



**CITY OF NEWPORT
PLANNING COMMISSION MEETING
NEWPORT CITY HALL
JANUARY 12, 2012 – 7:00 P.M.**

Chairperson:	Katy McElwee-Stevens	City Administrator:	Brian Anderson
Vice-Chair:	Susan Lindoo	Executive Analyst:	Renee Helm
Commissioner:	Janice Anderson	Council Liaison:	Tom Ingemann
Commissioner:			
Commissioner:			

AGENDA

1. CALL TO ORDER

2. ROLL CALL

3. NOMINATION and APPOINTMENT OF CHAIRPERSON AND VICE-CHAIRPERSON FOR 2012

4. APPROVAL OF PLANNING COMMISSION MINUTES

A. Planning Commission Minutes of December 8, 2011

5. APPOINTMENTS WITH COMMISSION

A. **Public Hearing** – To consider an amendment to Chapter 13, Section 1371, Storm Water Management, of the City of Newport Code of Ordinances.

1. Memo from Jim Stremmel
2. Notice of Public Hearing
3. Resolution No. P.C. 2012-1

B. Discuss the Red Rock Gateway Implementation Study – Draft Map and Zoning Ordinance

C. Discuss the 2012 Strategic Plan Goals and Objectives

6. COMMISSION & STAFF REPORTS

7. NEW BUSINESS

8. ANNOUNCEMENTS

A. Upcoming Meetings and Events:

- | | | |
|--------------------------------|------------------|-----------|
| 1. City Council Meeting | January 19, 2012 | 5:30 p.m. |
| 2. City Council Meeting | February 2, 2012 | 5:30 p.m. |
| 3. Planning Commission Meeting | February 9, 2012 | 7:00 p.m. |

9. ADJOURNMENT



**City of Newport
Planning Commission Minutes
December 8, 2011**

1. CALL TO ORDER

Chairperson McElwee-Stevens called the meeting to order at 7:00 P.M.

2. ROLL CALL -

Commissioners present – Katy McElwee-Stevens, Susan Lindoo, Janice Anderson, Daniel Flood

Commissioners absent – David Engfer

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

3. APPROVAL OF PLANNING COMMISSION MINUTES

A. Planning Commission Minutes of November 10, 2011

Janice Anderson – There is one amendment on number eight on the third page. The adjournment I believe would have been with four ayes, zero nays and one absent.

Motion by Anderson, seconded by Flood, to adopt the November 10, 2011 minutes as amended. With 4 Ayes, 0 Nays, 1 Absent, the motion carried.

4. APPOINTMENTS WITH COMMISSION

A. Public Hearing – To consider an application from Bruce Timm of Mastertech Auto and Tire for a Conditional Use Permit for property located at 1206 Hastings Avenue.

Admin. Anderson – The property that is in question is located at 1206 Hastings Avenue and is the old Holiday Station. As you can see, the brick is in good condition and the windows have been removed and boarded up. Mr. Timm is looking for a Conditional Use Permit so that he can operate a mechanic shop. Please note that parking is not allowed on the south side and that the topography is a bit uneven. Mr. Timm is proposing to place pillars on the corners and stucco on top. The four bays will be on the north end of the building so that you won't be able to see them as you drive by. Sherri Buss from TKDA will present on the Conditional Use Permit. Mr. Timm is also here tonight.

Ms. Buss presented on this item as outlined in the December 8, 2011 Planning Commission Packet. We have not seen a lighting, landscaping, or utilities plan yet, which we will need to see before finalizing. The landscaping plan will need to show where they will be placing the trees and the species. Generally, these plans can be approved by staff and therefore don't need to come back to the Planning Commission for final approval.

Chairperson McElwee-Stevens opened the Public Hearing at 7:17 P.M.

Daniel Flood – Brian, do you know if they really want to limit the hours from Monday through Friday?

Sherri Buss – That's what Mr. Timm told me directly but you can ask him if he would like to adjust that.

Daniel Flood – I don't have a problem with it if that's what he wants but I don't want to limit them if they would like the option to work on a Saturday. I don't think them working on a Saturday would be an issue.

Admin. Anderson – We have standard hours in our code correct?

Sherri Buss – I think you do and I think that would be a question to Mr. Timm. Would you like that flexibility?

Mr. Timm – Yea that would be fine.

Sherri Buss – We could change the condition then to include Saturday.

Susan Lindoo – Is there anything about like 9:00 on Saturdays. I'm just thinking about the location and the neighbors. Is there anything in the code about how early you can start on Saturdays?

Sherri Buss – Even for construction, 7:00 is normal for Saturday. It's up to you guys if you want to recommend 9:00.

Admin. Anderson – All of the work will be done inside so you wouldn't hear a lot of the noise.

Janice Anderson – Even in the information provided by Sherri, it doesn't look like there's a noise pollution issue.

Sherri Buss – So we'll change the time on #17 to 7 a.m. to 5:30 p.m., Monday through Saturday.

Daniel Flood – One other thing, is there a possibility that we could require less than four trees on the front? I'm concerned that once the four trees grow they would block the business from Hastings Avenue. I think some nice shrubs and smaller trees would be very nice.

Susan Lindoo – If they're deciduous trees, I think you'll be able to see the building quite well. When I was driving by it, it looked like it could support four trees.

Sherri Buss – Your code states every 50 feet.

Daniel Flood – And what's the length of the property?

Sherri Buss - 190 feet. Your code does not exclude the driveway from the requirement.

Daniel Flood – So now you're sticking trees too close together and they will grow into each other and the City will have to pick up the cost for landscaping. There is a nice option for a beautiful landscaping plan and I would like to recommend it.

Sherri Buss - It would require a variance from your Codes' requirement.

Susan Lindoo - Isn't that something that Mr. Timm would bring forward?

Sherri Buss – Yes.

Susan Lindoo – I think it depends on the selection of trees because not all will grow so large.

Sherri Buss – Yes, you could certainly use smaller trees. 30 foot spacing is standard and we're recommending 50.

Admin. Anderson – We'll probably be looking at smaller trees so as not to cover the sign.

Sherri Buss – We can recommend smaller trees as well. You've also established this requirement because you wanted to make Hastings Avenue a little more pedestrian friendly and a traditional downtown, which street trees are a part of.

Janice Anderson – But the option of trees would be chosen by the applicant?

Sherri Buss – Yes, but we could make some recommendations.

Bruce Timm, 533 Geneva Avenue North, Oakdale, MN – I wanted to address the driveway issues in regards to reducing the size. I'm not sure how we would really do that. Is there a way we could leave the driveways the length that they are? We would fix the curb.

Sherri Buss – That is up to the Engineer.

Admin. Anderson – What we can do is have the Planning Commission make a recommendation tonight and talk with the Engineer before the City Council meeting next week regarding it. We can put the final recommendation before the City Council.

Janice Anderson – How will the current south parking spots be landscaped? It is wide open right now and a natural spot to park.

Admin. Anderson – I think we could probably just stripe it with “No Parking” signs.

Councilman Ingemann – Could he park his tow truck sideways in that spot? It would take care of the no parking for everyone else and it would keep the tow truck out of the way.

Chairperson McElwee-Stevens – Would that work with the ordinances?

Sherri Buss – Yes I think so. You should check it with the Engineer.

Motion by Flood, seconded by Anderson to approve Resolution No. P.C. 2011-10 as amended, recommending the Newport City Council Approve a Conditional Use Permit Request by Bruce Timm, 533 Geneva Avenue North, Oakdale, MN 55128, for Property Located at 1206 Hastings Avenue, Newport, MN 55055.

Chairperson McElwee-Stevens closed the Public Hearing at 7:33 P.M.

B. Discuss a Proposal from Veolia Environmental Services to Install an Above Ground Storage Tank

Sherri Buss presented on this item as outlined in the December 8, 2011 Planning Commission Packet. Ms. Buss handed out information regarding Plymouth's Code, a copy of which is included in the official minutes.

Jeff Ellerd, Regional Engineer, Veolia Environmental Services, was present to discuss Veolia's request. Mr. Ellerd informed the Commission that Veolia is currently contracting with a company for a truck to come to Veolia's address to fill the trucks with fuel and this is costing too much money. As such, Veolia is proposing the installation of an above ground storage tank. Veolia believes that this is allowable per their CUP. Mr. Ellerd compared the 10,000 gallon above ground storage tank to below ground tanks at gas stations.

Daniel Flood – How much fuel do you go through a week?

Mr. Ellerd – About 800 gallons a day, so about 4,000 – 5,000 a week.

Daniel Flood – If we were to say go ahead, what kind of safety features would you install?

Mr. Ellerd – We have all of those specs. Basically, it has a lockout on it and you need either a code or key pass. It would be inside our gate and would be programmed so that it can only operate during certain hours. We would need to comply with State Code for all the fire safety issues. There will be secondary containment for it as well.

Susan Lindoo – Are you suggesting that you would be willing to put it underground when you talked about the underground tanks at Super America?

