses right now, three leaving this weekend. She said that the grading process breaks apart the manure into very fine pieces. It is an 8 x 8 metal drag that she drags around the pasture. She said that the current number of horses is temporary and a number of the horses will be leaving the property shortly. She is asking for 16 horses altogether but does not plan on having 16 horses.

Ms. Buss – Stated that other cities have ordinances that give an exemption to animals under 6 months of age from being counted as an animal under the ordinance. She said that counting only adult horses over the age of 3 or 6 months may be something that could be considered.

Kim Brown – She said that she would be in favor of such an ordinance.

Chairperson Mahmood – Asked Kim about the number of horses she currently has on the property and if she does this as a hobby or to make a living.

Kim Brown – She stated that there are currently 10 horses on her property and she does this to make a living.

Chairperson Mahmood – Wants to make sure that the grading issue has been addressed. Asked Kim if she had a plan for taking care of the manure issue.

Kim Brown – She stated that she does have a plan for addressing the manure issue. She also said that the specific method would depend on the weather. Stated that there may still be a smell when it's wet but there shouldn't be a smell when it's dry.

Vice Chair Haley – Asked if she could move the pasture.

Kim Brown – She said that she could move the pasture.

Commissioner Prestegaard – Stated that there were some other complaints from neighbors to the north of Kim Brown's property.

Ms. Buss – Stated that the other person that submitted a complaint could not be at the meeting. Testified during the barn's variance meeting.

Vice Chair Haley – Said that he encouraged her to pick up the manure instead of raking it.

Kim Brown – Said that she would be willing to pick it up instead of raking it. She said that the piles sit for about 4 months in the winter when they're frozen and about a month in the summer.

Commissioner Tweeter – Asked if the manure was being covered or not.

Kim Brown – Said that it was not being covered but she would be willing to cover it with a tarp.

Vice Chair Haley – Asked if the person who picks up the manure would be able to leave a container for her to put the manure in.

Kim Brown – Said that she fills the manure container when the manure person comes to pick up the manure. She also stated that the manure person will not leave the container on the property so she would have to purchase a manure container. The cost for such a container may be \$2,000 to \$3,000.

Vice Chair Haley – Stated that he did not believe covering the manure would improve the situation. He told Kim that a possible solution may be to dispose of the manure more often. He also warned that if there are more complaints in the future, the City has the ability to stop the Interim Use Permit.

Chairperson Mahmood – Raised concern about the possibility of the Interim Use Permit not being renewed after Kim puts money into buying more horses. He asked Ms. Buss to clarify the amount of time Kim would have to remove the additional horses from her property if the Interim Use Permit were to be terminated.

Ms. Buss – If the City received complaints and substantiated that she was not meeting the requirements and people were experiencing odors and problems with flies, there would be a hearing on the Interim Use Permit. At that point, the City Council would decide how long she has to get rid of the horses. She said that it is typically 30 days but it can vary.

Chairperson Mahmood – Stated that the City is already hearing complaints about odors and flies and is concerned that if the complaints continue and she loses her Interim Use Permit she will be out the money for the additional horses. He said that he has yet to hear a solution for the flies and odor.

Kim Brown – She said that she does not have a problem with flies on her property.

Virgil Voller, 1685 Kolff St. – Smells rendering in South St. Paul. Refinery not horses. He said that he has had flies on his property since he moved there. He does not believe there is an issue with odors or flies coming from Kim Brown's property. He said that he also gets bad smells from the refinery depending on the wind.

Mike Mickelson, 1310 Woodbury Rd. – He said that he supports Kim Brown's request for an Interim Use Permit. He said that Kim has been a very good neighbor. He has not had any issues with odors coming from the property. He hopes that her request is granted.

Kris Wallace, 1651 11th Ave. – She said that Kim is a good neighbor but she has an issue with multiple horses being on one acre of land. She believes that the horses are well taken care of. The only issue she has is with the one acre of land in close proximity to their deck and patio. She said that this one acre of land has multiple horses on it and the manure smell and flies are terrible. She said that the 6 to 10 horses have created problems already.

Vice-Chairperson Haley – He suggested that Kris speak with Kim to work on a resolution to the problem. He stated that Kim has agreed to work on solving the fly and odor problem and has been cooperative. He asked Kris if she would be willing to give Kim the opportunity to resolve the issue.

Kris Wallace, 1651 11th Ave. – She said that she would not be willing to give Kim the opportunity to resolve the issue if she has that many horses. She also said that some of the things Kim says are being done are not actually being done.

Peter Wallace, 1651 11th Ave. – He said having 16 animals on your property should be considered farming and thinks that this type of activity should not be allowed in a residential area. He said that he wants agrees with the ordinance and does not want to keep having to come to public hearings regarding an Interim Use Permit.

Chairperson Mahmood – Asked Ms. Buss about the zoning district in this neighborhood.

Ms. Buss – She stated that this was considered a RE (Residential Estates) District with a minimum lot size of 2 acres. She also said that Kim Brown's parcel is the largest parcel in the neighborhood. The surrounding parcels are in the 2-5 acre range.

Public Hearing closed at 6:38 p.m.

Commissioner Taylor – Asked what the City Council's rationale was for allowing 1 animal per acre to be included in the animal ordinance. He asked why the Council did not go with the 2 acres per animal unit that is recommended by Washington County. He also asked if steep slopes and other non-usable land would be considered grazeable land.

Asst. to the Administrator Eisenbeisz – She said that she took animal unit tables from Washington County and the City of Cottage Grove. She also said that the Council chose one acre per animal unit because the county's recommendation included grazing land which did not apply to Newport.

Ms. Buss – Said that the county’s standard is based off of waste management. She also said that sloped land would not be considered grazable.

Commissioner Taylor – Raised concern that the City Council would approve one animal per acre and questioned the effectiveness of the ordinance on properties other than Kim Brown’s. He recommended using the county’s 1 animal per 2 acre standard.

Ms. Buss – Brought up the county’s process with the townships that requires property owners to submit a manure removal plan whenever the 1 animal per 2 acre limit is exceeded. She said that an official from the conservation district assists the owner with the waste removal plan. She brought up the option of tabling the issue and having someone from the conservation district work with Kim Brown on a waste removal plan. She raised concern that the word “grazable” was not put into the ordinance when it was updated.

Commissioner Taylor – He said that he believes the ordinance is susceptible to abuse.

Ms. Buss – Proposed some options for dealing with additional animals exceeding the animal ordinance limit. One option is to ask for more information to determine if the parcel can handle the extra animals and if a waste management plan should be instituted to prevent impacts to neighbors. Another option is to determine that she is handling the waste problem appropriately and will review in the future. Another option would be to reject the Interim Use Permit based on the complaints from neighbors and the determination that allowing more animals would only make the situation worse.

Commissioner Tweeten – He asked if the Interim Use Permit could have additional restrictions like some “and/or” language and some language concerning when the use can be lost.

Ms. Buss – She said that those restrictions could be put into the Interim Use Permit. Another option would be to issue the Interim Use Permit for 3 months or 6 months with inspections and require that she renew the IUP.

Vice Chair Haley – He believes that they have the appropriate options to deal with the situation. He thinks there might be an issue with enforcement. He said that he thinks the manure problem can be managed but questions if it is going to be managed effectively. He believes the Interim Use Permit would be the best way to handle the issue because it allows the City to stop it if neighbors continue to complain. He believes that the people in the Residential Estate area should be able to use the land that they have.

Ms. Buss – Asked Asst. to the Administrator Eisenbeisz if a Home Occupation permit was required for Kim Brown’s property.

Asst. to the Administrator Eisenbeisz – Stated that a Home Occupation permit is not required.

Commissioner Prestegaard – He spoke about the fact that the number of animals permitted in the ordinance has been increased a couple of times and thought that the City should concentrate more on resolving the current complaints before allowing more animals on the property. He also said that he questioned whether the urgency to change the ordinance was the City’s problem or the property owner’s problem.

Vice Chair Haley – He brought up the option of allowing only adult horses to count under the ordinance since the new horses will be newly born. He proposed considering those horses over 6 months as adults.

Kim Brown – She said that she currently has 9 adult horses. She also said that she thought that the complaints concerned the number of horses in the pasture. She also said that out of the 14 horses she will have, 4 will be gone within 3 months, 2 of them are babies. She said that no one needs to worry about anything and that she is managing it herself.

Vice Chair Haley – Brought up the possibility of using an adult horse designation on the Interim Use Permit.

Ms. Buss – She said that it would be possible to allow 8 or 9 adult horses and have requirements for manure management on the Interim Use Permit.

Kim Brown – She said that the problem was that everyone is worried about the pasture.

Vice Chair Haley – He said that he is not worried about the pasture. He said that he is concerned about the smell.

Kim Brown – She said that she can take care of the smell and that it will not be an issue. She said that Gerten's and Land O' Lakes wants the manure and it will be gone.

Vice Chair Haley – He asked Kim Brown if allowing 9 adult animals and 9 animals less than 6 months on the permit would work for her.

Ms. Buss – She added that the conditions regarding manure management should be put in the permit due to the fact that it is such a large increase over what she has now.

Commissioner Prestegaard – Stated that the whole situation was not an accident. He raised concerns about increasing the animal limit so dramatically and the possibility of requests for further increases in the future.

Kim Brown – She responded by saying that she was not looking to increase the animal limit beyond her current request.

Vice Chair Haley – Proposed an Interim Use Permit allowing 9 adult horses and 6 horses under 6 months old with a manure management requirement. He asked the neighbors and Kim Brown if they would be in favor of this. He told Kim Brown that the City would be inspecting her property. He also stated to Kim Brown that she would be under scrutiny. Trained professionals will help and make recommendations regarding the manure management. He also stated that if neighbors continue to complain the City will have to deal with it.

Ms. Buss – She stated that if the inspections were approved, Kim would have to pay for those inspections.

Vice Chair Haley – He asked Kim Brown if she would agree to an Interim Use Permit with these conditions.

Kim Brown – She said that she would agree to the conditions of the proposed Interim Use Permit.

Commissioner Taylor – Raised concern over the animal unit language in the ordinance and the horses under 6 months being considered animal units.

Ms. Buss – She said that the ordinance will need to be updated to remove this language and add the designation of adult horse.

Commissioner Taylor – He believes that the City Council should be considered before changing the animal unit language in the ordinance. He also said that horses under 6 months old would be considered an animal unit.

Ms. Buss – She stated that for an animal to be considered an animal unit it has to produce a certain amount of waste. She said that a cow is 1.5 animal units, a horse is 1 animal unit, and a chicken is 1/100 of an animal unit. Washington County has a list of animals and their number of units. She said that these figures are based on adult animals. Horses under 6 months would not be producing as much waste as adults, based off of agriculture findings.

Commissioner Taylor – He said that he thought the City needed to include a number of animal units allowed in the animal ordinance and not just the number of animals allowed. He said that he thought people could abuse the ordinance by having a large numbers of foals because they would not count as animals in the ordinance.

Ms. Buss – She raised the point that since foals (horses under 6 months) would only be young enough to be excluded from the ordinance for a short time, it would not be unlikely that someone would abuse the ordinance.

Chairperson Mahmood – He asked Ms. Buss if the entire issue should be handled by the City Council.

Ms. Buss – She said that the City Council had put this in the Planning Commission’s “lap” because Interim Use Permits need to be approved by the Planning Commission. She says that the rules on animals are in the City’s nuisance ordinance.

Chairperson Mahmood – He proposed looking more in-depth at the Interim Use Permit that was proposed by Vice Chair Haley. He also said that he did not feel a decision would be made tonight.

Commissioner Prestegaard – He said that he was not feeling any urgency to come to a decision and wondered how the City got into this situation. He said that there are a lot of variable to discuss including the fence.

Chairperson Mahmood – He stressed the fact that they need to come to a decision that is good for the entire City. He said he doesn’t like this “jerk of the knee” stuff and that they need to figure it out for the long-term.

Vice Chair Haley – He proposed tabling the issue since a consensus was not being reached.

Ms. Buss – She asked if there was any additional information the Planning Commission would like before the issue is revisited.

Vice Chair Haley – He said he would like more information on manure handling and the amount of animals in the pasture at any given time. He said that he is also concerned about the raking of manure and thinks that it should be picked up instead. He would also like more information on containment.

Ms. Buss – She stated that she can ask the conservation district staff if they have any more recommendations for this parcel.

Chairperson Mahmood – He asked if the issue could be brought back to a workshop.

Ms. Buss – She responded by saying that it could be brought to a workshop or a special workshop meeting could be scheduled.

Asst. to the Administrator Eisenbeisz – Stated that a special workshop meeting could be scheduled after the next Planning Commission meeting. It would require 10 days notice.

Chairperson Mahmood – He proposed scheduling a special workshop for the issue.

Commissioner Prestegaard – He agreed to a special workshop and stated that there are too many variables to come to a decision tonight.

Ms. Buss – She proposed scheduling the special workshop for sometime at the end of February. She also said that she would get more information from experts in this field. She proposed inviting someone from the conservation district to the next meeting.

Commissioner Prestegaard – He said that he hopes there will be more dialogue between the parties before the next meeting.

Ms. Buss – She said that it would be possible for the Planning Commission to make a recommendation and give feedback to the City Council based on what was learned from this meeting.

Motion by Haley, seconded by Tweeten to table the request from Kim Brown for an interim Use Permit for property located at 1675 Kolff Street until the Planning Commission meeting on March 10, with 5 Ayes, 0 Nays, the motion carried.

B. Public Hearing – To consider a request from Scannell Development Company for a Conditional Use Permit and Variance for property located at 910 Hastings Avenue

Sherri Buss, TKDA Planner, presented as outlined in the February 11, 2016 Planning Commission packet.

Vice Chair Haley – He said that the possible improvements to accommodate increased traffic are not of real concern to the City because the county will be conducting the traffic study and all of improvements should be paid for by the county. He also said that someone is going to have to figure out if more lanes will be needed for the increase in traffic.

Ms. Buss – She responded by saying that the traffic study will determine if they need additional turn lanes, stop signs, or direction on where the trucks should come and go from.

Commissioner Prestegaard – He raised concerns over truck noise affecting homes to the north of the property.

Ms. Buss – Stated that there is some concern with possible truck noise affecting homes to the north but there is more concern with the fact that there are 3 left turns required when exiting onto the Glen Road interchange. The trucks will be using the Glen Road interchange but the corners are tight. The engineer and developer are concerned about these turns being too tight for trucks to make those turns which causes safety concerns, problems for other drivers, potential damage to curbs and streets if trucks are not able to make those turns. They believe that it would not be much of a concern with just a few trucks but would be a big concern with a maximum number of trucks. The county will know more after the traffic study which will be conducted after tenants have been selected for the building. The county requests that the developer submit a plan to address the sight line issues to the south of the property.

Vice Chair Haley- He said that a common complaint he hears from people in Minnesota is that we put islands in our parking lots. It makes it more difficult to plow.

Public Hearing opened at 7:21 p.m.