Mr. Ellerd – Veolia has made a decision that it is not in the environment’s best interest to install underground tanks. You cannot see if underground tanks are leaking or if there is an issue.

Daniel Flood – As far as the Fire Department is concerned, what is the difference between safety of a 10,000 gallon above ground fuel tank and a 500 pound above ground propane tank?

Councilman Ingemann – Propane is a vapor and is not as close to the ground. If the fuel tank leaks it will be on the ground and will soak into it, which causes a pollution problem. It’s also a concern with the houses right next to it because if it does leak it could cause an explosion. The other locations he was talking about such as the Super America and BP have underground fuel tanks because that is an acceptable use.

Susan Lindoo – Is that why they are only allowed in Industrial Districts then? Because there would be an explosion still but they wouldn’t be near a residential district.

Ms. Buss – That’s in general. They’re usually only allowed in Industrial Districts and even then there’s a large setback.

Mr. Ellerd – I would ask then is Super America a non-conforming use with the propane storage tank? Propane is more dangerous than diesel in regards to an explosion hazard.

Ms. Buss – I would have to go with Tom’s sense because I’m not a technical expert on it. I looked really hard to find a code that did it differently but couldn’t. For the most part it’s allowed as a primary or accessory use in Industrial Districts or purely Commercial Districts. Additionally, almost every code allows gas stations to have below ground tanks and an above ground propane tank with a Conditional Use Permit. Several cities do it the same way you do and my sense is it’s like that because of the safety concern.

Susan Lindoo – I would like to see how big the Super America propane tank is. Do we have any information on that?

Ms. Buss – You would need to look at the CUP for it. There would be some requirements regarding setbacks and protection. It’s up to you to decide if you think this is similar to a gas station use. I’ve just found that generally cities don’t think of it that way.

Mr. Ellerd – I disagree with the premise that this is a new use to the property because it’s not. We’re already fueling trucks on the property daily. We’re proposing to have a truck come in every two weeks to fill the tank. This isn’t bulk storage or distribution, that’s what’s down the road at the tank farm. This is for consumption not distribution.

Ms. Buss – It’s up to you to decide what this is close to. The staff analysis was that in terms of the definitions this is a different use from an underground storage tank. It might be good to clarify it the way Cottage Grove has done in their ordinance. Staff’s interpretation of it is that it’s most similar to the above ground storage use and for that reason it would be a new use.

Katy McElwee-Stevens – Brian, what is it that you’re looking for from us in regards to this? Are we to make a decision and then you’ll move it to the Council?

Admin. Anderson – Yes. I wanted to see how you saw it.

Ms. Buss – It really is a recommendation. What your code says is that it’s up to the Planning Commission to make a recommendation to the Council about how you see this use.

Ms. Ellerd – One path I could see on this is that if you say this is not a new use we could be allowed to do this as a non-conforming use and it wouldn’t affect the rest of the code.

Ms. Buss – That is not true. If they allow this as an accessory use in this district they would be allowing it for anybody.

Daniel Flood – That’s not necessarily true either. When we were discussing PUD’s and other zoning ordinances you had stated to me that we’re allowed to pick and choose those types of options as a Planning Commission and City Council. You also mentioned that when you’re changing the ordinance and doing things for other people you can pick and choose. We can go back to the meeting notes and look for that discussion.

Ms. Buss – I would be happy to do that because this is not what I meant in any of those comments. In a PUD you have a lot of flexibility in regards to what recommendations you make and whether or not you approve a PUD. In this case, if we say this is an accessory use allowed for you guys, you’re saying that this is an accessory use allowed in this district.

Daniel Flood – I would say it’s a primary use.

Ms. Buss – No, the primary use is the building and the use that they’re doing as a business.

Daniel Flood – I misunderstood the primary and secondary use then. If they’re running a fleet of trucks, wouldn’t that be the primary use?

Ms. Buss – We would have to look at their CUP.

Susan Lindoo – Wouldn’t the primary use have gone in twenty years ago? Veolia became legal, non-conforming when this district became a new zone and if we allow them to add an accessory use then we would need to add it to the rest of the district correct?

Ms. Buss – Yes.

Mr. Ellerd – What about when you talk about expanding a legal non-conforming use?

Ms. Buss – That would mean of the existing use on the property. So if you wanted to expand your building and keep doing the same thing, which would be an expansion. When your use was originally proposed you did not include storing fuel on the property so it is considered a new use. Storing fuel is defined as a use in the code.

Mr. Ellerd – Where? It’s not defined in the code.

Ms. Buss – So what their job is to say if the accessory use that you’re proposing is similar to what is defined in the code or if it’s different.

Mr. Ellerd – It’s much more similar to a gas station than it is to a petroleum tank farm.

Susan Lindoo – But it’s not underground. I understand the logic in regards to the leakage issue but I also see that having 10,000 gallons of fuel in a residential area is an issue. It would make more sense if it were a commercial district. The problem is that this area became something different eleven years ago when the comp plan changed.

Mr. Ellerd – If I were an auto repair shop, I would have an above ground tank for used oil.

Ms. Buss – If it was allowed as your CUP.

Dave Schneider, Regional Manager, Veolia Environmental Services – Is the concern more aesthetics or safety?

Ms. Buss – It’s safety.

Mr. Schneider – I think we just handled what could be more dangerous in regards to propane or diesel fuel. The concerns that I'm hearing is the aesthetics and what the property would look like.

Susan Lindoo – No, for me, the issue is safety and it being mixed-use.

Mr. Schneider – I think you would have a lot more exposure with the propane tank than with something that's offset on a large parcel.

Susan Lindoo – If we were to give permission to you it would then go with everyone in that district.

Ms. Buss – Correct, there's no way that we can allow it for you without allowing it for everyone.

Mr. Schneider – Is there a way you can add restrictions to it?

Susan Lindoo – Would we have to add the restrictions with every CUP?

Ms. Buss – You could do a couple things. You could write it right in your code to require certain restrictions. Or you could write it into CUP's.

Councilman Ingemann – What if they were to have a semi-truck pull in behind their building with fuel and park there for a week and then have it replaced every week because that's not above ground storage?

Ms. Buss – We would have to look at your code to see what's allowed for truck storage/parking.

Susan Lindoo – It seems that if this were allowed we would need size limits and a lot of conditions to make it work with residential.

Janice Anderson – What are the setbacks?

Ms. Buss – It would be the same for any structure so it would be 10-20 feet. If we were to allow this then we would have to set additional requirements.

Mr. Schneider – I understand your concern with not wanting to open it up to everyone but I think we're probably the largest land area there and you could add conditions for that. Our ultimate goal is to stay in Newport and keep our employees here. Paying what we're paying, it's difficult to stay here.

Daniel Flood – I think one of the things we should look at is if we're willing to entertain the idea then we need to look to see what we can do to satisfy all the needs and safety and help your company thrive in Newport.

Ms. Buss – You would need to change the code then.

Daniel Flood – Instead of saying no and turning you away, I would like you to work with staff to see if we can make it work. I'm not promising anything though.

Mr. Ellerd – Is there a way to do it as an interim use?

Admin. Anderson – I think that would be the wrong way to handle this. It's giving them false hope and they would be back in three years when it's over. I'm working with other properties along there as well where there is an old property and old business that has gotten rezoned. I believe 10,000 gallons qualifies as bulk storage and this shouldn't be allowed, especially next to residential. If the Planning Commission or Council wants to go backwards from all the talk I've been hearing lately and let everyone put in above ground storage tanks. We're trying to go the other way. We can certainly look at it to see if there's another way.

Susan Lindoo – Maybe there is a way of sitting down and seeing if there's another way. I do agree with Dan that the answer is no right now.

Admin. Anderson – I hate to be sneaky about it too. I think the one way is underground but they're not willing to do it but we could talk about it.

Chairperson McElwee-Stevens – Are they on a CUP now?

Janice Anderson – No, they're a legal non-conforming business.

Ms. Buss – I would assume that they have a CUP but we would have to look.

Chairperson McElwee-Stevens – I would like to see if there is a chance that there is something already written before we go any further with this.

Ms. Buss – I would guess that this use was only ever allowed in the Industrial Districts.

Janice Anderson – I think the thing here is that we don't want to say no.

Chairperson McElwee-Stevens – Well I don't like to say no but I don't have enough information to make a decision tonight.

Janice Anderson – Sherri has given us the background and I think we can go with that.

Susan Lindoo – I think it's unlikely that the CUP would be changed.

Ms. Buss – I would be surprised if this use was allowed in anything but an Industrial District.

Mr. Schneider – How soon do you think we can resolve this?

Ms. Buss – What they would need to do is make a recommendation to the Council that the City sit down and talk with you. The Council would need to approve it because it costs money and the Planning Commission is not a decision-making body.

Daniel Flood – I would like to recommend to the Council that the staff take a further look to see what can be done.

Susan Lindoo – So our recommendation would be that it doesn't work right now but they could consider asking staff to see if there's another way it can be met?

Janice Anderson – Would underground be permitted?

Ms. Buss – With an additional permit.

Janice Anderson – I would second Dan's recommendation.

Chairperson McElwee-Stevens – I'm not opposed to that either.

Susan Lindoo – I can't see it as an accessory use but I support what else had been said.

Janice Anderson – So what we're doing is softening the no?

Daniel Flood – Well I think we're opening a dialogue with a business that is employing people and spending money in Newport. Right now the rules say no but we're willing to open a dialogue to see if it can be done.

Chairperson McElwee-Stevens – Just so we're clear on where we stand now, you all are no correct?

Daniel Flood - Yes

Janice Anderson - Yes

Susan Lindoo - Yes

Chairperson McElwee-Stevens – And I'm a no. So our recommendation is that as it stands now, we're all a no but we would like to see if there's other ways to resolve it.

C. Discuss the Red Rock Gateway Implementation Study – Draft Map and Zoning Ordinance

Motion by Flood, seconded by Lindoo to table this discussion until January 12, 2012. With 4 Ayes, 0 Nays, 1 Absent, the motion carried.

5. COMMISSION AND STAFF REPORTS

Admin. Anderson – The City is working with a consultant and sent in grant applications to DEED and Met Council for the Knauff property behind City Hall for Phase II. Phase II determines the level of contamination and how much clean up is going to cost. One can cover 75% and the other can cover 12% of the remaining 25%. We're looking at senior housing for that property. We should hear in January. I've been working with the realtor on it.

I have a meeting next week regarding the Dahline property located at Glen Road and 7th Avenue regarding future development at that site.

We're still working on the Façade Improvement Program that was approved at the EDA. Mr. Timm should be approved for some money from it. I also sent a letter to the owner of the BP station regarding the property and cleaning it up.

There are interviews on December 15 for three firms for the design of the Transit Station.

Backwoods Archery recently went out of business. Advanced Sportswear will be opening up in that spot in early 2012.

The City will be taking over the library in 2012 so the City is looking to hire an individual to work there part-time. For the most part, this will be separate from the Washington County Library system.

Lastly, staff is working with St. Paul Tire which is located on 7th Avenue. The owner will be working to improve the property by June 30, 2012.

Chairperson McElwee-Stevens – I wanted to remind residents that the Holiday Train is on Sunday, December 11 at 5:30 p.m. at the Youth Services Bureau in Cottage Grove. Residents can get information on the City's website. The Fire Department is also taking donations through December 20.

6. NEW BUSINESS

No new business

7. ANNOUNCEMENTS

City Council Meeting	January 5, 2012	5:30 p.m.
Planning Commission Meeting	January 12, 2012	7:00 p.m.

Chairperson McElwee-Stevens – I would like to thank Dave Engfer for his service to the City of Newport as his term is up on December 31, 2011. I would also like to thank Susan Lindoo who is up for reappointment. Finally, I would like to thank Dan Flood who is resigning from the Planning Commission.

Daniel Flood – Tonight I am announcing my resignation from the Planning Commission. I would like to thank the citizens of Newport for the opportunity to serve you and the City Council. I have decided to run for US Congress here in the 4th Congressional District and feel that it is in the City’s best interest to have Commission members who can focus their time and efforts in the City. Newport has many wonderful opportunities for development coming our way and it is imperative that the Commission members have the ability to be fully engaged in this process. As the New Year is approaching and three positions are open for appointment or reappointment I urge the City Council members to take this Commission seriously. The Council must appoint citizen leaders who will work hard to form a vision for the City of Newport to lead us into greater prosperity in the future. I fully support the City Council, Planning Commission, and City staff and will work with all as needed during this transition. Again I would like to thank the citizens of Newport for this opportunity to serve you.

8. ADJOURNMENT

Motion by Lindoo, seconded by Flood, to adjourn the Planning Commission Meeting at 8:53 P.M. With 4 Ayes, 0 Nays, 1 Absent, the motion carried.

Signed: _____
Katy McElwee-Stevens, Chairperson

Respectfully submitted,

Renee Helm
Executive Analyst



MEMO: MS4 Ordinance Requirement - Illicit Discharge & Connection

TO: *Brian Anderson, City Administrator*

From: *Jim Stremel, P.E.*

Date: *January 4, 2012*

1. MS4 Ordinance Requirement:

As a part of the City's Municipal Separate Storm Sewer System (MS4) permit, the MPCA requires that the City have an ordinance giving regulatory authority to the City to prohibit (non-stormwater) illicit discharges and connections from entering the City's MS4. This is a separate set of requirements from those that govern general stormwater management practices for construction and/or property development.

The main objectives of the draft ordinance are:

1. To regulate the contribution of pollutants to the MS4 by storm water discharges by any user.
2. To prohibit illicit connections and discharges to the MS4.
3. To establish legal authority to carry out all inspection, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with the ordinance.

The draft ordinance provided in the packet was based on a model ordinance provided by the MPCA. It is a thorough ordinance covering all aspects of defining and prohibiting illicit discharges and connections including violation notices, enforcement measures, penalties, and an appeals process among others. The MPCA will require that the City address all of the components of the ordinance, but if the City determines that there are already other ordinances covering certain aspects in similar form, they could be eliminated to reduce overlap and confusion. The City simply needs to demonstrate that there is another mechanism covering the critical aspects of the ordinance.

2. Further Action:

The MPCA will require that this ordinance is approved by the City by March of 2012. It is our recommendation that the planning commission approve the draft ordinance subject to any comments so that it can be revised and presented to the City Council for the final approval process.

**South Washington County Bulletin/Woodbury Bulletin
AFFIDAVIT OF PUBLICATION**

STATE OF MINNESOTA)
)SS.
 COUNTY OF WASHINGTON)

Julie M. Klecker being duly sworn, on oath says that he/she is an authorized agent and employee of the publisher of the newspaper, known as *The South Washington County Bulletin and/or The Woodbury Bulletin*, and has full knowledge of the facts which are stated below:

(A) The newspaper has complied with all of the requirements constituting qualification as a legal newspaper, as provided by Minnesota Statutes 331A.02, 331A.07 and other applicable laws, as amended.

(B) The printed **CITY OF NEWPORT -- STORM WATER MANAGEMENT**

which is attached was cut from the columns of said newspaper, and was printed and published once each week for **1** successive weeks; it was first published on Wednesday, the **21st** day of **December**, 2011 and was thereafter printed and published on every Wednesday, to and including Wednesday, the **21st** day of **December**, 2011.

SOUTH WASHINGTON COUNTY BULLETIN
AND/OR WOODBURY BULLETIN

BY: Julie M. Klecker
 TITLE: **Legal Notice Clerk**

Subscribed and sworn to before me on this **21st** DAY OF **December** 2011

Karen M. Georgakas
 Notary Public



	Client #	32700
FEES:	Order #	284713
File #		
Publication Fee		\$ 70.13

**CITY OF NEWPORT
PLANNING COMMISSION**

**NOTICE OF PUBLIC HEARING
TO CONSIDER AN ADDITION TO
SECTION 1371 STORM WATER
MANAGEMENT, OF THE CITY
OF NEWPORT CODE OF ORDINANCES**

Notice is hereby given that the Newport Planning Commission will hold a Public Hearing on Thursday, January 12, 2011, at 7:00 P.M., in the City Hall Council Chambers at Newport City Hall, 596 7th Ave., Newport, MN, to consider an addition to Section 1371, Storm Water Management, of the City of Newport Code of Ordinances. The amendment regulates non-storm water discharges to the storm drainage system by establishing methods for controlling the introduction of pollutants into the municipal separate storm sewer system in order to comply with the requirements of the National Pollutant Discharge Elimination System permit process. Information on this Amendment can be reviewed at Newport City Hall. The purpose of this hearing is to provide citizens the opportunity to comment on the Amendment either at, or in writing prior to, the Public Hearing.

Dated this 14th Day of December, 2011.

Brian Anderson
City Administrator

(Published in the Washington County Bulletin December 21, 2011)

PLANNING COMMISSION
RESOLUTION NO. P.C. 2012-1

A RESOLUTION RECOMMENDING CITY COUNCIL APPROVE A ZONING AMENDMENT TO *CHAPTER 10, WATER AND SEWER SYSTEMS OF THE CITY OF NEWPORT CODE OF ORDINANCES.*

WHEREAS, The City of Newport has a separate storm sewer system (MS4) permit; and

WHEREAS, The Minnesota Pollution Control Agency requires that the City have an ordinance giving regulatory authority to the City to prohibit (non-stormwater) illicit discharges and connections from entering the City's MS4; and

WHEREAS, The Planning Commission held a public hearing on this Zoning Amendment at its regularly scheduled meeting of Thursday, January 12, 2012; and

NOW, THEREFORE, BE IT RESOLVED, That the Newport Planning Commission recommends Newport City Council approval of a Zoning Amendment to amend the present language found in *Chapter 10, Water and Sewer Systems*, of the *Newport City Code of Ordinances*. They will read as follows:

Section 11 Illicit Discharge and Connection

11.01 Statutory Authorization

This ordinance is adopted pursuant to Minnesota Statutes Section 462.351 (1990).