Bill Sumner, 737 21st St. – Spoke in favor. He said that he is happy to have this group come in and make a proposal for building on a site in the south end of Newport. It is a very attractive opportunity for us. He hopes that we could support them with these fairly minor requests based on the topography and so forth. He does believe that the City made a request, a traffic variance change for 4th avenue to keep the refinery trucks from coming down that street and thinks the City can have some kind of influence over traffic patterns. At this point I would hope that they could use the more southerly route because it will be more conducive and easier for semis to come in but I am in favor of allowing it as a request and not a demand. If we find that there is a problem, he thinks that the City could come back and reroute that traffic with a change through the Council. He hopes that the Planning Commission will support their request and is looking forward to having excellent new neighbors.

Daniel Madrigal, 2100 Meander Court, Medina, MN, Scannell Properties – Thank you all for your consideration. He has enjoyed working with Deb, Sherri, and everyone at the City and has had a positive experience. He is relatively new to Scannell Properties which works on a national level in a lot of different cities and states. He wished that the other cities were as open for discussion as Newport. Brief background on Scannell Properties, they are based out of Indianapolis and have an office in Medina. They currently have industrial parks going in Lakeville which is 175 acres with Serta mattresses as their main tenant. They have another project going in Rogers where FedEx is the main tenant. They are about to break ground in Brooklyn Park on a large 238 acre parcel with a couple different tenants. He also stated that Scannell has property across from the large Amazon distribution center in Shakopee. They are familiar with Minnesota and the large national tenants and feel that they have a good opportunity for success here. As far as the truck routes, he agrees with the southerly traffic pattern which makes the most sense and seems most likely but they just want to keep their options open. They find that with tenants, the more they tell them “no” on the front end even if it is something they do not need or want, they get scared away. Scannell at least wants it as an option even if it does not make much sense.

Bill Sumner, 737 21st St. – He stated that there is a gas station near the property which might be a reason for some truckers to come fill up with fuel. That could be one reason why they would want access to that route.

Public Hearing closed at 7:25 p.m.

Motion by Haley, seconded by Prestegaard, to approve Resolution No. 2016-5 with the amendments. With 5 Ayes, 0 Nays, the motion carried.

5. COMMISSION AND STAFF REPORTS

6. NEW BUSINESS

Vice Chairperson Haley reported on old Public Works site. A developer is looking at putting multi-family housing on the site. It would need a zoning change to R-3. It is close to the schools, roads, etc.

Ms. Buss – Stated that there had been resistance to this proposal in the past on this site because of what is called “spot zoning” which is done by taking a relatively small parcel out of a zoning district and turns it into a different use that is not compatible with the comp plan and does not provide any real benefits to the community. There are a number of different criteria that the courts use to identify “spot zoning”. It is not strictly about the size of the parcel or the type of use, it has to do with how compatible it is with the comp plan, the surrounding neighborhood, if it is being done to benefit the owner of the parcel, and impacts on the surrounding area. She said that she has outlined some of this and has asked the City Attorney to determine whether it would be “spot zoning” or not.

Admin. Hill – She said that the City Attorney signaled to her that judging by the first glance, it would be difficult to rezone the parcel. She said that she can ask him to go into more depth on that if needed.

Commissioner Tweeten – Do we have a stance in the comp plan regarding high-density residential development?

Ms. Buss – What the comp plan says about that site is that it should be single-family residential use and should be looking at in-fill in the old town area as long as it is compatible with adjacent uses. One option would be to extend MX to include this parcel and another would be to extend R-3 into this parcel. You could also amend the comp plan to allow for multi-family residential on the parcel.

Deb Hill – A developer has expressed interest in building 9 single-family homes but is concerned about the costs to improve the road and other infrastructure.

Commissioner Tweeten – Asked how the improvements to the road would affect the City and if the City needed to be involved.

Admin. Hill – She said that the City needed to be involved and that the developer interested in multi-family housing on this site would be willing to bear some of the costs to improve the infrastructure. The City would go ahead with the project if development was imminent on the parcel.

Ms. Buss – Talked about MX and the development rules associated with that zoning designation. She said that the Planning Commission may be seeing a proposal for development on the site adjacent to the transit station. The developer believes that it would be a good site for affordable housing. This site would not need TIF. Anything south of the spur rail line, the HRA believes that TIF will be needed to bring development. The Met Council rejected a grant request for a prior proposal on this site but the current developer believes it will be in line with the Met Council’s development goals for this site.

8. ANNOUNCEMENTS

A. Upcoming Meetings and Events:

- | | | |
|--|-------------------|-----------|
| 2. City Offices Closed for Presidents’ Day | February 15, 2016 | |
| 3. City Council Meeting | February 18, 2016 | 5:30 p.m. |
| 4. City Council Meeting | March 3, 2016 | 5:30 p.m. |
| 5. Planning Commission Meeting | March 10, 2016 | 6:00 p.m. |

9. ADJOURNMENT

Motion by Tweeten, seconded by Prestegaard, to adjourn the Planning Commission Meeting at 7:41 p.m. With 5 Ayes, 0 Nays, the motion carried.

Signed: _____
Anthony Mahmood, Chairperson

Respectfully submitted,

Andrew Brunick
Administrative Intern/Administrative Assistant

Renee Eisenbeisz

From: Deb Hill
Sent: Monday, February 08, 2016 3:53 PM
To: Renee Eisenbeisz
Subject: FW: Interim Use Permit-1675 Kolff Street

Renee,

Please print and distribute to the planning commission.

Thanks,

Deb

From: Russell Schweih [\[mailto:UnitedMarketingPartners@comcast.net\]](mailto:UnitedMarketingPartners@comcast.net)
Sent: Monday, February 08, 2016 3:50 PM
To: Deb Hill
Subject: Interim Use Permit-1675 Kolff Street

Ms. Hill:

I live at 1260 Kolff Court, Newport, MN. As such, my home is probably the closest residence to the structure. As we discussed, I will be out of town on Thursday so I won't be able to attend the meeting.

I have experienced both additional noise and the smell of horse dung in my backyard since the structure was built. Undoubtedly, doubling the number of animals will exacerbate the situation. Furthermore, this is a business tucked within a residential area. I bought my home 25 years ago because of the peacefulness and privacy it offered. Having a commercial business next door is not what I signed up for.

Thanks,

Russell P. Schweih
President
United Marketing Partners, Inc.
651-253-6689-Cell
651-501-7856-Office

February 10, 2016

Dear City of Newport Planning Commission Members,

We are writing about an agenda item for your Feb 11 meeting: Kim Brown's request for an Interim Use Permit to house 16 horses on her property. We live about 1200 feet from her property and get our water from a well. We are deeply concerned that horse manure from her property could contaminate the groundwater that supplies our well and the wells of our neighbors. In addition, we are concerned about odor and flies.

We support the right of Newport citizens to keep farm animals on their property under reasonable conditions. However, this request is beyond reasonable. The Washington County standard for townships is a maximum of 1 farm animal / 2 grazable acres; Newport generously set the requirement at a maximum of 1 farm animal / 1 acre. This request is for 1 farm animal / 0.5 acres, 4 times that allowed by the County. Ms. Brown's lot is not on the outskirts of the metro area, but is in the middle of a residential zone in a first ring suburb.

We have read the memo in your meeting packet from Planner Sherri Buss and believe that the conditions suggested in the memo to be imposed if the request is granted are not sufficient. Non-compliance with the conditions could lead to lasting contamination of ground water as well as damage to the property that would need to be re-mediated if/when the property is sold.

One suggested condition is monthly inspections for the first 6 months and annual inspections thereafter. It's quite possible to meet strict standards (e.g. cleaning the barn 4 times/day, no more than 6 horses in the pasture at once, manure loaded into dumpster monthly) for a short period and then relax after that short period (think New Year's Resolutions). Further, we question if it is possible to know whether the groundwater is being contaminated after only 6 months.

For these inspections to have any meaning, they need to be done by a trained inspector, not City staff with little or no knowledge of the risks. And unannounced inspections would have to continue at 2-4 month intervals for the entire three years.

We also wonder if "dense, vegetated cover" can be maintained on the sloping pasture if it is being graded twice a week as well as grazed. Repeated traffic on vegetation inhibits its growth, limiting its ability to prevent erosion and control stormwater runoff.

On the basis of maintaining the RE zone as a residential district, we ask that you do not recommend granting this IUP.

Sincerely,

Mike Wolesky and Susan Lindoo
1280 Wild Ridge Trail, Newport, MN 55055

Negative Impacts

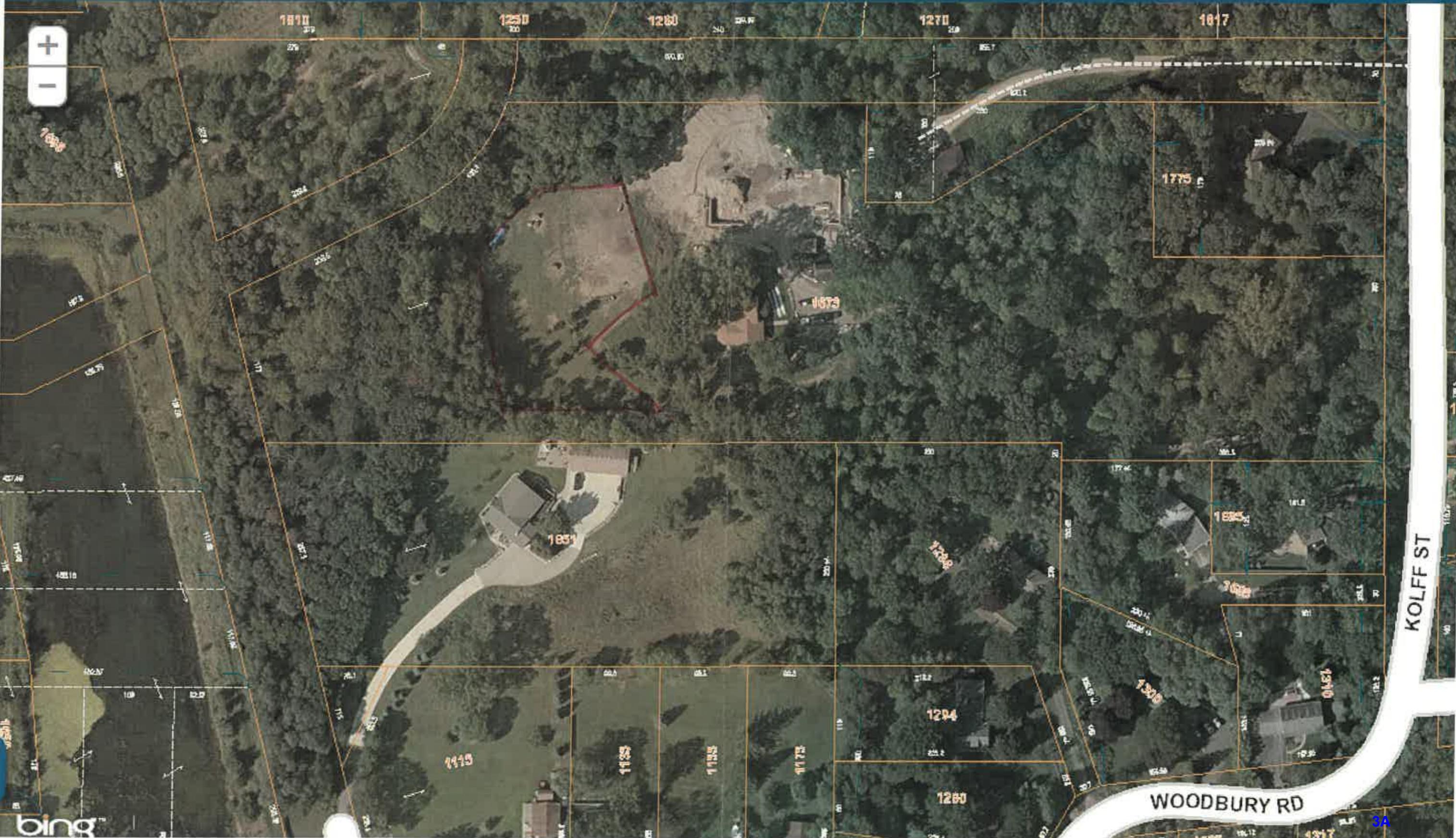
- **Manure smell and stink-** Any wind out of the North or West is driven directly into our home. Please see map attached.
- **Bitng flies-**These flies have been terrible and when we sit outside on our deck in the summer we are constantly swatting flies and getting bitten.
- **Ground water contamination from manure and urine.** We have a private water well (not city water) and we are concerned about contamination and who will pay for the water testing to make sure it is safe to drink.
- **Environmental study for watershed-** All pasture areas are pitched downhill toward the Glen Road holding pond and then ultimately into the Mississippi River.
- **Property Value-** I believe the valuation of my house and property is significantly negatively impacted because potential buyers will not want to purchase a home that smells like manure.
- **Dust-** Grading the pasture will produce vast amounts of dust during every grading procedure. This dust will migrate towards our home.

Background information on the Kim Brown Horse Farm

- She started out with two horses in the pasture without inside shelter before her pole barn was built.
- She is granted a C.U.P. for a pole barn and builds a nice building.
- She then added up to four horses out in the pasture just 30 feet North of our property. This is when the manure smell and flies started to get out of control.
- Kim claims that the pasture is graded twice per week and I do question whether that is actually occurring. Also, I don't believe grading will make any difference because the pasture is absolutely not bigger than one acre in size. There is not enough surface area to properly spread the manure out for drying.
- Kim's pasture from our experience should not have more than two horses at any one time. Any more than that would cause a drastic rise in smell and flies.
- My wife and I have lived in Newport for 23 years and we did not sign on to live next to a full blown horse farm in a residential neighborhood.
- We are tolerant of the original ordinance allowing 6 horses but anything more is not acceptable in a residential neighborhood.
- We do not support adding any horses that will allow more than two total horses in the pasture at any one time.

Everything about Kim's horse farm is non-conforming. The pole barn was non-conforming thus she had to get a C.U.P. and now she needs an I.U.P. for added horses. This business is NOT suitable for a residential neighborhood. This housing development is not zoned for commercial farming activities.

Property Viewer





Imagery ©2016 Google, Map data ©2016 Google 50 ft

#1



Notes

This map shows the pasture land of one acre is located directly north of the Wallace Family Home. The pasture fence is 30' from the property line



16

17th Ave



© 2016 Microsoft Corporation © 2016 HERE





**City of Newport
Planning Commission Workshop Minutes
February 24, 2016**

1. CALL TO ORDER

Chairperson Mahmood called the meeting to order at 5:32 P.M.

2. ROLL CALL -

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

Commissioners absent –

Also present – Deb Hill, City Administrator; Renee Eisenbeisz, Asst. to the City Administrator; Sherri Buss, TKDA Planner; Tom Ingemann, Council Liaison

3. DISCUSS INTERIM USE PERMIT REQUEST FROM KIM BROWN, 1675 KOLFF STREET

Sherri Buss, TKDA Planner, presented on this item as outlined in the February 24, 2016 Planning Commission Workshop packet.

Chairperson Mahmood - I was trying to figure out a way where we could do something where we don't go to 16 horses. Right now, we're at 8 now?

Ms. Buss - She has more than that, that's what your ordinance says. You'll want to determine if it's 8 or 9.

Vice-Chair Haley - I don't think that's for us to determine.

Chairperson Mahmood - You're not going to have 16 grown horses at one time. You're doing this because you have some babies on the way and you don't want to be illegal. My thoughts are that we're not looking at 16, we're looking at 8 adults and everyone once in a while there could be a couple foals.