11.02 Purpose and Intent

The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of **City of Newport** through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this ordinance are:

- (1) To regulate the contribution of pollutants to the MS4 by storm water discharges by any user.
- (2) To prohibit illicit connections and discharges to the MS4.
- (3) To establish legal authority to carry out all inspection, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with this ordinance.

11.03 Definitions

For the purposes of this ordinance, the following terms, phrases, words, and their derivatives shall have the meaning stated below. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directive.

1. **Authorized Enforcement Agency.** City Administrator or other Staff as designated to enforce this ordinance by the City Council.
2. **Best Management Practices (BMPs).** Schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to storm water, receiving waters, or storm water conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage. BMP's shall

be the more stringent as defined by the Minnesota Pollution Control Agency or by the South Washington Watershed District

3. **Clean Water Act.** The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.
4. **Construction Activity.** Activities subject to NPDES Construction Permits. These include construction projects resulting in land disturbance of one acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.
5. **Hazardous Materials.** Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.
6. **Illegal Discharge.** Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Section 8 of this ordinance.
7. **Illicit Connections.** An illicit connection is defined as either of the following:
 - (a) Any drain or conveyance, whether on the surface or subsurface that allows an illegal discharge to enter the storm drain system including but not limited to any conveyances that allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or,
 - (b) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system that has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.
8. **Industrial Activity.** Activities subject to NPDES Industrial Storm Water Permits as defined in 40 CFR, Section 122.26 (b) (14).
9. **Municipal Separate Storm Sewer System (MS4).** The system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned and operated by the **City of Newport** and designed or used for collecting or conveying storm water, and that is not used for collecting or conveying sewage.
10. **National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit.** The permit issued by the Minnesota Pollution Control Agency (MPCA) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.
11. **Non-Storm Water Discharge.** Any discharge to the storm drain system that is not composed entirely of storm water, or snowmelt.
12. **Person.** Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.
13. **Pollutant.** Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.
14. **Premises.** Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

15. **Storm Drainage System.** Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.
16. **Storm Water.** Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.
17. **Storm Water Management Plan.** A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Storm Water, Storm Water Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.
18. **Wastewater.** Any water or other liquid, other than uncontaminated storm water, discharged from a residence, business, or other facility.

11.04 Applicability

This ordinance shall apply to all water entering the storm drain system, serving the area encompassed by the municipal boundary and as generated on any developed and undeveloped lands unless explicitly exempted by the **City of Newport**.

11.05 Responsibility for Administration

The **City of Newport** shall administer, implement, and enforce the provisions of this ordinance. Any powers granted or duties imposed upon the **City of Newport** may be delegated in writing by the Administrator of the **City of Newport** to persons or entities acting in the beneficial interest of or in the employ of the City.

11.06 Compatibility With Other Regulations

This ordinance is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

11.07 Severability

The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this ordinance.

11.08 Ultimate Responsibility

The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore this ordinance does not intend or imply that compliance by any person will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants.

11.09 Discharge Prohibitions

Subd.1 Prohibitions of Illegal Discharges

No person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the MS4 any pollutants or waters containing any pollutants, other than storm water.

The commencement, conduct, or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

1. The following discharges are exempt from discharge prohibitions established by this ordinance: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration, uncontaminated pumped ground water, discharges from potable water sources, foundation drains,
1. air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water.
2. Discharges or flow from firefighting, and other discharges specified in writing by the **City of Newport** as being necessary to protect public health and safety.
3. Discharges associated with dye testing, however this activity requires a verbal notification to the **City of Newport** prior to the time of the test.
4. The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Minnesota Pollution Control Agency (MPCA), provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

Subd.2 Prohibitions of Illegal Connections

1. The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
2. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
3. A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.
4. Improper connections in violation of this ordinance must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval of the **City of Newport**.
5. Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the **City of Newport** requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be determined, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm sewer system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to the **City of Newport**.

11.10 Industrial or Construction Activity Discharges

Subd.1 Submission of NOI to City of Newport

1. Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the **City of Newport** prior to the allowing of discharges to the MS4.
2. The operator of a facility, including construction sites, required to have an NPDES permit to discharge storm water associated with industrial activity shall submit a copy of the permit application (notice of intent) to the **City of Newport** at the same time the operator submits the original permit application to the Minnesota Pollution Control Agency (MPCA) as applicable.

3. The copy of the permit application may be delivered to the **City of Newport** either in person or by mailing it to:
City of Newport
Attn: City Administrator
596 7th Avenue
Newport, MN 55055
4. A person commits an offense if the person operates a facility that is discharging storm water associated with industrial activity without having submitted a copy of the permit application to the **City of Newport**.

11.11 Compliance Monitoring

Subd.1 Right of Entry: Inspection and Sampling

The **City of Newport** shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance.

1. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the **City of Newport**.
2. Facility operators shall allow the **City of Newport** ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.
3. The **City of Newport** shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the **City of Newport** to conduct monitoring and/or sampling of the facility's storm water discharge.
4. The **City of Newport** has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy.
5. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the **City of Newport** and shall not be replaced. The costs of clearing such access shall be borne by the operator.
6. Unreasonable delays in allowing the **City of Newport** access to a permitted facility is a violation of a storm water discharge permit and of this ordinance. A person who is the operator of a facility with an NPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the **City of Newport** reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this ordinance.

Subd.2 Search Warrants

If the **City of Newport** has been refused access to any part of the premises from which storm water is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the **City of Newport** may seek issuance of a search warrant from any court of competent jurisdiction.

11.12 Requirement to Prevent, Control, and Reduce Storm Water Pollutants By The Use of Best Management Practices

City of Newport has adopted Best Management Practices in Section 1371 of the City Code as well as the Public Works Design Manual for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the state as defined by the MPCA. The owner or operator of such activity, operation, or facility shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise that is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the MS4. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a storm water pollution prevention plan (SWPPP) as necessary for compliance with requirements of the NPDES permit.

11.13 Notification of Spills

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or waters of the State of Minnesota, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the **City of Newport** in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the **City of Newport** within **5** business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least **2** years.

Failure to provide notification of a release as provided above is a violation of this ordinance.

11.14 Violations, Enforcement, and Penalties

Subd.1 Violations

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this ordinance. Any person who has violated or continues to violate the provisions of this ordinance, may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law.

In the event the violation constitutes an immediate danger to public health or public safety, the **City of Newport** is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. The **City of Newport** is authorized to seek costs of the abatement as outlined in **Section 18**.

Subd.2 Warning Notice

When the **City of Newport** finds that any person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, the **City of Newport** may serve upon that person a written Warning Notice, specifying the particular violation believed to have occurred and requesting the discharger to immediately investigate the matter and to seek a resolution whereby any offending discharge will cease. Investigation and/or resolution of the matter in response to the Warning Notice in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the Warning Notice. Nothing in this subsection shall limit the authority of the **City of Newport** to

take any action, including emergency action or any other enforcement action, without first issuing a Warning Notice.

Subd.3 Notice of Violation

Whenever the **City of Newport** finds that a person has violated a prohibition or failed to meet a requirement of this ordinance, the **City of Newport** may order compliance by written notice of violation to the responsible person.

Subd.4 Compensatory Action

In addition to enforcement proceedings, penalties, and remedies authorized by this ordinance, the **City of Newport** may impose upon a violator additional compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek and drainage way cleanup, etc.

Subd.5 Suspension of MS4 Access

1. Emergency Cease and Desist Orders

When the **City of Newport** finds that any person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, or that the person's past violations are likely to recur, and that the person's violation(s) has (have) caused or contributed to an actual or threatened discharge to the MS4 or waters of the United States which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the **City of Newport** may issue an order to the violator directing it immediately to cease and desist all such violations and directing the violator to:

- a. Immediately comply with all ordinance requirements; and
- b. Take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting operations and/or terminating the discharge.

Any person notified of an emergency order directed to it under this Subsection shall immediately comply and stop or eliminate its endangering discharge. In the event of a discharger's failure to immediately comply voluntarily with the emergency order, the **City of Newport** may take such steps as deemed necessary to prevent or minimize harm to the MS4 or waters of the United States, and/or endangerment to persons or to the environment, including immediate termination of a facility's water supply, sewer connection, or other municipal utility services. The **City of Newport** may allow the person to recommence its discharge when it has demonstrated to the satisfaction of the **City of Newport** that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under this ordinance. A person that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful discharge and the measures taken to prevent any future occurrence, to the **City of Newport** within 7 days of receipt of the emergency order. Issuance of an emergency cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the violator.

2. Suspension due to Illicit Discharges in Emergency Situations

The **City of Newport** may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the **City of Newport** may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United States, or to minimize danger to persons.

3. **Suspension due to the Detection of Illicit Discharge**

Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The City of Newport will notify a violator of the proposed termination of its MS4 access. The violator may petition the City of Newport for a reconsideration and hearing.

A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the City of Newport.

Subd.6 Civil Penalties

Civil penalties are identified in the City's administrative procedures attachment to this ordinance which by reference hereto apply to this ordinance.

Subd.7 Criminal Prosecution

Criminal prosecution procedures are identified in the City's administrative procedures attachment to this ordinance which by reference hereto apply to this ordinance.

11.15 Appeal of Notice of Violation

Any person receiving a Notice of Violation may appeal the determination of the **City of Newport**. The notice of appeal must be received within **14** days from the date of the Notice of Violation. Hearing on the appeal before the appropriate authority or his/her designee shall take place within **30** days from the date of receipt of the notice of appeal. The decision of the municipal authority or their designee shall be final.

11.16 Enforcement Measures After Appeal

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within **14** days of the decision of the municipal authority upholding the decision of the **City of Newport**, then representatives of the **City of Newport** shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

11.17 Cost of Abatement of the Violation

Within **14** days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within **14** days. If the amount due is not paid within a timely manner as determined by the decision of the municipal authority or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

Any person violating any of the provisions of this article shall become liable to the **City of Newport** by reason of such violation. The liability shall be paid in not more than **12** equal payments. Interest at the maximum percent per annum rate permitted by state law Interest shall be assessed on any remaining outstanding balance beginning on the **30th** day following discovery of the violation.

11.18 Violations Deemed a Public Nuisance

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

11.19 Remedies Not Exclusive

The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the **City of Newport** to seek cumulative remedies.

The **City of Newport** may recover all attorney’s fees, including costs of expert witnesses called to testify on the City’s behalf, court costs and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

11.20 Adoption of Ordinance

This ordinance shall be in full force and effect **30** days after its final passage and adoption. All prior ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

Adopted this 12th day of January 2012 by the Newport Planning Commission.

VOTE: McElwee-Stevens	_____
Lindoo	_____
Anderson	_____

Signed: _____
Katy McElwee-Stevens, Chairperson

ATTEST: _____
Brian Anderson, City Administrator

MEMORANDUM

To:	Newport Planning Commission Brian Anderson, City Administrator Renee Helm, Executive Assistant	Reference:	Red Rock Gateway Implementation Study—Draft Map and Zoning Ordinance Section—MX-3
Copies To:	Barb Dacy, WCHRA Melissa Taphorn, WCHRA	Proj. No.:	Continuing Discussion from 11.10.11 14861.000
From:	Sherri Buss, TKDA	Routing:	
Date:	November 29, 2011		

At our Planning Commission meeting on January 12, we will focus on two items related to the Red Rock Gateway Study: the draft zoning map for the Red Rock area (attached map), modified based on our discussion at the November 10 meeting; and the draft section of the zoning ordinance for the MX-3 District, also attached.

I will bring a large copy of the zoning map with parcel lines, so that we can finalize the area between 4th and 7th Avenues that we discussed at the November meeting.

Per your request, I am providing the Word copy of the draft ordinance, so that you can work with it electronically. This copy has been updated with the recent changes suggested by Susan and Janice.

The drafts are for discussion. The ordinance section has not been formatted yet. When we decide on what you wish to include in the ordinance, we will complete the formatting. Some of the attached sections or charts may be incorporated in existing sections of the ordinance, but I have included all of them here for our discussion. We may also decide to put most of the Design Standards, starting with Section G., in to a separate design manual that is referenced in this document. This would allow us to make changes to the standards without going through the ordinance amendment process.

We will provide background information on this project to the new Planning Commission members at the January meeting, and then continue with our discussion.

Potential Uses: MX-T District

- Residential Uses: Townhouses, rowhouses
Mixed-use buildings
Apartments, condominiums, co-ops
Senior housing, assisted living, memory-care
- Civic and Semi-Public Uses: Schools for business, trade
Day care centers in mixed-use buildings
Parks and recreation facilities
Transit stations and related parking facilities
City buildings, libraries
Essential services (utilities)
- Commercial Uses: Retail sales and service establishments
Offices—general, medial, and professional in mixed-use buildings
Offices—in free-standing buildings
Services businesses such as beauty shops, barbershops, dry-cleaning drop off/pick up
(no on-site processing) in mixed use buildings
Data centers
Hotels
Conference centers
Theaters (with structured parking)
Structured parking facilities
Restaurants, including side-walk cafes
Automotive services, not including body repair or major repair
Rental of vehicles (with limited outside storage)
Research, development and testing laboratory
Laboratory, medical or dental
Fitness and recreation centers

Additional Uses, MX-R District

- Commercial Uses: Marina
Boat sales and service

Section 1350 - Non-residential Districts

NOTE: Formatting will be completed after the Planning Commission review is complete and the document text is finalized.

1350.01 Scope.

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

1350.02 Purpose of Business Districts.

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

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

1350.03 Specific intent of the B-1 General Business District.

The specific intent of the B-1 General Business District shall be to provide the opportunity for diverse businesses to take advantage of the visibility and access to the Highway 61 corridor. The district is intended to serve the business needs of the region and may include automobile and highway oriented businesses. The district requires a full range of public utilities and services, as well as excellent access to at least a collector level roadway and nearby access to Highway 61.

1350.031 Specific intent of the B-2 Business Park/Office/Warehouse District.

The Business Park/Office/Warehouse District is intended to create high quality places to work in the community. This land use should focus on bringing in quality jobs and a high tax base. Some accessory commercial services may also be a part of this land use type to serve the large employment base. The Business Park/Office/Warehouse District is also intended to accommodate development, which does not rely on high visibility from a major roadway to survive.

1350.04 Purpose of the Industrial Districts.

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

- A. To provide employment opportunities;
- B. To group industrial uses in locations accessible to rail and highways, so that the movement of raw materials, finished products, and employees can be carried on efficiently;

Adopted June 6, 2002

Draft revision ~~November~~ December 19, 2011

- C. To separate traffic, noise, and other obtrusive characteristics of intense industrial activity from the more sensitive commercial, residential, and open space areas of the City.

1350.05 Specific intent of the I-1 Light Industrial District.

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

1350.06 Specific intent of the I-2 General Industrial District.

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

1350.07 Specific intent of the IS Industrial Storage District.

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

1350.08 Purpose of the Mixed-Use Districts.

The mixed-use districts shall be established to accomplish the general purposes outlined in the Comprehensive Plan and more specifically to foster a transit oriented development pattern that serves as a place to live, shop, work, and play. The Mixed-use districts are intended to help shape Newport's downtown and small town identity.

1350.09 Specific intent of the MX-1 Downtown District.

The specific intent of the MX-1 Downtown District shall be to provide sites for small scale retail and service commercial uses to support a mix of residential and office type uses in an aesthetically pleasing and dense but safe and walkable development pattern. This district generally includes the area around Glen Road and 16th Street on both sides of TH 61. In order to build and strengthen a pedestrian oriented environment, this district is primarily intended for more pedestrian oriented uses such as specialty retail stores, professional services, sit down restaurants, coffee shops, floral shops, etc... These uses should complement each other to promote the idea of one stop shopping in a district as opposed to one stop shopping in a 'big box' store. This district shall serve as the center for financial, commercial, professional, and entertainment activities. Inclusion of high density housing above commercial uses in this district helps support commercial and entertainment uses and supports public transit services.

1350.10 Specific intent of the MX-2 Mainstreet District.

The specific intent of the MX-2 Mainstreet District shall be to provide a pedestrian friendly land use pattern that enables existing residential uses to coexist on a busy City street with small scale

Adopted June 6, 2002

Draft revision ~~November~~ December 19, 2011

specialty retail uses and small offices that may locate in structures with a residential appearance. Development is intended to be compatible with the scale of surrounding residential areas. Parking areas are restricted in this zone in order to limit the impact on the neighborhood. Government services are encouraged as a part of this district.