Ms. Buss - The request is for 16.

Vice-Chair Haley - You're on the right track. I would be ok with making it 8 or 9 adults and allow foals for up to 6 months and manage the manure according to the recommendations and have the inspections for six months.

Chairperson Mahmood - That's where I was going.

Ms. Buss - So it would be 8 or 9 adults and up to 8 foals for 6 months.

Vice-Chair Mahmood - You have to be careful on how it's worded because foals that are 6 months old... I know you're not trying to do this but we have to be careful on the wording.

Chairperson Mahmood - We have to make sure it's done right because once it's set in stone it's there.

David Tweeten - I like the recommendations in terms of manure management. I understand we already have a covered dumpster.

Ms. Buss - So the recommendation would be up to 16 total horses, 8 or 9 of them could be adults, the others foals. With the definition of foals being up to 6 months of age as well as the manure recommendations and inspection recommendations and 6 months?

Vice-Chair Haley - Yes.

David Tweeten - You went to the house the other day?

Chairperson Mahmood - Yes, Marvin probably has some comments on this.

Marvin Taylor - There are different ways of looking at this in terms of the number. I'm opposed to this use permit. I'll share my reasons for objecting. One of the big things is how we're using acreage fundamentally. We're using 8 acres as our benchmark, it's the parcel size but not a functional size for the agricultural use. There's about 1 acre of pasture. In any other jurisdiction in the County, you would be allowed 1 per 2 grazeable acres. That's my starting point. I think there's capacity for more than that. We're talking about going from 1 to 16. There's no capacity to expand grazing on that size. There was bedding and manure there and it had rained before and I guarantee that manure ran down towards the storm pond. I think there is room for increasing but what's the relationship between the building and the pasture. I don't see that pasture supporting more than 2 horses. There are no setback requirements for pastures so it does come fairly close to at least one property there.

Ms. Buss - I think part of the hard thing for you guys is that by ordinance, she can have 8 or 9. You can make some recommendations to the Council to ask them to look again at it. What you're saying is that you're opposed to granting a larger number.

Marvin Taylor - Yes, I don't think our current ordinance is correct and it doesn't fully think about acreage. I think we're being very generous with 8.

Vice-Chair Haley - I don't want to go over 8 or 9 adult horses.

Chairperson Mahmood - The one thing we need to make sure to do is handle the manure properly.

Kim Brown, 1675 Kolff Street - I purchased a 20 yard dumpster.

Vice-Chair Haley - From what we're hearing, it's probably necessary and the vacuum...

Ms. Brown - I already have that. It was \$1,800 and is a lot more effective. It won't be a problem at all.

Vice-Chair Haley - Do you think you can manage it?

Marvin Taylor - I wonder how many horses should be in that pasture realistically. Unless you're out there every day... We're way out of line already with the grazeable acreage. If the grazeable aspect doesn't count then why shouldn't someone with a 2 acre parcel be allowed to have 10 horses as well. Why five acres, we don't have setbacks. It seems arbitrary.

Asst. to the City Admin. Eisenbeisz - It's actually 4 acres and we have a 150 foot setback.

Ms. Buss - I think the difference is the grazeable acreage. That's not really about the ability to graze but the ability to handle manure. I think the recommendation from the equine specialist is a 6 month trial with someone inspecting and looking at whether or not there are impacts. Her sense was that if neighbors are experiencing flies than the manure is not being handled right.

David Tweeten - What do you mean by 10 being in the pole barn and 6 in the pasture?

Ms. Brown - The 10 that are in the barn will stay in the barn. The only time there will be 6 in the pasture is for a 3 month period when there are foals. The majority of the time there will be 2.

David Tweeten - Why don't the 10 in the barn ever go out?

Ms. Brown - They're show horses.

Chairperson Mahmood - We went and looked at the neighbor to the south. The pasture is very close so I can see his concern. There were 3 horses out at that time, 2 of them were foals.

David Tweeten - Is there a seasonal difference?

Ms. Brown - No, the only reason I'm asking for more is because I have foals. The majority of the year, there will be 2 in the pasture.

Chairperson Mahmood - Is there anything else?

Vice-Chair Haley - I'm ok with it.

Ms. Buss - So the conditions are up to 8 adult horses and up to 8 foals for a period of 6 months, the manure management recommendations as written, inspections as written, need to maintain ground cover in the pasture, and a 6 month trial period.

Chairperson Mahmood - I think that does it.

David Tweeten - What about the fence?

Ms. Buss - Are you ok with her using the electric fence?

Vice-Chair Haley - Yes.

Ms. Buss - The ordinance says wood or metal so you need to specifically say that electrical is fine.

David Tweeten - And we're ok with the dumpster cover?

Marvin Taylor - The cover will help with flies but I don't know what impact it will have with odor, it's like composting.

Vice-Chair Haley - Horse manure doesn't act like cow manure.

Chairperson Mahmood - We'll see if removing it once per month is enough in the inspections.

Ms. Brown - If it gets full faster, it'll be removed more often as well.

4. ADJOURNMENT

Signed: _____
Anthony Mahmood, Chairperson

Respectfully submitted,

Renee Eisenbeisz
Asst. to the City Administrator



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

Memorandum

To:	City of Newport Planning Commission	Reference:	Bern Variance Request
Copies To:	Deb Hill, City Administrator Renee Eisenbeisz, Assistant to the Administrator Steve Bern, applicant and property owner	Project No.:	16020.004
From:	Sherri Buss, RLA AICP, Planner	Routing:	
Date:	March 1, 2016		

SUBJECT: Bern Variance Request for Garage Expansion

MEETING DATE: March 10, 2016

LOCATION: 1280 Kolff Court

APPLICANT: Steve Bern
1280 Kolff Court

ZONING: RE (Residential Estates District)

60-DAY PERIOD: September 13, 2014

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

BRIEF DESCRIPTION OF THE REQUEST

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

BACKGROUND

The City approved a variance to permit the applicant to expand the existing garage on the existing retaining wall system at the property at 1280 Kolff Court in 2014. After further study,

the applicant determined that the existing retaining wall was not suitable for the proposed construction. The variance approval expired during the time that the applicant was completing the additional study, and he did not request an extension. The applicant is now seeking replacement of the existing garage rather than expansion of the structure. Therefore, the ordinance requires a new application for the current request. The 2016 application proposes demolishing the existing two-car garage (576 square feet) and wood retaining wall system, installing a permanent poured concrete footing and wall system, and constructing a new garage with three parking stalls and a shop area (1392 square feet).

The existing garage is located approximately 27 feet from the north (front) property line. The ordinance requires a minimum 40' front yard setback. Therefore the existing structure is nonconforming. The ordinance section on the replacement of nonconforming structures states that "If a nonconforming use, building or structure is replaced by another use or structure, the new use or structure shall conform in all respects to the standards in this Chapter." The proposed structure does not meet the all setback requirements, and therefore requires a variance from the front yard setback and from the ordinance requirements related to the replacement of nonconforming structures.

EVALUATION OF THE REQUEST

Comprehensive Plan

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

Development Code Requirements: Lot sizes and Setbacks

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

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

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

The applicant is requesting a variance to locate the new garage with the following setbacks:

- 11 feet from the front yard lot line, rather than the required 40 feet
- 64 feet from the nearest side lot line
- 85 feet from the rear lot line

The proposed structure requires a variance for the front yard setback, and meets the other setback requirements.

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

Number and Size of Accessory Structures

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

The footprint of the existing home is approximately 2,000 square feet. The existing garage is 576 square feet in size, and the applicant is proposing to expand the area of the structure to 1392 square feet. The total number and size of accessory structures meets the ordinance requirement.

Building Height and Materials

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

The zoning ordinance requires that all accessory structures over 150 square feet in size be compatible with the principal structure in terms of design, roof style, roof pitch, color and exterior finish materials. The plans submitted with the application indicate that the proposed building will be compatible with the principal structure.

Lot Coverage

The zoning ordinance allows a maximum 20% lot coverage in the RE District. The planner estimated that the existing lot coverage on the parcel is approximately 17%, based on the aerial photo and building dimensions submitted by the applicant. The lot coverage would be approximately 18% with the new garage. The proposed garage expansion meets the lot coverage requirement.

Stormwater Management

The proposed garage will not exceed the lot coverage requirement. The new structure is proposed to be larger than the existing structure, with the expansion toward the roadway, to avoid disruption of existing drainage patterns in the neighborhood. The City Engineer reviewed the proposed expansion in 2014, and indicated that he and the public works staff had no objections to the expansion of the existing garage in the location where the new garage is proposed, and that no additional stormwater management practices should be required. No additional stormwater practices are needed to meet the ordinance requirements.

Applicant Rationale for the Variance

The application provides the following discussion regarding the practical difficulties and the rationale for the proposed variance:

- The condition of the existing structure and deteriorating wall require replacement of the structure and wall. The existing structure is located on the edge of a drainage ravine with steep slopes, which prevents repair or modification of the retaining wall system without jeopardizing the garage building.

- The applicant's engineer has looked at options for expanding the existing garage, but they are not feasible.
- Drainage on the lot is difficult. The proposed location avoids negative impacts to drainage in the area.
- Constructing the new garage in the same location as the existing garage and expanding it to the north creates the least impact to drainage and steep slopes on the parcel among the potential locations for the garage on the parcel.

ORDINANCE REQUIREMENTS FOR EVALUATING A VARIANCE REQUEST

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

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

Findings

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

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

The Comprehensive Plan and Zoning Ordinance state that the purpose of the RE District is to preserve, create and enhance areas for low-density single-family residential dwellings in areas identified in the Comprehensive Plan. The Zoning Ordinance permits residential accessory structures that support the single-family use. The Comprehensive Plan and Zoning Ordinance also include goals and requirements to protect steep slopes, manage stormwater without negative impacts, and preserve mature trees. The variance is proposed to help to meet those goals on the subject property by placing the garage in a location where it will have the least impact to slopes, drainage, and mature trees. The

requested variance is therefore consistent with the goals of the Comprehensive Plan and in harmony with the general purposes of the Zoning Ordinance.

- *The proposed use is reasonable.*

Single family homes and related accessory structures are permitted uses in the RE Zoning District, and garages are essential in Minnesota's climate. Therefore, the proposed new garage is a reasonable use.

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

The practical difficulties related to the expansion of the garage in a location that would meet the ordinance requirements are the result of the location of the existing garage, the condition of the existing retaining walls, location of steep slopes, and mature trees that limit the location of the garage; and the need to avoid negative impacts to the drainage patterns in the area. The practical difficulties are unique to the property, and the applicant did not create the practical difficulties.

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

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

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

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

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

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

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

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

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

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

The findings support granting the variance. The Planning Commission should listen to comments at the public hearing on March 10, discuss the Planner's findings, and make its recommendation to the Council regarding the variance request.

ACTION REQUESTED

The Commission can recommend to the City Council:

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

PLANNING STAFF FINDINGS AND RECOMMENDATIONS

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

The Planner finds the following:

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

7. The variance is the minimum front setback in order to accommodate the proposed structure without negative impacts to steep slopes, mature trees, and drainage patterns.
8. Granting the variance will not affect access to direct sunlight for solar energy systems.

The Planner recommends the following conditions:

1. The proposed garage shall conform to the plan submitted to the City on February 11, 2016. The minimum garage setback from the front lot line shall be 11 feet.
2. The Applicant shall obtain a building permit for the proposed garage.
3. The garage shall be no taller than the principal structure.
4. The design of the proposed garage shall be compatible with the principle structure in terms of design, roof style, roof pitch, color and exterior finish materials. The design information shall be included with the building permit application and reviewed by City staff to determine consistency with the ordinance requirements.
5. Parking shall be prohibited on the Kolff Court right-of-way between November 1 and April 30.
6. The applicant shall pay all fees and escrow associated with this application.

City of NEWPORT Planning Request Application

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

Application Date: Feb. 11, 2016 Public Hearing Date _____

Applicant Information

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

Property Owner Information

Name: (SAME) Telephone: _____
Mailing Address: _____ Telephone: _____
City/State/Zip: _____

Project Information

Location of Property: _____

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

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

Escrow Fees

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

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

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

Present Use of Property: RESIDENTIAL

State Reason for Planning Request: SEE ATTACHED

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

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

SIGNATURE OF APPLICANT: 

SIGNATURE OF OWNER (IF APPLICABLE): _____

For Office Use

Fee: _____ Date Paid: _____ Receipt #: _____

Publication of Notice Date: _____

Public Hearing Date: _____

P.C. Resolution #: _____

Council Action Date: _____

Council Resolution #: _____



Variance Application Checklist

Variance requests are covered under Section 1310.11 of the Zoning Code. Please note that variances expire one year after approval if the owner or occupant does not substantially complete the erection or alteration of a building or structure as approved. Please provide the following information with your application for a Variance.

GENERAL REQUIREMENTS:

1. Application Form, signed by Owner and Applicant
2. Fees
3. Escrow
4. Complete legal description and PID number of all parcels included in the request. The legal descriptions must be copied directly from the deed and provided in a word document.
5. A statement fully describing the request and the Practical Difficulties (see second page)
6. A map, aerial photo or plat showing the parcel in question and all property within five hundred (500) feet of the parcel boundaries.
7. Site Plan
 - One (1) 11"x17" hard copy and/or one (1) electronic copy. The City may require a larger size plan if needed to adequately review the request.

Plan Sheet Requirements:

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

INCLUDED IN SUBMITTAL

- | | |
|---|-----------------------------|
| <input checked="" type="checkbox"/> YES | <input type="checkbox"/> NO |
| <input checked="" type="checkbox"/> YES | <input type="checkbox"/> NO |
| <input checked="" type="checkbox"/> YES | <input type="checkbox"/> NO |
| <input checked="" type="checkbox"/> YES | <input type="checkbox"/> NO |
| <input checked="" type="checkbox"/> YES | <input type="checkbox"/> NO |
| <input checked="" type="checkbox"/> YES | <input type="checkbox"/> NO |
| <input checked="" type="checkbox"/> YES | <input type="checkbox"/> NO |

SITE PLAN REQUIREMENTS - EXISTING AND PROPOSED:

1. Property lines and dimensions
2. Area in acres and square feet
3. Existing and proposed building locations and dimensions
4. Existing and proposed setbacks
5. Buildable area and area of site covered by existing and proposed impervious surfaces
6. Driveways
7. Septic system and well (if applicable)

INCLUDED IN SUBMITTAL

- | | |
|---|-----------------------------|
| <input checked="" type="checkbox"/> YES | <input type="checkbox"/> NO |
| <input checked="" type="checkbox"/> YES | <input type="checkbox"/> NO |
| <input checked="" type="checkbox"/> YES | <input type="checkbox"/> NO |
| <input checked="" type="checkbox"/> YES | <input type="checkbox"/> NO |
| <input checked="" type="checkbox"/> YES | <input type="checkbox"/> NO |
| <input checked="" type="checkbox"/> YES | <input type="checkbox"/> NO |
| <input checked="" type="checkbox"/> YES | <input type="checkbox"/> NO |

- | | | |
|--|---|-----------------------------|
| 8. Vegetation and landscaping (if applicable to the request) | <input checked="" type="checkbox"/> YES | <input type="checkbox"/> NO |
| 9. Wetlands (if applicable) | <input checked="" type="checkbox"/> YES | <input type="checkbox"/> NO |
| 10. Waterbodies and Ordinary High Water Level and 100 year flood elevation (if applicable) | <input checked="" type="checkbox"/> YES | <input type="checkbox"/> NO |
| 11. Bluff line (if applicable) | <input checked="" type="checkbox"/> YES | <input type="checkbox"/> NO |
| 12. Additional information relevant to the request | <input checked="" type="checkbox"/> YES | <input type="checkbox"/> NO |

What is a Variance? What are “practical difficulties?”