Adopted June 6, 2002
| Draft revision ~~November~~ December 19, 2011

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

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

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

Allowed Uses:

Use	Permitted	Conditional Use	Not Permitted
Residential Uses			
Townhouse, rowhouse	P		
Mixed-Use (dwelling unit above ground floor)	P		
Live-work building		C	
Congregate housing for senior populations	P		
Apartments, condominiums, co-ops	P		
Civic and Semi-Public Uses			
Schools for business, trade, dancing, music, arts, and fitness	<u>P--<10,000 sq ft.</u>	<u>C--10,000 square feet or larger</u>	
Day care centers in a mixed-use building	P		
Park and public recreation facilities	P		
Transit stations and related parking and park-and-ride facilities	<u>P</u>	<u>C</u>	
Essential services Public Utilities	<u>P</u>	<u>C</u>	
Government Offices		<u>C</u>	
Commercial Uses			
Retail and service establishments, free-standing or mixed-use building	<u>P--<10,000 square feet</u>	<u>C--10,000 square feet or larger</u>	
Financial services	P		
Drive-through		C	
Offices – general, medical, professional, free-standing or mixed-use building	<u>PP--<10,000 square feet</u>	<u>C--10,000 square feet or larger</u>	

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Service businesses, --- such as beauty shops, barbershops, dry-cleaning, --- (drop-off/pickup only, (no on-site processing) in mixed-use buildings	P	C <u>10,000 square feet or less</u>	N <u>>10,000 square feet</u>
Data centers		C	
Hotels	P	C	
Conference center	P		
Theaters (with structured parking), not drive-in	P	C	
Structured parking facilities	P		
Restaurants, including open air or sidewalk cafes, freestanding or in mixed-use buildings	P		
Bakeries, delicatessens, coffee shops	P		
Automotive services, car specialty services <u>Auto services and convenience retail only</u> (not including body repair or major repair) --- <u>No more than 4 bays</u>		C?	N?
Club or lodge, private <u>Outdoor sales in conjunction with a permitted use</u>	P	C	
Learning studio (martial arts, visual/performing arts, fitness) <u>Rental of vehicles (with limited outside storage)</u>	P	C	
Liquor store, Towing services (no outside storage of vehicles)	PP		
		<u><10,000 square feet</u>	
Emergency services, ambulance services	P		
Research, development and testing laboratory		C	
Laboratory, medical or dental		C	
Fabrication <u>Assembly</u> of office and computer equipment	P	C	
		<u>10,000 square feet or less</u>	
Fabrication <u>Assembly</u> of apparel, leather products and other products from prepared products	P	C	
		<u>10,000 square feet or less</u>	
Small scale manufacturing and artisans	P	C	
		<u>5,000 square feet or less</u>	<u>>5,000 square feet or less</u>
Processing and packaging of drugs, pharmaceuticals, perfumes and cosmetics	P	C	
Printing, publishing, bookbinding, blueprinting		C	
Internet publishing and broadcasting	P		
Motion picture and sound recording industries		C	
Administrative support services	P		
Fitness and recreation centers, in a mixed-use building		C	
Catalog and mail order	P		
Medical appliance assembly	P		
Biotechnology	P		
Accessory uses	P		
Auto body repair and major auto repair			N

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Mobile Homes			N
Parking lots as a principle use			N
<u>Outdoor sales in conjunction with a permitted use</u>			N
<u>Warehousing as a primary use</u>			
<u>Rental of vehicles</u>			N
<u>Towing services</u>			N
<u>Accessory Uses</u>			
<u>Gazebo, arbor, play equipment in public or private open space area</u>	P		
<u>Renewable energy system</u>	P		
<u>Swimming pool</u>	P		

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1350.12 — Administrative Procedure for Development

- A. *Preliminary Review.* ~~It is strongly recommended that a~~ Anyone planning to develop or redevelop property in an MX-3 District shall meet with the City Administrator (1) during the conceptual design process in order that the staff may offer input into meeting the ordinance requirements and design standards and (2) during the design development stage to ensure that the plans meet the minimum MX-3 District Standards.

- B. *Station Area Plan Procedure.* No new development or redevelopment on the Station Area Site (“Old Knox Site”) may occur, and no building permit will be issued, without approval of a Station Area Plan conforming to the requirements of this section. Approval of individual site plans must conform to the Station Area Plan. Upon the submission of the Station Area Plan, the Planning Commission will conduct a public hearing and make a recommendation to the City Council, which shall approve, modify, or deny the Station Area Plan. The Station Area Plan shall include the following:
 - a. A drawing showing existing conditions such as property boundaries, generalized contours, site features such as wetlands and wooded areas, and surrounding land uses and development.
 - b. A conceptual development plan showing public and private open space, and general site data such as building locations, density, setbacks, ponding areas, parking areas and generalized screening, buffering, and landscape concepts.
 - c. Generalized traffic information including proposed new streets and alley connections, and improvements to existing roads.
 - d. An elements plan that includes, but is not limited to, lighting, public art, planters, fountains, litter receptacles, benches or seating areas.

- The findings necessary for approval of the Station Area Plan include, but are not limited to, the following:
 - The Station Area Plan is consistent with the intent of the MX-3 District.
 - The Station Area Plan reflects development that:
 - Is not detrimental to the public health, safety, or general welfare

Adopted June 6, 2002
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- Is not hazardous, detrimental or disturbing to surrounding land uses, or that creates pollution, vibration, general unsightliness, electrical interference, or other nuisances
- Does not create traffic congestion, unsafe access, or parking needs that will cause inconvenience to adjoining properties
- Is served adequately by essential public services such as streets, police, fire protection, utilities, and parks
- Does not create excessive additional requirements at public cost for public facilities and services, and is not detrimental to the economic welfare of the City
- Causes minimal adverse environmental effects
- Each phase or stage of the Station Area Plan can exist as an independent unit.

C. *Site Plan Approval Required.* A site plan approval is required for all new construction in ~~a TOD~~the MX-3 District. Application for a site plan review shall be made to the City on forms provided by the City, and shall be accompanied by the following:

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

D. *Public hearing.* Upon receipt of a completed application, a date shall be set for a public hearing before the Planning Commission. The hearing will be held no less than 10 days after mailed notice is sent to the owners of property located wholly or partially within 350 feet of the site. The Planning Commission shall submit its recommendation to the City Council. Following appropriate review, the Council shall make a decision regarding the application.

E. *Administrative Approval.* To offer some degree of flexibility, the City Administrator has the authority to administratively ~~alter~~increase any of the development and urban design standards by five percent (5%) in an MX-3 District. If administrative approval is required for parking or an item normally approved by the Planning

Adopted June 6, 2002

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Commission and City Council, the City Administrator shall only grant approval after consultation with other city staff (public works, building inspections, fire chief, etc.).

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

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

Adopted June 6, 2002

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1350.123 — Bulk and dimensional standards.

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

<i>Height and Setbacks</i>	Residential Townhouse	Residential Apt., Condo, Cooperative	Mixed-Use Building	Commercial, Civic, not in mixed-use building
Height	3 stories or 35 feet, whichever is less	2 stories minimum, 4 stories maximum* (45')	2 stories minimum, 4 stories maximum*	No minimum, 4 stories maximum
Setbacks	Front: Maximum of 15 feet Side: 10 feet Rear: 15 feet	Front: Maximum of 15 feet Side: 10 feet Rear: 15 feet	Front: Maximum of 15 feet Side: 10 feet Rear: none required	Front: Maximum of 8 feet Side: 10 feet Rear: None required

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

Provision	Districts						
	MX-1	MX-2	MX-3	B-1 & B-2	I-1	I-2	IS
Maximum residential density, units/acre	25	11	50	N/A	N/A	N/A	N/A
Minimum residential density, units/acre	None	None	30*				
Maximum non-residential density Minimum net FAR (Floor Area Ratio)	7.5 FAR		1.5* FAR *Metro Council recommended standards				

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A. Height and Setback Standards

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- If new construction incorporates an existing structure located within a minimum setback, the City Administrator may allow the setback for the building addition to be reduced to the established setback.
- All above-ground utility structures associated with electric, natural gas, telecommunications, cable television distribution lines, pipes, conduits, or other public utilities shall be located behind the minimum setback unless otherwise approved as part of the site plan approval. This applies to air vents, utility boxes, and back-flow preventers.
- Driveways may cross the front setback, but shall be as near as perpendicular to the street for pedestrian safety and to minimize the intrusion into any landscaped area.
- Balconies may project up to two feet (2') over the right-of-way, subject to an approved sidewalk encroachment agreement. Balconies shall have a minimum clearance of ten feet (10') from grade.
- When a lot abuts an existing single-family residence or a property that may be used for single-family residential purposes, a minimum side yard of fifteen feet (15') and a rear yard of twenty-five feet (25') shall be required.
- The permitted maximum height of structures adjacent to single-family residential uses shall be determined by the distance of the structure to the boundary line of the nearest single-family residential district. Any required side or rear yard setback shall be increased by one foot for each additional foot of height. OR
 - Within a distance equal to the minimum lot width of an adjacent residential district, the maximum height shall not exceed the height allowed in the adjacent residential district. Such height restriction may be waived if the adjacent residentially-zoned property is public park or open space.
 - Within a distance equal to two times the minimum lot width of an adjacent residential district, the maximum height shall not exceed two times the height allowed in the adjacent residential district. Such height restriction may be waived if the adjacent residentially-zoned property is public park or open space.

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B. Building Arrangement, Residential: Buildings may be organized in several ways, including the examples in this section:

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- Arranged along the street without a common open space (townhouses; rowhouses). Open space is provided on individual lots or on privately defined spaces to the rear of attached buildings.
- Arranged around a common courtyard that faces the street, with parking areas taking access off a shared drive to the side and rear of the buildings. The area of the courtyard is counted towards the overall density, toward lot coverage calculations, and as part of the lot area per unit.

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- Arranged along the street with a common open space area to the rear or side of the buildings, as is common in townhouse and multi-family developments. The open space area for resident use is counted towards the overall density, toward lot coverage calculations, and as part of the lot area per unit.