A Variance is a modification or variation to the regulations contained in the Zoning Ordinance. The City may only grant variances when they meet the criteria of Minnesota Statutes and the City’s Zoning Ordinance for granting variances. The ordinance states, “The City Council shall only approve a variance when the terms of the variance are consistent with the Comprehensive Plan, when it is in harmony with the general purpose and intent of the Code of Ordinances then in force, and when the strict enforcement of the ordinance would results in practical difficulties with carrying out the strict letter of the ordinance.”

Applicants for a variance need to clearly describe in the application the “practical difficulties” of the site or situation that make it difficult or impossible for the proposed use to meet the ordinance requirements on the site:

“Practical Difficulties” as used in connection with the granting of a Variance means:

- A. The property owner proposes to use the property in a reasonable manner not permitted by an official control. (This means that the proposed use is allowed in the zoning district, but it cannot meet other requirements of the ordinance, such as setbacks.); and
- B. The plight of the landowner is due to circumstances unique to the property, not created by the landowner; and
- C. The variance, if granted, will not alter the essential character of the locality (surrounding neighborhood or city).
- D. Economic conditions alone shall not constitute a practical difficulty if a reasonable use for the property exists under the terms of the Zoning Ordinance.
- E. The proposed variance will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.
- F. That the requested variance is the minimum action required to eliminate the practical difficulty.
- G. The City may consider practical difficulties to include inadequate access to direct sunlight for solar energy systems in the granting of the variance.

City of Newport Zoning Ordinance, Chapter 1, Section 1310.11.

Circumstances which normally constitute “practical difficulties” relate to lot size, setbacks, steep slopes and wetlands. The circumstances cannot be created by the applicant or landowner, such as a prior subdivision by the owner. The applicant must explain the practical difficulties to the best of his or her ability, and the explanation will be critical information for granting or denying the variance request.

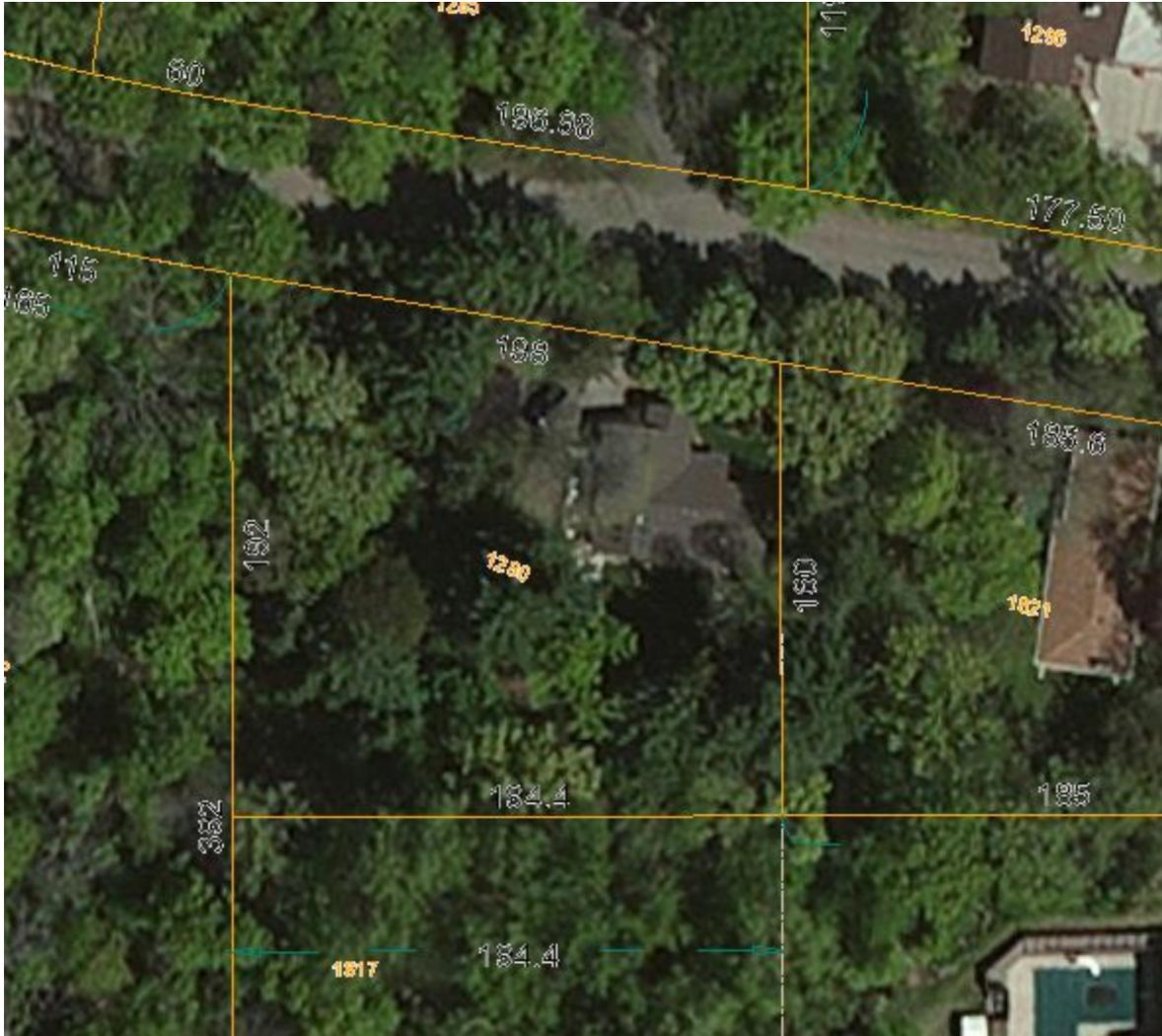
Property Address:
1280 Kolff Court
Newport, MN 55055

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

PID:
25.028.22.43.0012

Parcel size: 34,232 SF (0.786 acres)

Aerial View:



Background

Applicant received a variance approval from Newport's Planning Commission in August, 2014 for a garage project similar to what is presented herein. The actual variance request, in terms of setbacks, is the same as what was requested and approved in 2014, but the structure's design has changed. The 2014 request is appended to this request, as background, if it might be useful.

The August, 2014 plan involved tearing down the existing garage structure and rebuilding on the existing retaining wall system. After the public hearing, Applicant discussed the plan with a helpful member of the Commission, who suggested that Applicant should make inquiries as to how to eventually handle the inevitable deterioration of the retaining wall system upon which the garage was built (see pictures). Applicant subsequently hired an engineering firm to review the

existing retaining system, and to discuss options if / when the existing system fails. The 2014 variance expired before Applicant was able to complete evaluation of all options.

After reviewing many different options, Applicant has decided not to build upon the existing retaining system, and now presents this plan which involves demolishing the existing retaining wall system, which is made of wood, and installing a permanent poured concrete footing and wall system.

Statement of Request & Practical Difficulties

Applicant requests a variance to the minimum setback requirements from the front lot line. The requested variance is to make the minimum setback requirement from the front lot be 11 feet, as was approved in 2014.

Applicant requests a variance to allow for the demolition the existing garage structure (current structure approx 24' x 24'), then construction of a garage structure that would extend northward, towards Kolff Court, by up to 16' from where the existing structure is located, adding one additional parking stall and making for three parking stalls and a finished parking garage structure approx 24' x 38", or 912 square feet, plus 480 foot shop (not suitable for parking), total square feet = 1392. The existing house structure on the property has about a 2000 sf footprint. The new garage would terminate in the general area of an existing privacy fence that defines a car port (see Picture 1).

An elevated 24' x 20' shop would be constructed off the back of the southern part of the garage, extending out over the deep ravine, but will not be closer to the road than the existing structure (see site plan). It is not possible to park vehicles in this shop area.

The existing garage structure sits on the edge of a drainage ravine with very steep slopes. Unfortunately a wood retaining wall system was used for the initial building structure (see photo #5), and the existing structure sits immediately on top of the retaining wall system, which prevents repair or modification to the retaining wall system without jeopardizing the garage building. It is a difficult situation, because the retaining wall system will eventually fail due to rot; already it is difficult to justify repairs to the garage structure because of the foundation issue.

Applicant has hired an engineering firm and looked at many different options of expanding a parking garage in all other directions, but such options are not feasible. The engineering firm recommended the approach Applicant submits herein. Additionally, water drainage is difficult in the area, as water in the front yard and driveway drains northwest into a ditch, then back around the garage and into the ravine. The proposed plan is consistent with the drainage needs of the area. Applicant would design the structure to fit in with the existing house and fit in with the existing landscape. Applicant's last expansion project was a major addition that won an award from the City of Newport.

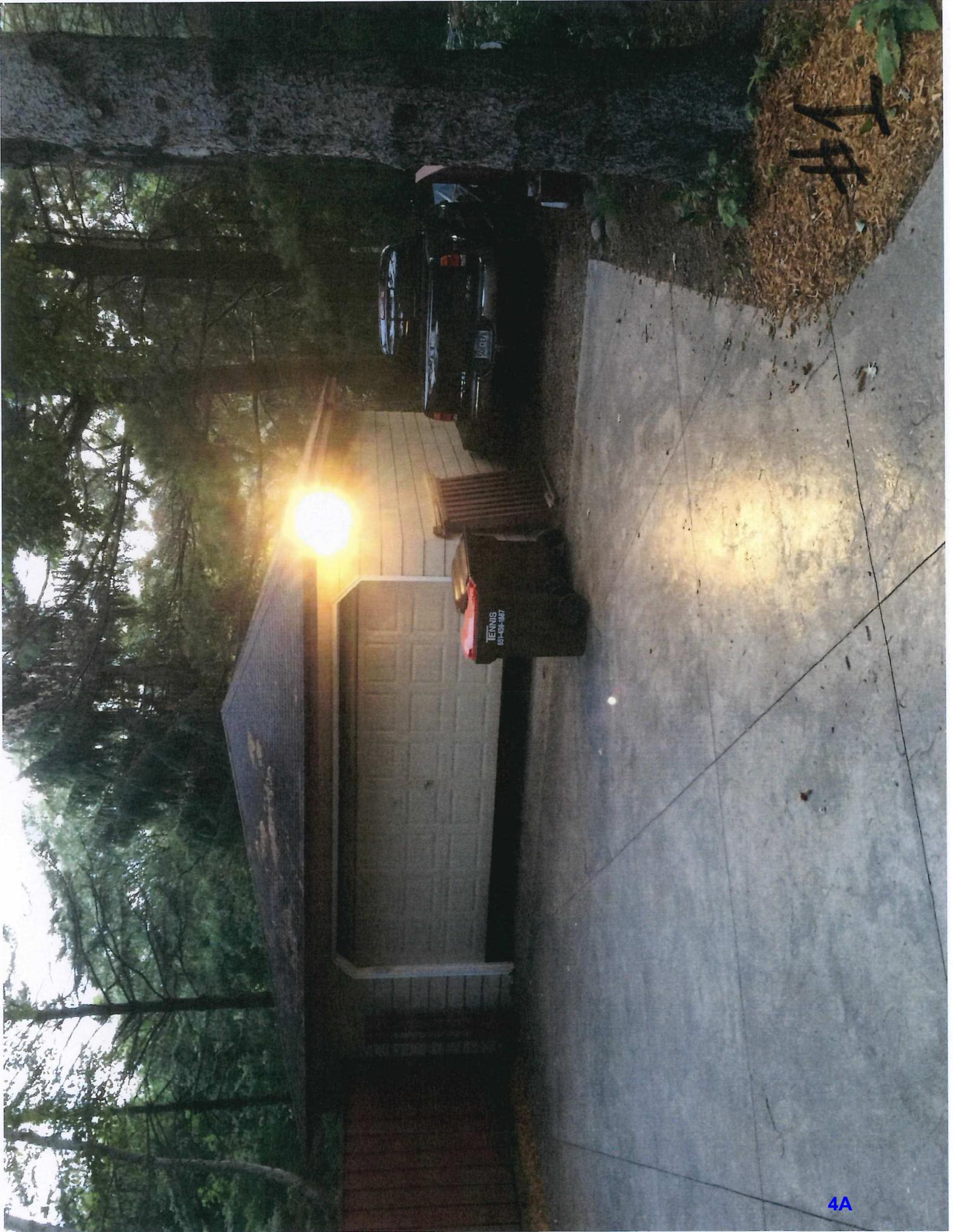
Reference is made to attached pictures, which were taken at points indicated with red ink in the Plan drawing.

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

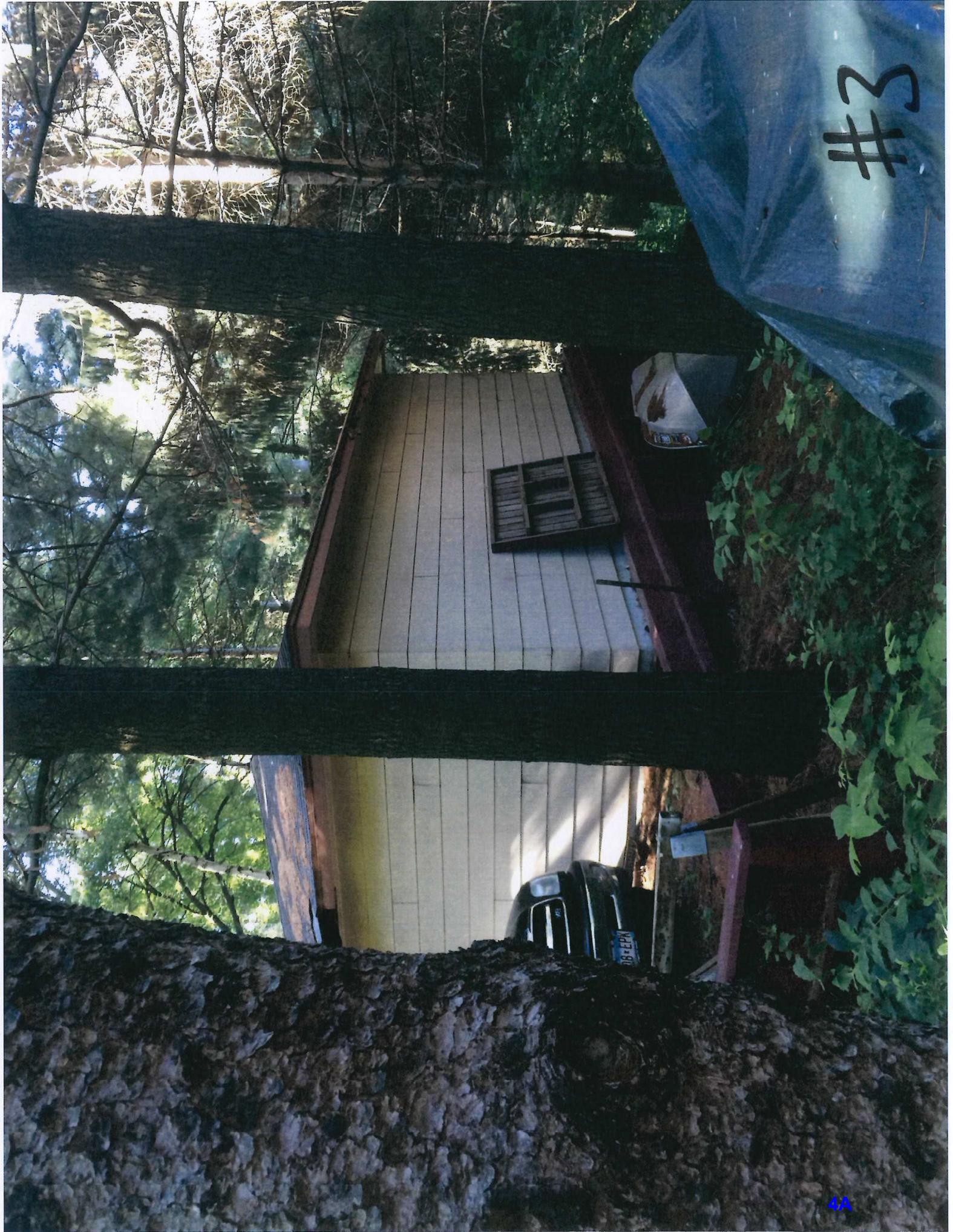
Picture 2 shows a better view of the privacy fence. It is believed the essential character of the property will not be altered because the new garage structure will largely encompass an area used as a parking spot currently, and the whole structure is situated away from the house.