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~~B.C.~~ Open Storage Prohibited. Except as otherwise specified in this section, outside storage shall be prohibited in the MX-3 District.

~~C.D.~~ Open Space Requirement. Developers will be expected to work with the city to provide a minimum of five percent (5%) of the project site as open space. The open space may be designed as a square, plaza, terrace, or green, with a variety of landscaped and paved surfaces and seating areas. This requirement may be waived in cases where the City’s master plan specifies the location and design of open space.

~~D.E.~~ Parking Requirements. For purposes of this section, new use within ~~a TOD~~ the MX-3 District shall be required to meet the minimum/maximum parking spaces as shown in the following chart. All square footage is measured as ‘gross footage.’

	PARKING SPACES
Residential	Maximum of 1.6 parking spaces per dwelling unit
Restaurants	Minimum of one parking space per 75 square feet of restaurant seating space, but no more than one space per 130 square feet of restaurant seating space
Retail, Office, and Service	Maximum of 1 space per 250 square feet
Other permitted uses	Maximum of 1 space per 500 square feet

- The required/permitted number of parking spaces of any building within the MX-3 District, including mixed-use buildings, shall be the sum total of the requirements for each use in the building.
- Parking maximums may be exceeded under the following circumstances, if one or more of the following is provided:
 - If structured or underground parking is provided on site, parking may be exceeded by 25%.
 - If a shared parking agreement is executed, parking may be exceeded by 20%.

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- If all parking spaces are located behind the building and are not visible from the public right-of-way, parking may be exceeded by 10%.
- If driveways and access points are shared by at least two adjacent properties, parking may be exceeded by 10%.
- If a provision is made for combining or interconnecting adjacent parking lots and pedestrian access points, parking may be exceeded by 10%.
- In no case shall the cumulative increase in parking exceed 25%.
- A 25% parking reduction in the minimum number of parking spaces required is allowed if the principle use is located within 800 feet of a parking facility with public spaces available to the general public or within 800 feet of a public transit park and ride facility with an approved joint use agreement.
- The off-street parking standards shall conform to the general requirements for off-street parking located in Section 1330.06 of this Code, except as otherwise provided for in this section.
- No surface parking or maneuvering space shall be permitted within a required setback or between the primary structure and the front yard, except that driveways providing access to the parking area may be installed across these areas. It is the intent that these driveways be as nearly perpendicular to the street right-of-way as possible for pedestrian safety and to minimize intrusion into the landscaped areas.
- On-street parking spaces located along the portions of a public street(s) abutting the use where parking is currently permitted may be counted toward the minimum number of parking spaces as required by this section. Those on-street parking spaces must be located on the same side of the street as the use, have a dimension of at least twenty feet in length, and be located in areas approved by the City's Public Works Department. On-street parking directly across the street from the use may be counted if that parking abuts property that is undevelopable because of physical constraints.

In the event that the City, County, or State remove any on-street parking that was allowed to count toward the minimum requirement, the existing use shall not be required to make up the difference and shall not be made nonconforming with respect to parking.

On-street parking shall not be counted in calculating maximum parking spaces.

- Parking requirements may be met on-site or off-site at a distance of up to 800 feet from the permitted use. Off-site parking to meet the requirements of this section may be provided through a lease, subject to the review and approval of the City.

Adopted June 6, 2002

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- Parking that is located to the rear of the primary structure may extend the entire width of the lot, with the exception of any required screening or landscaped areas. Parking that is located to the side of the primary structure shall not cover more than thirty-five percent (35%) of the total lot width.
- Shared parking shall be permitted and encouraged.
- Bicycle parking facilities are encouraged.
- All parking areas for more than ten (10) motorized vehicles (except for parking areas for townhouse dwellings on a single lot) shall provide screening. If a wall is provided, then the area devoted to the wall shall be wide enough to allow for its maintenance. The screening may be eliminated if abutting parking lots are combined or interconnected with vehicular and pedestrian access.
- Structured parking shall meet the following additional requirements:
 - At least fifty percent (50%) of the linear street level frontage of the facility shall be devoted to retail, office, civic, institutional or residential uses. If seventy-five percent (75%) or more of the linear street frontage is devoted to such uses, then the total square footage of these uses shall be credited one hundred percent (100%) toward the required FAR minimums.
 - If retail, office, civic, institutional or residential uses are constructed on the rear or side of the facility or above the ground floor on the street frontage of the facility, then the total square footage of these areas shall be credited one hundred percent (100%) toward the required FAR minimums.
 - Underground parking structures are permitted. Subsurface parking located in the minimum setback shall be permitted with an eight foot (8') clearance from the top of the subsurface structure to the sidewalk, subject to an approved encroachment agreement. No ventilation shall be permitted in the setback.
 - A minimum nine foot (9') clearance shall be maintained on the first level and any additional level that provides disabled parking spaces. A minimum seven-foot (7') clearance shall be maintained throughout the remainder of the parking deck to ensure the safe movement of vans and emergency vehicles.

E.F. Loading Standards.

- Non-residential buildings and structures, excluding parking structures, subject to the provisions of this Section, shall provide a minimum number of off-street service/delivery loading spaces. The loading spaces shall be designed and constructed so that all parking maneuvers can take place entirely within the property lines of the premises and shall not interfere with the normal movement of vehicles and pedestrians on the public rights-of-way. The loading spaces shall be a minimum of ten feet (10') by twenty-five feet (25') and shall be provided in accordance with the following:

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Non-residential uses with gross floor area:

Less than 50,000 square feet	None required
50,000-150,000 <u>square</u> feet	One (1) space
Each additional 100,000 square feet	One (1) space

Existing buildings are exempt from these standards.

- No loading spaces shall be permitted within any required or established setback, or between the primary structure and the required setback, except that driveways providing access to the loading area may be installed across these areas.

F.G. Design Standards.

- Connectivity and Circulation. Transit-oriented development uses shall be integrated with the surrounding area, easily accessible, and have a good internal circulation system for a variety of travel modes.
 - A pedestrian sidewalk system shall meet the following standards:
 - Internal sidewalk connections are required between buildings and from buildings to all on-site facilities (parking areas, bicycle facilities, open space, etc.). All internal sidewalks shall be finished with a hard surface as required by the City’s Public Works Department.
 - External sidewalk connections are required to provide direct connections from all buildings on-site to the existing and/or required sidewalk system and to adjacent multi-use trails, parks, and greenways. Sidewalks shall be constructed with a hard surface and of a width as required by the City’s Public Works Department.
 - The on-site pedestrian circulation system shall be lighted to a level where employees, residents, and customers can safely use the system at night.
 - Urban Open Spaces
 - Urban open space for public congregation and recreational opportunities shall be required for all new buildings with a gross floor area greater than 50,000 square feet. Such buildings must provide useable open space behind the required setback and on private property proportionate to the building square footage according to the following schedule:

<u>Lot Size</u>	<u>Open Space Requirement</u>
0-20,000 sq. ft.	1 sq. foot/200 sq- <u>uare</u> feet (gross)
20,001 to 40,000 sq. ft.	1 sq. foot/150 sq- <u>uare</u> feet (gross)
40,000+ sq. ft.	1 sq. foot/100 sq- <u>uare</u> feet (gross)

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- Open space may be located on roofs of buildings or enclosed on the ground floor. A maximum of thirty percent (30%) of the required open space may be provided on an enclosed ground floor level.
 - All required open space shall be accessible to the users of the building and shall be improved with seating, plantings, and amenities, and be visible from the street or pedestrian areas.
 - Floor area ratio credits are allowed for all new developments when the pedestrian space is available for use by the public, including widened sidewalk areas.
- Street Design
 - Street walls
 - No blank walls are permitted to face public streets, walkways, or public open space.
 - All non-residential buildings fronting directly on a street shall be designed so that the first floor street façade of the building(s) along all streets include clear glass window and doors to create pedestrian interest. These openings shall be arranged so that the uses are visible from and to the street on at least fifty percent (50%) of the length and at least forty percent (40%) of the area of the first floor street level frontage. At least fifty percent (50%) of the windows shall have the lower sill within three feet of the grade.
 - For all other uses, buildings shall be designed so that the first floor street façade along all streets includes the use of clear glass windows and doors arranged so that the uses are visible from and/or accessible to the street on at least twenty-five percent (25%) of the length of the first floor street frontage. When this approach is not feasible, a combination of design elements shall be used on the building façade or included into the site design to animate and enliven the streetscape. These design elements may include but are not limited to the following: ornamentation, molding, string courses, changes in material or color, architectural lighting, works of art, fountains and pools, street furniture, stoops, landscaping and garden areas and display areas.
 - The first floor of all buildings, including structured parking facilities, shall be designed to encourage and complement pedestrian scale interest and activity.
 - Expanses of blank walls shall not exceed twenty (20) continuous feet in length. A blank wall is a façade that