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

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







#3

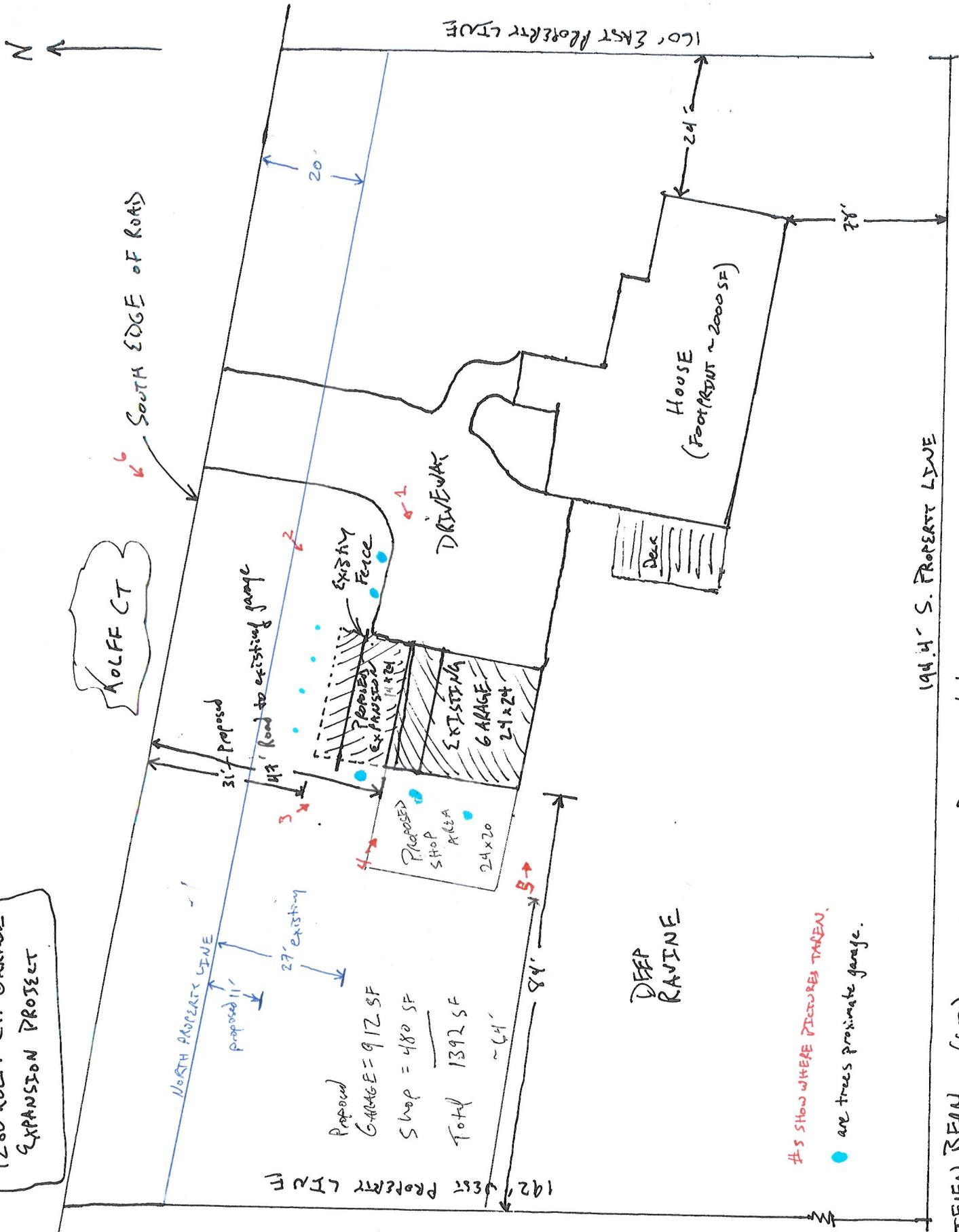


4#





1280 KOLFF CT. GARAGE EXPANSION PROJECT



Proposed
GARAGE = 912 SF
Shop = 480 SF
Total 1392 SF
~ 64'

5 SHOW WHERE TREES TAKEN.
● are trees proximate garage.

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

194.4' S. PROPERTY LINE

Prepared 7/8/2014

Variance Request from 2014 Follows



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

Memorandum

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

SUBJECT: Bern Variance Request for Garage Expansion

MEETING DATE: August 14, 2014

LOCATION: 1280 Kolff Court

APPLICANT: Steve Bern
1280 Kolff Court

ZONING: RE (Residential Estates District)

60-DAY PERIOD: September 13, 2014

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

BRIEF DESCRIPTION OF THE REQUEST

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

BACKGROUND

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

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

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

EVALUATION OF THE REQUEST

Comprehensive Plan

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

Development Code Requirements: Lot sizes and Setbacks

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

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

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

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

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

Number and Size of Accessory Structures

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

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

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

Building Height and Materials

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

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

Lot Coverage

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

Stormwater Management

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

Engineer's Comment

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

ORDINANCE REQUIREMENTS FOR EVALUATING A VARIANCE REQUEST

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

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

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

Findings

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

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

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

- *The proposed use is reasonable.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ACTION REQUESTED

The Commission can recommend to the City Council:

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

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

PLANNING STAFF FINDINGS AND RECOMMENDATIONS

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

The Planner finds the following:

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

The Planner recommends the following conditions:

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

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



PROFESSIONAL SERVICES

More ideas. Better solutions.®

MEMO

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

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

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

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

Offices in Illinois, Iowa, Minnesota, and Wisconsin

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

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

FAX: (763) 786-4574 WEB ADDRESS: www.msa-ps.com

Page 1 of 1

City of NEWPORT Planning Request Application

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

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

Applicant Information

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

Property Owner Information

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

Project Information

Location of Property: 1280 KOLFF CT.

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

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

Escrow Fees

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

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

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

Present Use of Property: RESIDENTIAL

State Reason for Planning Request: SEE ATTACHES



Variance Application Checklist

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

GENERAL REQUIREMENTS:

INCLUDED IN SUBMITTAL

- | | | |
|--|---|-----------------------------|
| 1. Application Form, signed by Owner and Applicant | <input checked="" type="checkbox"/> YES | <input type="checkbox"/> NO |
| 2. Fees | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| 3. Escrow | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| 4. Complete legal description and PID number of all parcels included in the request. The legal descriptions must be copied directly from the deed and provided in a word document. | <input checked="" type="checkbox"/> YES | <input type="checkbox"/> NO |
| 5. A statement fully describing the request and the Practical Difficulties (see second page) | <input checked="" type="checkbox"/> YES | <input type="checkbox"/> NO |
| 6. A map, aerial photo or plat showing the parcel in question and all property within five hundred (500) feet of the parcel boundaries. | <input checked="" type="checkbox"/> YES | <input type="checkbox"/> NO |
| 7. Site Plan | <input checked="" type="checkbox"/> YES | <input type="checkbox"/> NO |
| • One (1) 11"x17" hard copy and/or one (1) electronic copy. The City may require a larger size plan if needed to adequately review the request. | | |

Plan Sheet Requirements:

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

SITE PLAN REQUIREMENTS - EXISTING AND PROPOSED:

INCLUDED IN SUBMITTAL

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

Property Address:
1280 Kolff Court
Newport, MN 55055

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

PID:
25.028.22.43.0012

Parcel size: 34,232 SF (0.786 acres)

Aerial View:

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

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

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

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

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

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

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





TENNIS
651-459-1687

Pajkiy
Court



#3
4A



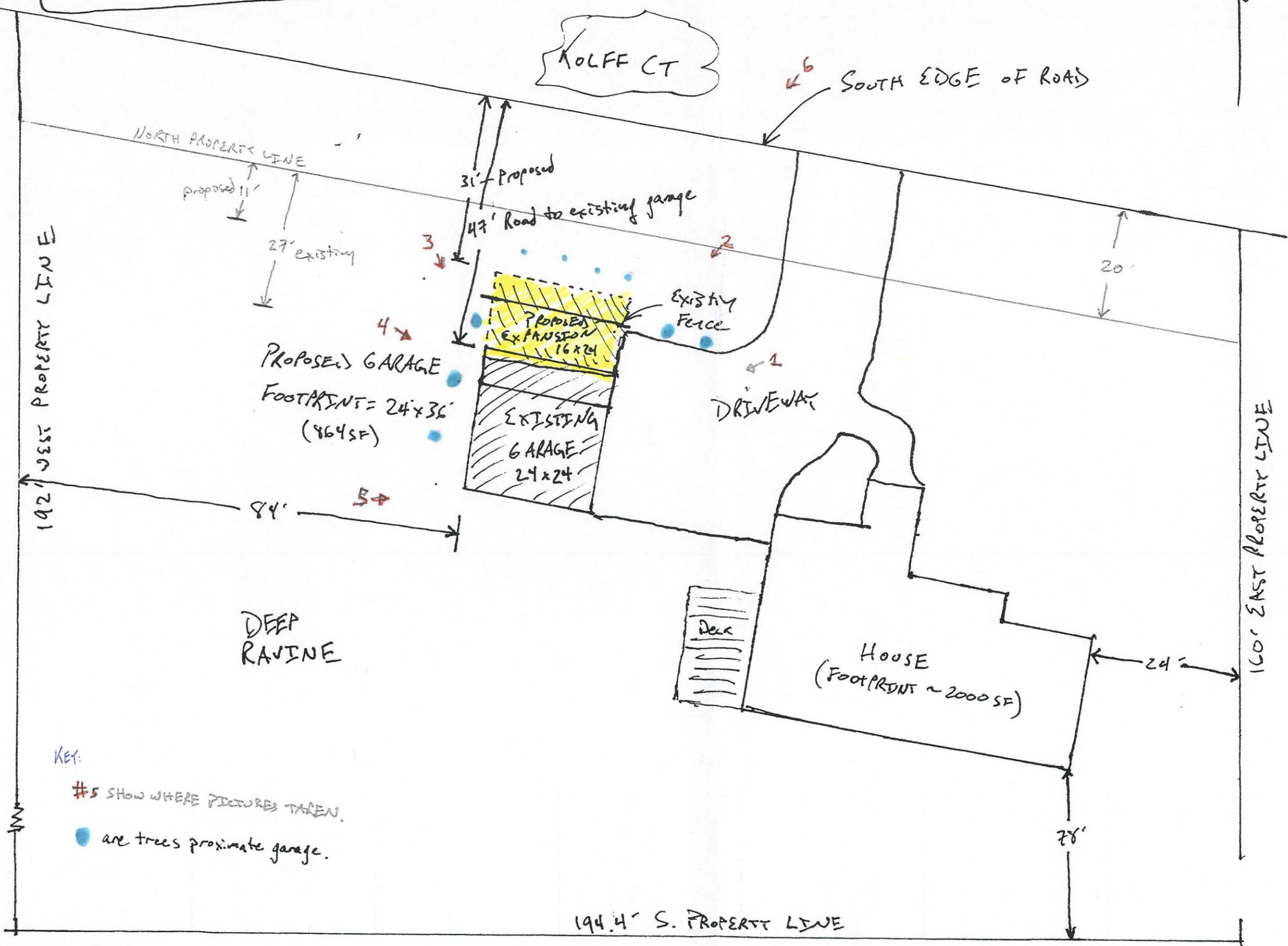
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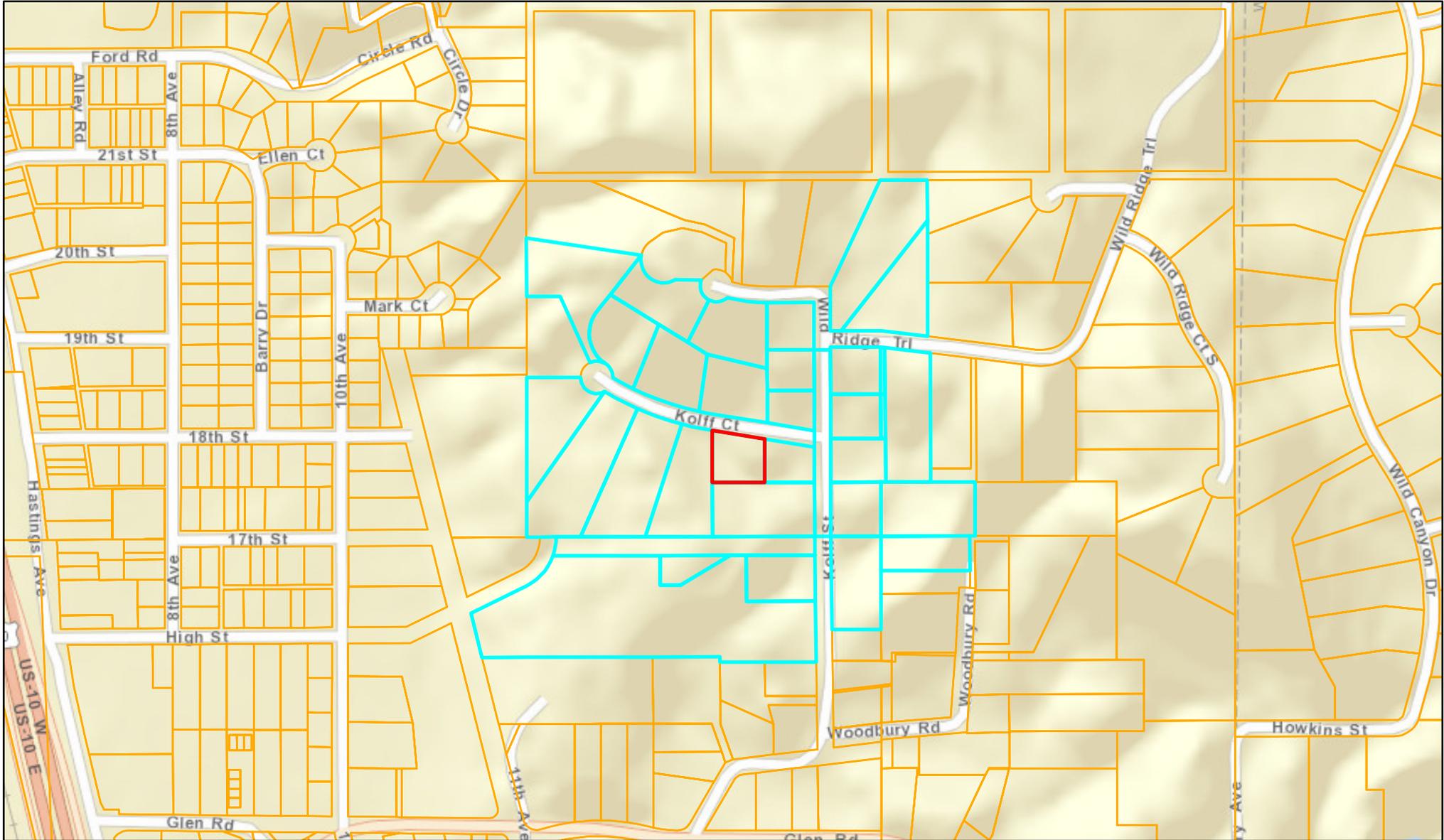
1280 KOLFF CT. GARAGE EXPANSION PROJECT



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

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

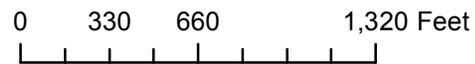
Prepared 7/8/2014



Parcel ID: 2502822430012

Parcel Address:
1280 KOLFF CT, CITY OF NEWPORT

Created on 7/16/2014



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

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

**CITY OF NEWPORT
PLANNING COMMISSION**

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

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

Said property is legally described as:

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

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

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

Dated this 21st day of July, 2014

Deb Hill
City Administrator

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Signed: _____
Dan Lund, Chairperson

ATTEST: _____
Deb Hill, City Administrator

**PLANNING COMMISSION
RESOLUTION NO. P.C. 2016-6**

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

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

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

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

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

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

WHEREAS, Following publication, posted, and mailed notice thereof, the Newport Planning Commission held a Public Hearing on March 10, 2016; and

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

1. The variance request is consistent with the Comprehensive Plan's goals to permit single-family uses in the RE Zoning District and protect steep slopes and mature trees.
2. The proposed single-family use and related accessory structure are reasonable uses in the RE District.
3. The practical difficulties are related to the location and condition of the existing garage and retaining walls, and the locations of steep slopes, mature trees, and the existing drainage patterns in the area. The owner did not create the practical difficulties.
4. Granting the variance will not alter the essential single-family character of the area.
5. The variance request is based on the practical difficulties related to the existing structures on the parcel and the need to avoid impacts to steep slopes, mature trees, and drainage patterns. and not on economic considerations alone.
6. The proposed entry addition will not impair the supply of light or air to adjacent properties, increase street congestion, increase the danger of fire or endanger public safety, or impair property values within the neighborhood.
7. The variance is the minimum front setback in order to accommodate the proposed structure without negative impacts to steep slopes, mature trees, and drainage patterns.
8. Granting the variance will not affect access to direct sunlight for solar energy systems.

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

1. The proposed garage shall conform to the plan submitted to the City on February 11, 2016. The minimum garage setback from the front lot line shall be 11 feet.
2. The Applicant shall obtain a building permit for the proposed garage.
3. The garage shall be no taller than the principal structure.
4. The design of the proposed garage shall be compatible with the principle structure in terms of design, roof style, roof pitch, color and exterior finish materials. The design information shall be included with the building permit application and reviewed by City staff to determine consistency with the ordinance requirements.
5. Parking shall be prohibited on the Kolff Court right-of-way between November 1 and April 30.
6. The applicant shall pay all fees and escrow associated with this application.

Adopted this 10th day of March, 2016 by the Newport Planning Commission.

VOTE: Mahmood	_____
Haley	_____
Prestegaard	_____
Taylor	_____
Tweeten	_____

Signed: _____
Anthony Mahmood, Chairperson

ATTEST: _____
Deb Hill, City Administrator



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

Memorandum

To:	Newport Planning Commission	Reference:	Kim L. Brown Interim Use Permit Request
Copies To:	Deb Hill, City Administrator		
	Renee Eisenbeisz, Assistant to the City Administrator		
	Kim L. Brown, Applicant	Project No.:	16020.001
From:	Sherri Buss, RLA AICP, Planner	Routing:	
Date:	March 1, 2016		

SUBJECT: Kim L. Brown Interim Use Permit (IUP) request to exceed the number of horses permitted on an 8.76-acre parcel by ordinance

MEETING DATE: March 10, 2016

LOCATION: 1675 Kolff Street

APPLICANT: Kim L. Brown
P.O. Box 25407
Woodbury, MN 55125

ZONING: Residential Estate (RE) and Bluffland Overlay District

60-DAY PERIOD: March 14, 2016

ITEMS REVIEWED: Application, as-built survey of property, aerial photo

BRIEF DESCRIPTION OF THE REQUEST

The applicant is requesting an Interim Use Permit to exceed the number of horses that are allowed on her property by City ordinance. The parcel is 8.76 acres in size. The city's ordinance #2016-1 requires at least one acre per farm animal unit. Horses are classified as 1.0 animal unit, and therefore 8 horses would be allowed. The applicant is requesting that she be permitted to house up to of 16 horses on the property. The ordinance requires that property owners obtain an Interim Use Permit in order to exceed the number of horses that the ordinance allows based on the acreage standards.

The letter that the applicant submitted with the application states that she raises and sells American Saddlebred mares. She states that 10 horses will be in the barn only. Six horses would use the pasture. The horses are fed hay and grain and do not rely on grazing for food.

The applicant obtained a Conditional Use Permit and Variance to construct a 60x156' pole building to serve as a barn, hay storage, and office space in 2013. The attached as-built survey shows the location of the building, which houses the horses. It is 73.8 feet from the northern property line, and received a variance from the required 100-foot setback in the Zoning Ordinance to be placed in that location.

The primary reason for the standard that limits properties to one animal unit per acre is to manage the manure generated by the animals so that it does not impact surface and ground water, and so that odors and flies generated by the waste and animal noise do not impact neighbors. The applicant states that manure is stored on the property and periodically removed and sold to plant nurseries in the area. The pasture is graded two or three times per week, and the barn is cleaned four times each day. The stored manure is loaded every three months into dumpsters and removed from the property.

EVALUATION OF THE INTERIM USE PERMIT (CUP) REQUEST

The applicant must meet the criteria included in Ordinance 2016-1 and in the Zoning Ordinance to obtain an IUP to exceed the number of horses allowed on the property based on the acreage standard. This staff report analyzes the request based on the criteria. The Planner also contacted the University of Minnesota Extension Service, Washington County Conservation District and South Washington Watershed District to request recommendations for conditions related to manure management to protect surface waters.

Ordinance 2016-1 Criteria

Ordinance 2016-1 includes the following criteria for farm animal permits:

- *The barn, stable, housing or hive shall be located at least 150 feet from the nearest property line of adjacent property owners, and must be built according to the zoning code.*

Analysis: The applicant was granted a variance in 2013 to locate the barn 73.8 feet from the northern property boundary. The rationale for granting the variance considered that the property to the north of 1675 Kolff is a city-owned property that is 75 feet wide, and will remain in City ownership. The 73.8 setback on the Brown parcel plus the 75-foot wide city parcel separates the barn from adjacent residential property boundaries by about 149 feet. The variance previously granted by the City for the barn allows the current request to meet the setback requirement.

The applicant obtained a building permit for the barn, and it was constructed to meet code requirements.

- *The barn, stable, housing or hive shall be considered accessory structures.*

Analysis: The barn is considered an accessory structure. It meets the Zoning Code requirements for number, height, size, setbacks, and area in the RE District.

- *All farm animals shall be kept confined by a sturdy wood or metal fence for pasture. The fence shall not be located nearer than 50 feet from any building used for human habitation. Barbed wire fences shall not be permitted.*

The applicant indicated that the pasture is currently fenced with electrical fencing. The ordinance requires a wood or metal fence. The applicant has requested that the City permit this fence as an equivalent to a wood or metal fence. The Planning Commission considered the electric fence and determined that it is an acceptable alternative that meets the intent of the ordinance to confine the animals to the pasture when they are outdoors.

General Criteria for Granting an IUP

Section 1310.13 of the Zoning Ordinance indicates that the city may grant an IUP, and process the IUP in the same manner as a Conditional Use Permit. The conditions for granting a CUP, which also apply to the IUP, are listed and analyzed for this application below.

The Zoning Ordinance requires that the City establish a specific date or event that terminates the Interim Use on the property, and that the IUP shall terminate within three years of the date of approval.

The Planner has included a condition to establish the following date for termination of the IUP: The Interim Use Permit (IUP) shall terminate when a change in ownership of the parcel occurs, or three years from the date of approval of the interim use, whichever occurs first.

The city may attach additional conditions to an IUP so that the use will not have adverse effects on the public health, safety and welfare, and that it will not impose additional costs on the public. Compliance with the conditions will be reviewed at least annually within the period of the IUP, and the City Council may order the inspection and revocation of the permit through the process provided in the zoning ordinance.

The other applicable Zoning Ordinance criteria for granting the IUP include the following, and are analyzed below:

- The proposed use will not be detrimental to or endanger the public health, safety or general welfare of the City, including the factors of noise, glare, odor, electrical interference, vibration, dust, and other nuisances; fire and safety hazards; existing and anticipated traffic conditions and parking facilities on adjacent streets and land.
- The potential effects of the proposed use on surrounding properties, including valuation, aesthetics and scenic views, land uses, and character and integrity of the neighborhood.
- The potential impacts of the proposed use on governmental facilities and services, including roads, sanitary sewer, water and police and fire.
- The potential impacts on sensitive environmental features, including lakes, surface and underground water supply and quality, wetlands, slopes, floodplains and soils.

Evaluation of the General Criteria for IUP's

- *The proposed use will not be detrimental to or endanger the public health, safety or general welfare of the City, including the factors of noise, glare, odor, electrical interference, vibration, dust, and other nuisances; fire and safety hazards; existing and anticipated traffic conditions and parking facilities on adjacent streets and land.*

The potential impacts that may be generated by the additional animals on the parcel need to be managed so that the noise, odors, and nuisances do not impact adjacent properties. The City of Newport has adopted a minimum 1-acre per animal unit requirement in its ordinance, and a 150-foot setback requirement for barns and stables. [Washington Conservation District staff noted that Washington County has established acreage requirements and setbacks for livestock based on the need to manage manure, odors and other impacts on adjacent parcels, as follows:

- A minimum of 2 grazable acres shall be provided for each animal unit. (Horses are 1.0 animal units.) Grazable acres shall be defined as open, non-treed acreage currently providing enough pasture or agricultural crops capable of supporting summer grazing at the density stated. Keeping of livestock in greater density than allowed shall require a conditional use permit. To obtain such permit, the applicant must demonstrate that facilities are present and appropriate practices are being employed to preclude surface and ground water contamination, excessive manure accumulation, odor, noise and other nuisances.
- All domestic farm animal structures, feedlots and manure storage sites shall be setback as follows:
 - 100 feet from any property line
 - 50 feet from any existing well or residential structure on the same parcel.
 - 200 feet from any existing well or residential structure on an adjacent or nearby parcels
 - 200 feet from any seasonal or year-round surface water]

The Planner consulted with Washington Conservation District staff and with University of Minnesota Extension staff (Equine Extension Specialist) that are experts in manure and water quality management regarding their analysis of the proposed request, potential impacts, and recommended conditions to manage the animal waste. Their comments on the Brown property and recommended conditions for the IUP are included below:

Washington Conservation District (WCD) Staff Comments and Recommendations

The Planner provided maps, information about the site, current manure management, well information, comments from the U of M Equine Specialist (next section) and several questions resulting from the Planning Commission discussion on February 11 to Wendy Griffin of the Washington Conservation District. Wendy is the WCD's specialist who works with landowners in Washington County to evaluate properties that are seeking permits to have more animals than permitted in the county ordinance based on acreage, and develop the manure management plans that are required for the permits. She is also a horse owner. The comments that she provided are the following:

- On average, each horse creates on average 35 pounds of manure per day.

- The available pasture area at 1675 Kolff is very small for the number of horses proposed. The vegetation in the pasture is critical for controlling erosion and runoff from the pasture. Horse activity and dragging the pasture to remove manure will damage the vegetation in the pasture, and make it difficult to maintain vegetative cover. The dragging activity in this small area will kill the vegetation, and make it very difficult to re-establish it. With the number of horses proposed and dragging to remove manure, the pasture could become denuded. The situation would then be similar to a feed lot. The manure should be not be dragged, but should be removed from the pasture daily and placed in a dumpster.
- Based on the topography on the property (map attached), the water will flow from the barn and the pasture toward the south during rain events or snow melt—likely toward the neighbor’s driveway. Runoff will be higher and more polluted if there is little or no vegetation in the pasture.
- The trees between the applicants parcel and neighbors’ parcel do not provide an adequate filter for runoff with manure.
- Foals create less manure, but they will impact the vegetation in the pasture by running on it and by trying to graze.
- Manure needs to be removed from the barn at least daily to protect the health and welfare of the animals
- If neighbors are experiencing flies, the manure is not being removed from the property often enough.
- The property owner should own the dumpster and have the contract for removal—should not count on landscaping companies to manage the manure.
- The U of M Equine Specialist recommendations are excellent, and should be followed.

The Planner included the WCD recommendations in the proposed conditions for the IUP.

University of Minnesota Extension Equine Specialist Comments and Recommendations

The U of M Extension Equine Specialist, Krishona Martinson, stated that horses do not require a large pasture area, and she stated that the key issue for permitting the requested number of horses is manure management. She noted that doubling the number of animals above the number permitted has the potential to impact neighbors with odors and flies. She stated that if the manure is being managed as the applicant stated in the application, that neighbors should not experience odors or flies from the manure on the property.

She recommended that the IUP include conditions related to manure storage, frequency of removal, a six-month trial period, and monthly inspections by City staff to determine if the manure is being managed as stated. She recommended that the applicant be required to document the frequency of manure hauling off the site. The WCD staff also recommended that manure be stored in a dumpster and removed regularly from the property.

Based on the discussions with these experts, the Planner has proposed conditions related to manure management, a trial period for the IUP, and requirements for City inspections.

- *The potential effects of the proposed use on surrounding properties, including valuation, aesthetics and scenic views, land uses, and character and integrity of the neighborhood.*

The property is screened from adjacent parcels by existing vegetation. The Planning listened to public comments at the hearing on February 11, and requested additional information regarding potential impacts and conditions. The Commission has recommended conditions for manure management and a 6-month trial period to determine if the applicant is meeting conditions and any potential impacts to neighbors. If the City inspections document negative impacts to surrounding parcels, the City may require that the use end after the trial period, or that additional measures be taken to manage the impacts.

- *The potential impacts of the proposed use on governmental facilities and services, including roads, sanitary sewer, water and police and fire.*

The proposed use will not impact governmental facilities and services if the landowner is required to pay the costs of additional inspections required in the conditions for the IUP.

- *The potential impacts on sensitive environmental features, including lakes, surface and underground water supply and quality, wetlands, slopes, floodplains and soils.*

The Planner has proposed conditions for vegetative cover and manure management to avoid erosion and control stormwater impacts to protect adjacent properties and surface and ground waters.

The findings support granting the Interim Use Permit 1) on a six-month trial basis with conditions for continuance, and 2) if the applicant indicates that she will comply with the conditions.

The Planning Commission may also recommend denial of this application based on findings for denial. Such findings may include:

- Applicant is not willing to comply with the conditions.
- The Commission determines that the proposed use has potential to have adverse effects on the public health, safety and welfare, and will impose additional costs on the public due to the proposed number of horses on the site, small pasture area, topography in the area, and the proximity of the home and well on the adjacent parcel to the pasture and horse facilities.

FINDINGS--IUP

The Planner finds the following related to the Zoning Code criteria for granting a CUP:

1. The proposed use requires an IUP based on Ordinance 2016-1.
2. The City will include a trial period, inspections, and conditions for the IUP to control the impacts of the proposed use so that it will not create noise, glare, odor, dust or nuisances that could affect public health or welfare.

3. The conditions require that animal wastes and other nuisances be managed to avoid all potential impacts to ground and surface waters, other resources, and adjacent properties.
4. Existing infrastructure and City services are adequate to serve the proposed use of the property. The applicant shall pay the cost of additional City inspections of the proposed use.
5. The approval of the IUP would include a six-month trial period, inspections by the City, and City review of compliance with the IUP with the applicant. The IUP may be granted for up to three years, and after that time, the property shall return to uses allowed by the ordinance.

PLANNING COMMISSION PUBLIC HEARING AND WORKSHOP

The Planning Commission held a public hearing on the IUP request at their meeting on February 11. Several residents testified at the hearing—including neighbors in opposition to the request and supporting the request. The Commission discussed the request, and identified a need for additional information on several topics related to manure management and health issues. The Commission tabled the request on February 11 and set a workshop meeting on February 24 for additional discussion. Staff gathered the additional information that the PC requested, and provided it for discussion at the meeting on February 24.

The Commission discussed the request and new information at the workshop session. The members noted that the pasture is very small for the number of horses requested, and the amount of manure that will need to be handled on the property. They made several recommendations for conditions for approval of the IUP:

- The IUP should permit a maximum of 8 adult horses, plus up to 8 foals up to 6 months of age
- The IUP should include a six month trial period
- The IUP should include the manure management recommendations developed by the Washington Conservation District and University of Minnesota Equine Extension Specialist
- The IUP should include the inspections as recommended by the specialists
- The IUP should include a condition that the property owner maintain adequate vegetative cover in the pasture to prevent runoff and erosion
- Electrical fence may be utilized as an alternative to the fencing materials that are required in the ordinance.

The Planner updated the proposed conditions for approval based on the Commission's recommendations at the workshop.

ACTION REQUESTED FOR THE IUP REQUEST

The Planning Commission can recommend any of the following for this application:

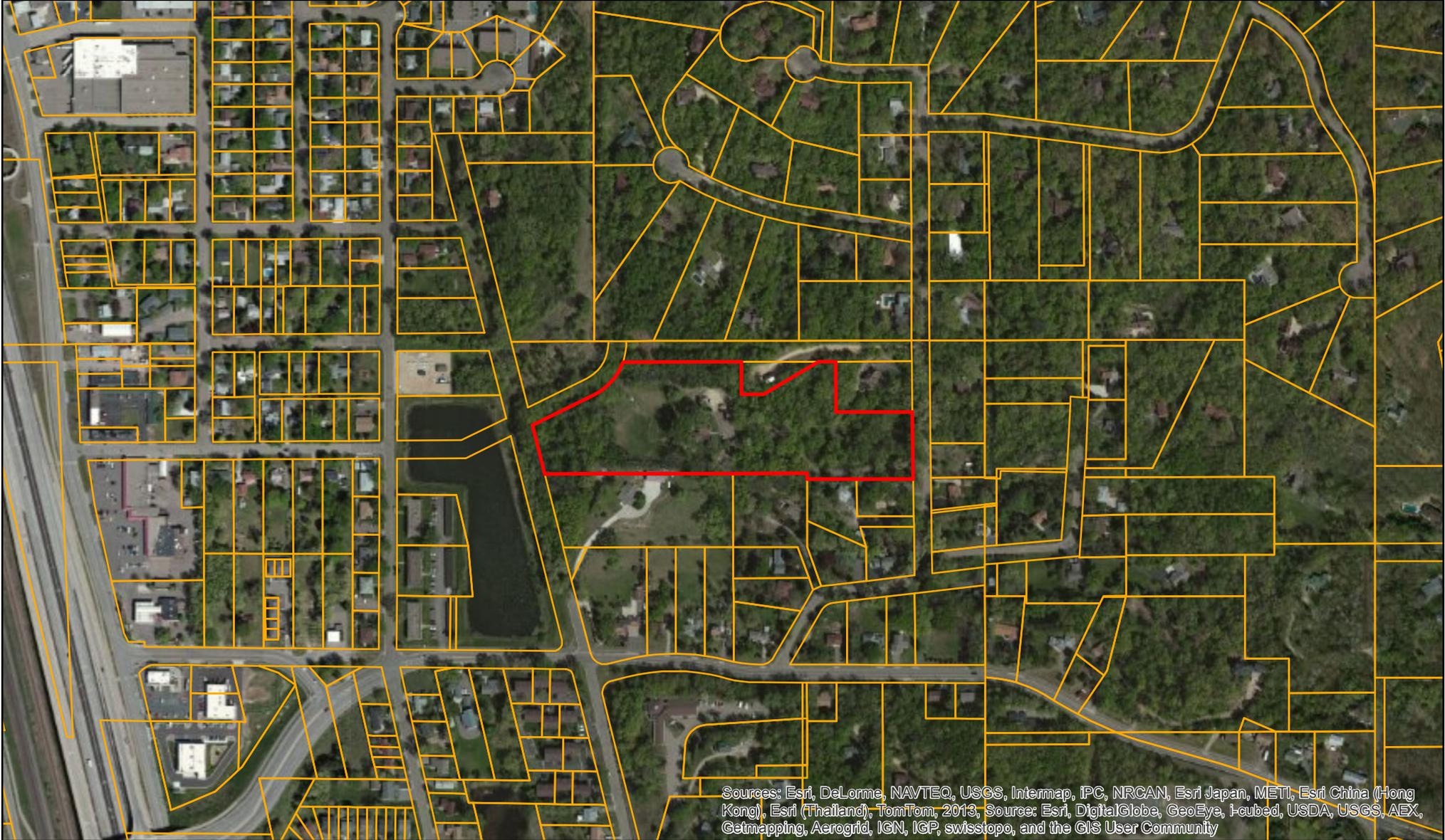
1. Approval
2. Approval with conditions
3. Denial with findings
4. Table the request

PLANNING STAFF RECOMMENDATIONS

The Planner recommends that the Commission approve the IUP on a six (6)-month trial basis, with the following conditions for approval of the request for up to sixteen horses on the parcel at 1675 Kolff Street:

1. The applicant shall be permitted to house and care for a maximum eight (8) adult horses and up to eight (8) foals that are up to six (6) months of age on the parcel at 1675 Kolff Street.
2. The applicant shall house and care for up to ten (10) horses within the existing barn structure on the parcel. No more than six (6) horses may regularly use the pasture area.
3. The applicant shall construct and maintain a sturdy fence around the pasture. Electrical fencing may be used. The fence shall not be located nearer than fifty (50) feet to any building used for human habitation. The fence shall not be constructed of barbed wire.
4. The animals on the property shall not create noise, odors, or other nuisances that impact adjacent properties. The animals shall be contained within the pasture and barn.
5. The applicant shall remove the manure from the pasture and the barn at least daily. The applicant shall place the manure from the pasture and barn directly into a dumpster. The dumpster shall be covered, and shall be setback at least 100 feet from all adjacent property boundaries and at least 200 feet from residential buildings and wells on adjacent and nearby parcels.
6. The applicant shall obtain the dumpster and shall establish the contract for manure removal with a licensed waste hauler.
7. The dumpster shall be removed and emptied at least once per month, and the manure shall be taken off-site. If City inspections find that this is not adequate to manage the manure and prevent negative impacts to adjacent properties and natural resources, the City shall require that the dumpster be emptied more frequently or additional measures taken to manage impacts to adjacent properties.
8. The applicant shall document the manure removals from the property, and have the documentation available at the time of City inspections.
9. The applicant shall maintain a dense, vegetated cover within the pasture (minimum 3 [three] inch grass height) and on the slopes on the property to prevent erosion and control stormwater runoff.
10. The City shall inspect the property at least monthly during the first six-month trial period after the IUP is approved to document the conditions on the site and determine that the applicant is complying with conditions of the IUP and that the use does not have negative impacts on surrounding properties.

11. The City shall grant the IUP for a six (6) month trial period. The City shall review the results of the inspections and the owner's compliance with the conditions of the IUP at the end of six months, and document its findings. The City may require that the applicant discontinue the use at the end of the trial period if the conditions have not been met or if the City documents that adjacent properties experience negative impacts to require compliance with the conditions.
12. The City may review the compliance with the IUP conditions at least annually after the first six months of operation.
13. The applicant shall establish an escrow account at the City to reimburse the City for the cost of inspections during the trial period and three-year IUP.
14. If the City permits continuation of the use after the six (6)-month trial period, the IUP shall terminate when a change in ownership of the parcel occurs, or three (3) years from the date of initial approval of the Interim Use, whichever event occurs first.
15. The applicant shall pay all fees and escrows related to this application.



Sources: Esri, DeLorme, NAVTEQ, USGS, Intermap, iPC, NRCAN, Esri Japan, METI, Esri China (Hong Kong), Esri (Thailand), TomTom, 2013, Source: Esri, DigitalGlobe, GeoEye, i-cubed, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community

Parcel ID: 3602822120002

Parcel Address:
1675 KOLFF RD, CITY OF NEWPORT

Created on 9/4/2013

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

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

City of NEWPORT Planning Request Application

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

Application Date: 01/14/14 Public Hearing Date _____

Applicant Information

Name: Kim L Brown Telephone: 651-730-9803
Mailing Address: P.O. Box 25407 Telephone: 651-238-0866
City/State/Zip: Woodbury MN 55125

Property Owner Information

Name: Kim L Brown Telephone: 651-730-9803
Mailing Address: P.O. Box 25407 Telephone: 651-238-0866
City/State/Zip: Woodbury MN 55125

Project Information

Location of Property: 1675 Kolff Rd. Newport MN 55055
Legal Description of Property (Must match description on the Deed) and P.I.D. #: Block D Newport Villas Block D Being that part of block D - Newport Villas except the north 170 feet of the east 256.24 feet and except: that part of block D of Newport Villas

Zoning District: _____ Flood Plain: AE 0.2% Annual Chance Flood Hazard

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

Escrow Fees

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

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

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

Present Use of Property: Residential horse property.

State Reason for Planning Request: To increase number of horses on premises. The horses do not graze, they eat hay. Most of the horses are housed in the barn and do not go outside. Local landscape companies come and pick up manure by the truckload.

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

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

SIGNATURE OF APPLICANT: Ken L Brown

SIGNATURE OF OWNER (IF APPLICABLE): _____

For Office Use

Fee: \$ 1,050 Date Paid: 01/14/16 Receipt #: _____

Publication of Notice Date: _____

Public Hearing Date: February 11, 2016

P.C. Resolution #: _____

Council Action Date: _____

Council Resolution #: _____



Interim Use Permit Application Checklist

Interim Use Permits are covered under Section 1310.14 of the Zoning Code. Please provide the following information with your application for an Interim Use Permit.

- | <u>GENERAL REQUIREMENTS:</u> | <u>INCLUDED IN SUBMITTAL</u> |
|--|---|
| 1. Application Form, including the name, address, contact information and signatures of all parcel owners and applicant | <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO |
| 2. Fees | <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO |
| 3. Escrow | <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO |
| 4. Complete legal description and PID number of all parcels included in the request. The legal descriptions must be copied directly from the deed and provided in a word document. | <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO |
| 5. A full description of the request—proposed use of the site, activities proposed, hours of operation, etc. (either on the application form or in a letter), including a proposed date or event for termination of the IUP (up to 3 years from the date of approval). | <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO |
| 6. A map, aerial photo or plan showing the parcel in question and all property within five hundred (500) feet of the parcel boundaries | <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO |
| 7. Site Plan <ul style="list-style-type: none"> • One (1) 11"x17" hard copy and/or one (1) electronic copy. The City may require a larger size plan if needed to adequately review the request. | <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO |

Plan Sheet Requirements:

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

- | <u>SITE PLAN REQUIREMENTS - EXISTING AND PROPOSED:</u> | <u>INCLUDED IN SUBMITTAL</u> |
|--|--|
| 1. Property lines and dimensions | <input type="checkbox"/> YES <input type="checkbox"/> NO |
| 2. Area in acres and square feet | <input type="checkbox"/> YES <input type="checkbox"/> NO |
| 3. Existing and proposed building and parking locations and dimensions | <input type="checkbox"/> YES <input type="checkbox"/> NO |
| 4. Existing and proposed setbacks | <input type="checkbox"/> YES <input type="checkbox"/> NO |
| 5. Buildable area and the existing and proposed area of the parcel(s) covered by impervious surfaces | <input type="checkbox"/> YES <input type="checkbox"/> NO |
| 6. Existing and proposed driveways | <input type="checkbox"/> YES <input type="checkbox"/> NO |
| 7. Stormwater analysis and proposed best management practices, if required by the City Engineer | <input type="checkbox"/> YES <input type="checkbox"/> NO |

- 8. Septic system and well (if applicable) YES NO
- 9. Vegetation and landscaping (if applicable to the request) YES NO
- 10. Wetland delineation (if applicable) YES NO
- 11. Topographic contours at 2-foot intervals, bluff line (if applicable) YES NO
- 12. Waterbodies, Ordinary High Water Level and 100 year flood elevation (if applicable) YES NO
- 13. Other proposed improvements and additional information relevant to the request YES NO

Google Maps 1675 Kolff St



Imagery ©2016 Google, Map data ©2016 Google 100 ft

1675 Kolff St
Newport, MN 55055

At this location

KLB Inc Insurance & Risk Management
Insurance Agency · Kolff St

Newport City Council-Planning Commission

1-14-16-Meeting notes:

Kim L Brown, Owner personal use and sales only.

Additional horses on property located at 1675 Kolff St. Newport MN

Ordinance increase of horses on property.

Currently the amount of horses allowed on my premise is 9 I would like to see if you will increase this to 16 total. I raise and sell American Saddlebred show horse and Thoroughbred Race horses. I have three Thoroughbred mares in foal to be delivered in April of 2016 and I also have 2 other horses that I want to purchase as 4-year-old American Saddlebred show horse to be trained and shown to be sold. There would most time not be 16 horses here.

There will be 10 horses in the barn only and not outside unless going to a horseshow. They are worked in the indoor area only. There would be no more than 6 horses in the Pasture and are fed High quality hay and grain on a daily basis and there is no grazing land needed. The pasture is graded two time per week. The barn is cleaned 4 times daily.

The manure is being sold to various nursery's around the area for an Amount of \$300 per dumpster. Training will be done in the barn on the property. I am will to pay an additional \$ 1000 per year on top of the \$25.00 permit fee for the original 6.

Please let me know if you have any further questions.

Kim L Brown, Owner

PO Box 25407 Woodbury MN 55125

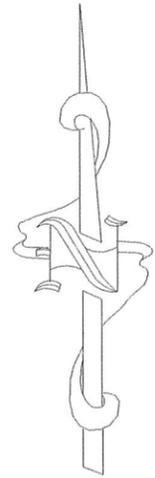
Email: kim@klbins.com

P-651-730-9803, C-651-238-0866

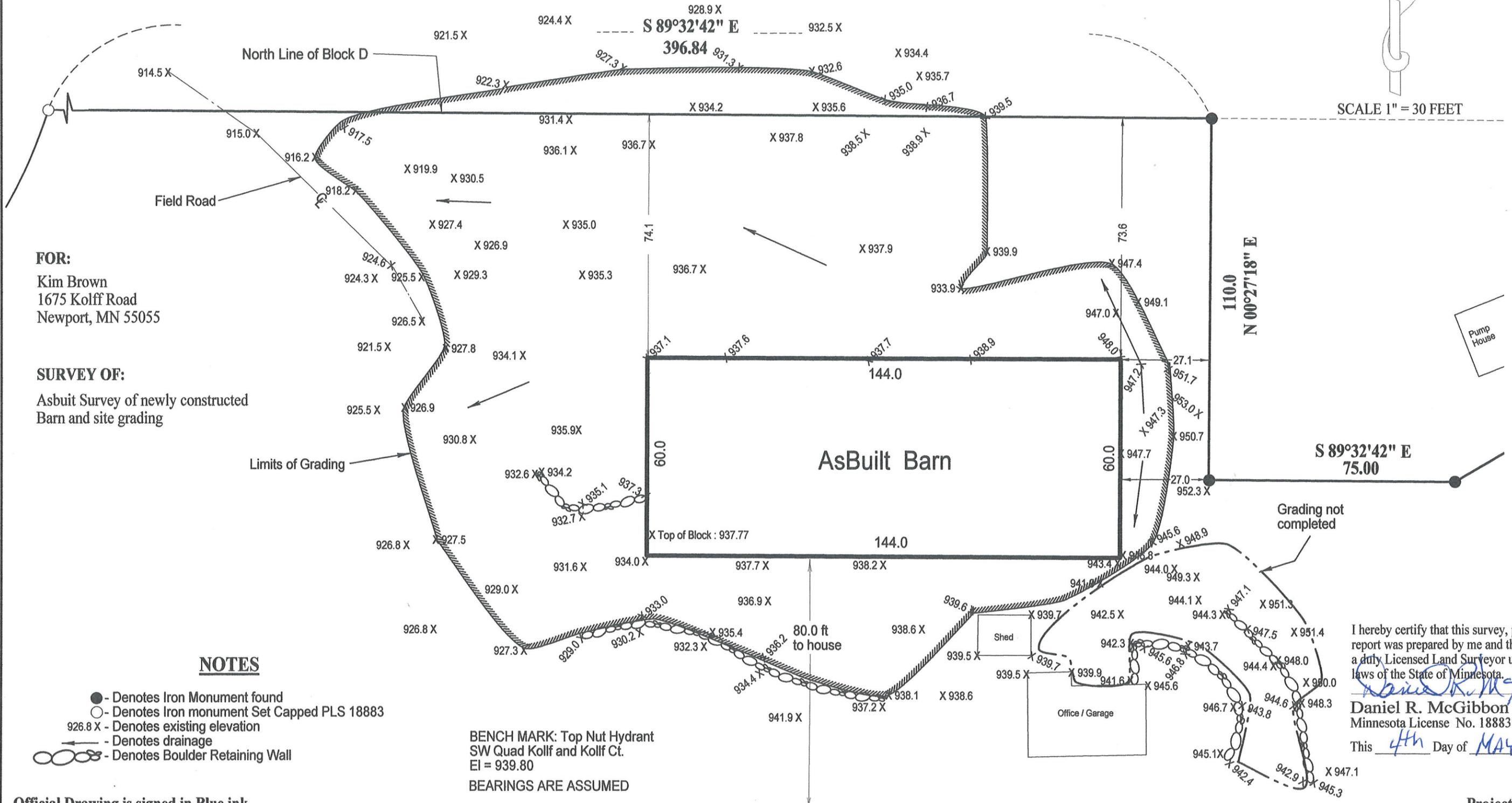
McGibbon Land Surveying

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

AsBuilt Survey



SCALE 1" = 30 FEET



FOR:
Kim Brown
1675 Kolff Road
Newport, MN 55055

SURVEY OF:
Asbuilt Survey of newly constructed
Barn and site grading

NOTES

- - Denotes Iron Monument found
- - Denotes Iron monument Set Capped PLS 18883
- 926.8 X - Denotes existing elevation
- - Denotes drainage
- ⊖ - Denotes Boulder Retaining Wall

BENCH MARK: Top Nut Hydrant
SW Quad Kolff and Kolff Ct.
EI = 939.80
BEARINGS ARE ASSUMED

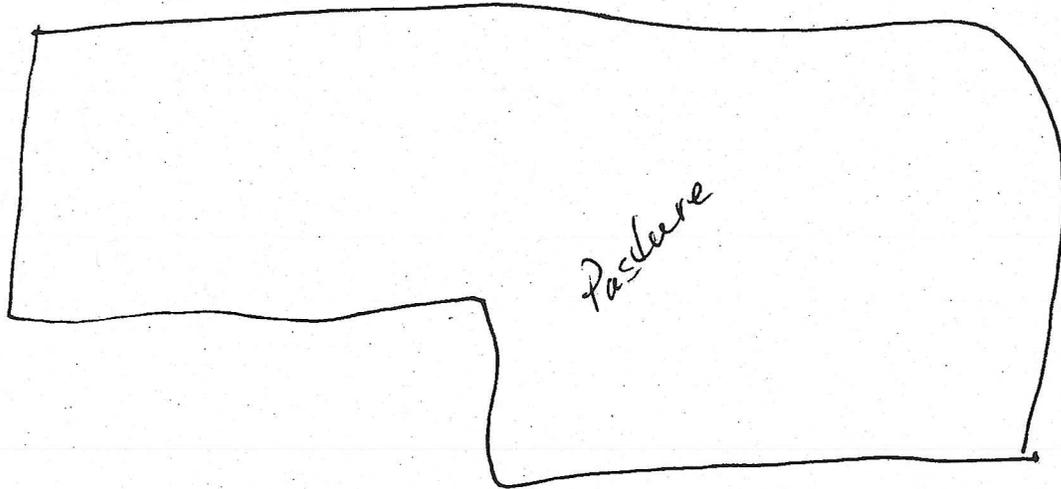
I hereby certify that this survey, plan or report was prepared by me and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

Daniel R. McGibbon
Daniel R. McGibbon P.L.S.
Minnesota License No. 18883

This 4th Day of MAY, 2015

Official Drawing is signed in Blue ink

Project No 15



**PLANNING COMMISSION
RESOLUTION NO. P.C. 2016-4**

A RESOLUTION RECOMMENDING THE NEWPORT CITY COUNCIL APPROVE AN INTERIM USE PERMIT REQUESTED BY KIM BROWN, PO BOX 25407, WOODBURY, MN 55125, FOR PROPERTY LOCATED AT 1675 KOLFF ROAD, NEWPORT, MN 55055 TO EXCEED THE NUMBER OF ALLOWED FARM ANIMALS

WHEREAS, Kim Brown, PO Box 25407, Woodbury, MN 55125, has submitted a request for an Interim Use Permit to exceed the number of farm animals allowed per City Ordinance from 8 to 16 horses; and

WHEREAS, the property is located at 1675 Kolff Road, Newport, MN 55055 and is more fully legally described as follows:

PID #36.028.22.12.0002 - BLOCK D BEING THAT PART OF BLOCK D-NEWPORT VILLAS EXCEPT THE NORTH 170 FEET OF THE EAST 256.24 FEET AND EXCEPT: THAT PART OF BLOCK D OF NEWPORT VILLAS COMMENCING AT THE NORTH QUARTER CORNER OF SECTION 36 TOWNSHIP 28 RANGE 22 THENCE EASTERLY ALONG THE NORTH LINE OF SAID SECTION A DISTANCE OF 570 FEET THENCE SOUTHERLY PERPENDICULAR TO THE NORTH LINE OF SAID SECTION A DISTANCE OF 180 FEET TO THE POINT OF BEGINNING THENCE WESTERLY PARALLEL WITH THE NORTH LINE OF SAID SECTION A DISTANCE OF 75 FEET THENCE NORTHERLY PERPENDICULAR TO THE NORTH LINE OF SAID SECTION A DISTANCE OF 110 FEET THENCE EASTERLY ALONG THE NORTH LINE OF SAID SECTION A DISTANCE OF 260 FEET THENCE SOUTHWESTERLY TO THE POINT OF BEGINNING AND THERE TERMINATING CONTAINING APPROXIMATELY .42 ACRES MORE OR LESS NEWPORT CITY Block D SubdivisionCd 55045 SubdivisionName NEWPORT VILLAS

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

WHEREAS, Ordinance 2016-1 requires that property owners obtain an interim use permit if the number of animals on the property exceeds the number allowed by the ordinance, and includes standards for setbacks and management of the animals; and

WHEREAS, Section 1310.13 of the Zoning Ordinance states that the City Council may authorize an interim use permit in the same manner as a conditional use permit. The ordinance requires that the City establish a specific date or event that terminates the permit, and the permit shall terminate within three years of the date of approval; and

WHEREAS, Section 1310.14 Subd. 1 of the Zoning Ordinance includes the criteria for a conditional use permit, and states that the criteria for acting upon a Conditional Use Permit (C.U.P.) application as follows: *“In acting upon an application for a conditional use permit, the City shall consider the effect of the proposed use upon the health, safety, and general welfare of the City including but not limited to the factors of noise, glare, odor, electrical interference, vibration, dust, and other nuisances; fire and safety hazards; existing and anticipated traffic conditions; parking facilities on adjacent streets and land; the effect on surrounding properties, including valuation, aesthetics and scenic views, land uses, character and integrity of the neighborhood; consistency with the Newport comprehensive plan; impact on governmental facilities and services, including roads, sanitary sewer, water and police and fire; effect on sensitive environmental features including lakes, surface and underground water supply and quality, wetlands, slopes flood plains and soils; and other factors as found relevant by the City. The City may also consider whether the proposed use complies or is likely to comply in the future with all standards and requirements set out in other regulations or ordinances of the City or other governmental bodies having jurisdiction over the City. In permitting a new conditional use or the alteration of an existing conditional use, the City may impose, in addition to the standards and requirements expressly specified by this chapter, additional conditions which it considers necessary to protect the best interest of the surrounding area or the community as a whole.”*; and

WHEREAS, Following publication, posted, and mailed notice thereof, the Newport Planning Commission held a Public Hearing on February 11, 2016; and

WHEREAS, the Planning Commission’s findings related to the request for approval of an Interim Use Permit include the following:

1. The proposed use requires an IUP based on Ordinance 2016-1.
2. The City will include a trial period, inspections, and conditions for the IUP to control the impacts of the proposed use so that it will not create noise, glare, odor, dust or nuisances that could affect public health or welfare.
3. The conditions require that animal wastes and other nuisances be managed to avoid all potential impacts to ground and surface waters, other resources, and adjacent properties.
4. Existing infrastructure and City services are adequate to serve the proposed use of the property. The applicant shall pay the cost of additional City inspections of the proposed use.
5. The approval of the IUP would include a six-month trial period, inspections by the City, and City review of compliance with the IUP with the applicant. The IUP may be granted for up to three years, and after that time, the property shall return to uses allowed by the ordinance.

NOW, THEREFORE, BE IT FURTHER RESOLVED That the Newport Planning Commission **Hereby Recommends Newport City Council Approval** for an Interim Use Permit to exceed the number of farm animals from 8 to 16 on a six-month trial basis with the following conditions:

1. The applicant shall be permitted to house and care for a maximum eight (8) adult horses and up to eight (8) foals that are up to six (6) months of age on the parcel at 1675 Kolff Street.
2. The applicant shall house and care for up to ten (10) horses within the existing barn structure on the parcel. No more than six (6) horses may regularly use the pasture area.
3. The applicant shall construct and maintain a sturdy fence around the pasture. Electrical fencing may be used. The fence shall not be located nearer than fifty (50) feet to any building used for human habitation. The fence shall not be constructed of barbed wire.
4. The animals on the property shall not create noise, odors, or other nuisances that impact adjacent properties. The animals shall be contained within the pasture and barn.
5. The applicant shall remove the manure from the pasture and the barn at least daily. The applicant shall place the manure from the pasture and barn directly into a dumpster. The dumpster shall be covered, and shall be setback at least 100 feet from all adjacent property boundaries and at least 200 feet from residential buildings and wells on adjacent and nearby parcels.
6. The applicant shall obtain the dumpster and shall establish the contract for manure removal with a licensed waste hauler.
7. The dumpster shall be removed and emptied at least once per month, and the manure shall be taken off-site. If City inspections find that this is not adequate to manage the manure and prevent negative impacts to adjacent properties and natural resources, the City shall require that the dumpster be emptied more frequently or additional measures taken to manage impacts to adjacent properties.
8. The applicant shall document the manure removals from the property, and have the documentation available at the time of City inspections.
9. The applicant shall maintain a dense, vegetated cover within the pasture (minimum 3 [three] inch grass height) and on the slopes on the property to prevent erosion and control stormwater runoff.
10. The City shall inspect the property at least monthly during the first six-month trial period after the IUP is approved to document the conditions on the site and determine that the applicant is complying with conditions of the IUP and that the use does not have negative impacts on surrounding properties.
11. The City shall grant the IUP for a six (6) month trial period. The City shall review the results of the inspections and the owner’s compliance with the conditions of the IUP at the end of six months, and document its findings. The City may require that the applicant discontinue the use at the end of the trial period if the conditions have not been met or if the City documents that adjacent properties experience negative impacts to require compliance with the conditions.
12. The City may review the compliance with the IUP conditions at least annually after the first six months of operation.
13. The applicant shall establish an escrow account at the City to reimburse the City for the cost of inspections during the trial period and three-year IUP.

- 14. If the City permits continuation of the use after the six (6)-month trial period, the IUP shall terminate when a change in ownership of the parcel occurs, or three (3) years from the date of initial approval of the Interim Use, whichever event occurs first.
- 15. The applicant shall pay all fees and escrows related to this application.

Adopted this 10th day of March, 2016 by the Newport Planning Commission.

VOTE: Mahmood	_____
Haley	_____
Prestegaard	_____
Taylor	_____
Tweeten	_____

Signed: _____
Anthony Mahmood, Chairperson

ATTEST: _____
Deb Hill, City Administrator