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- Building entrances and orientation. At least one or more operable pedestrian entrances per building shall be provided, unless in a case where all ~~the three~~four circumstances below exist, only two (2) entrances shall be required:
 - When a lot abuts a public street right-of-way, at least one entrance shall be provided along all building façade(s) fronting all public rights-of-way.
 - Entrances shall be clearly visible and identifiable from the street and delineated with elements such as roof overhangs, recessed entries, landscaping or similar design features.
 - When a lot abuts an existing or proposed public open space system, multi-use trail, or greenway, entrance(s) shall be provided on the building façade closest to the public open space, multi-use trail, or greenway.
 - When abutting a sidewalk in the rail station area, an entrance(s) shall be provided on the building façade closest to the station area sidewalk.
 - Structured parking facilities
 - Structured parking facilities shall be designed to encourage and complement pedestrian-scale interest and activity. Such facilities shall be designed so that motorized vehicles parking on inside levels of the facility are screened from the street, the commuter rail station, and/or from residentially zoned or used property. Decorative elements such as grillwork or louvers may be utilized to accomplish this requirement.
 - Openings at the street level are limited to vehicular entrances, pedestrian access to the structure, and ventilation openings. All such openings shall be decorative and be an integral part of the overall building design.
 - Canopies
 - Canopies, awnings, cornices, and similar architectural accents are permitted on exterior building walls. Such features shall be constructed of rigid or flexible material designed to complement the streetscape of the area. Any such feature may extend from the building no more than four feet (4'). In no instance shall such feature extend over or interfere with the growth or maintenance of any required tree plantings. Minimum overhead clearance shall be eight feet (8'). Ground supports for these features are not permitted in the minimum setback, sidewalk or public right-of-way.
- Architectural Standards
 - Building Scale and Orientation

Adopted June 6, 2002

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- A mixed-use development must provide a range of building types
 - Development shall provide sensitive transitions between the new development and existing residential uses, adjacent uses, and scales.
 - Building design shall provide consistent architectural treatment on all building walls. All sides of a building must display compatible materials, although decorative elements and materials may be concentrated on street-facing facades. All facades shall contain window openings.
 - Facades
 - Visual Breaks. The exterior of new buildings shall be designed with visual breaks through the use of decorative tile work, masonry (but not flat concrete block), belt courses of a different texture and color, projecting cornices, medallions, opaque ~~or~~ translucent glass, artwork, vertical articulation, lighting fixtures, or architectural elements not listed herein as approved by the City Council.
 - Width. A building more than forty-five feet (45') feet in width shall be divided into increments of no more than forty-five feet (45') feet through articulation of the façade. This can be achieved through combinations of the following: division or breaks in materials, window bays, special treatment of entrances, subtle variations in rooflines and parapet detailing, building setbacks, awnings, or repetitive elements.
 - Exterior Materials and Detailing
 - New buildings and structures, additions and renovations must be constructed of durable materials.
 - In multi-story buildings, the ground floor shall be distinguished from the floors above by the use of a combination of the following: an intermediate cornice line, a difference in building materials or detailing, an offset in the façade, an awning, loggia or arcade, special window lintels, or brick/stone corbels.
 - The primary exterior opaque materials on each elevation of a building, except for the service side, must be brick, stone, decorative masonry, or similar materials, or a combination thereof.
 - No more than twenty-five percent (25%) of the building exterior opaque materials on each elevation, except for the service side of the building, shall be comprised of the following accent materials: cast stone, wood shingles (cedar shingles with 6-inch maximum exposure), lap siding, cedar or redwood (6 –inch width, no diagonal siding), tongue and groove paneling, ~~cedar or redwood (6-~~

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~~inch width, no diagonal siding~~) copper (untreated), stucco, and EFIS ([exterior insulation finishing system](#)), cement board, glass (does not include windows), dark anodized aluminum, materials that are similar in character to those listed above.

- The following materials are not allowed as exterior materials: painted or unpainted concrete block, aluminum, vinyl or fiberglass siding or roofing materials, precast concrete materials, unless specifically approved by the City Council for a new commercial building, painting of previously unpainted brick, wooden exteriors.
- LEED Standards. The City encourages the use of sustainable building materials and construction techniques through programs such as US Green Building Council's LEED ~~(L~~eadership in Energy and Environmental Design), [Minnesota Sustainable Building Guidelines](#), and similar programs.
- Alternative Designs or Materials. To encourage creativity, imagination, innovation and variety in architectural design, the Planning Commission may recommend modifications of the requirements of this Section and the City Council may approve such modifications upon determining that the proposed architectural design or exterior facades ~~(s)~~ materials meet all of the following conditions:
 - The proposed design or material is consistent with the purposes of this section.
 - The proposed design or material would enhance the architectural appearance of the building and would be equal or superior to designs or materials permitted by this section.
 - The proposed design or material would be in harmony with the character of adjacent buildings and the surrounding district.
- Screening Standards
 - All service entrances, utility structures associated with a building, and loading docks and/or spaces, shall be screened from the abutting property and from public view from a public street.
 - Any fences or walls used for screening or other purposes shall be constructed in a durable fashion of brick, stone and other masonry materials specifically designed as fencing materials. The finished side of the fence shall face the abutting property. Chain link, wood, vinyl, or barbed wire fences are not permitted.
 - The composition of the screening material and the placement on the lot shall be left up to the discretion of the

Adopted June 6, 2002

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property owners as long as the intent of this Section is met. A wall cannot be substituted for a planting strip along any public street unless supplemented by landscaping.

- Landscaping used for screening shall be evergreen and at least four feet (4') tall with a minimum spread of two feet (2') when planted and no further apart than five feet (5'). Shrubs shall be adequately maintained as that an average height of five (5') to six feet (6') can be expected as normal growth within four years of planting. The average expected height may be reduced to four feet (4') for screening along public streets.
- The maximum height for walls and fences shall be six feet (6') or whatever is sufficient to visually screen the use but not less than four feet (4').
- Dumpsters, recycling containers, compactors, and solid waste handling areas are not permitted in any setback or yard and shall be screened from adjacent property and from public view with a six-foot (6') high solid and finished masonry wall with closeable gates. In no instance shall a chain link fence, wood, vinyl, or barbed wire fence be permitted.

- Buffer Standards

- All uses, other than single-family detached dwelling units, shall provide landscaping along all property lines abutting residentially used property located adjacent to the MX-3 District. This requirement also applies in situations where an alley with a right-of-way width of twenty-five feet (25') or less separates uses in the MX-3 District from a non-MX-3 District residential property. Landscaping shall be provided along all property lines abutting the alley when adjacent to residential uses. Multi-family developments in an MX-3 District are exempt from this landscaping requirement when they abut other multi-family uses.
- In no instance shall a chain link, wood, vinyl, or barbed wire fence be permitted.

- Exterior Lighting Standards

- Exterior lighting shall be used to provide illumination for the security and safety of entry drives, parking, service and loading areas, pathways, courtyards and plazas, without intruding on adjacent properties and shall comply with the following standards:
 - Poles and fixtures shall be architecturally compatible with structures and lighting on-site and on adjacent properties.
 - Security lighting shall be adequate for visibility, but not overly bright.

Adopted June 6, 2002

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- Metal halide lighting shall be used with a concealed light source of the “cut-off” variety to prevent glare and “light trespass” onto adjacent buildings and sites.
- Poles within landscaped areas and plazas shall have a maximum height of twenty feet (20’), measured from grade, and shall be coordinated with city standards.
- Poles in parking lots shall have a maximum height of ~~24~~twenty-four feet (24’) measured from finished grade.
- Lighting fixtures mounted directly on structures shall be permitted when utilized to enhance specific architectural elements or to help establish scale or provide visual interest.
- “Wall paks” shall be permitted only in loading and service areas and shall be down-lit and shielded from view.
- Shielded illumination or fixtures shall be permitted to light building mounted signage, building facades, or pedestrian arcades if they are integrated into a building’s architectural design.
- Lighting should highlight entrances, art, terraces, and special landscape features.
- Separate pedestrian scale lighting or other low-level fixtures, such as bollards, shall be incorporated for all pedestrian ways through parking lots and drop-off areas at entrances to buildings.
- All primary walkways, steps, or ramps along pedestrian routes shall be illuminated.
- Light Intensity
 - A photometric lighting plan is required for all proposed commercial developments to ensure that adequate and appropriate light levels are provided for each site condition.
 - Lighting shall not exceed 0.1 foot candle at residential property lines or 0.5 foot candle on non-residential property lines measured on a vertical plane.
 - The following minimum levels of illumination must be maintained for each of the specific locations:

Building entrances	5.0 foot candles
Sidewalks	2.0 foot candles
Bikeways	1.0 foot candles

Courts/plazas/terraces	1.5 foot candles
Ramps	5.0 foot candles
Stairways	5.0 foot candles
Underpasses	5.0 foot candles
Waiting areas	1.0 foot candles
Parking lots	1.0 foot candles

o Signs, banners, flags, and pennants

Signage shall be designed to be integral with the architectural character of the building to which it belongs. Specifically, the scale, proportion, and color shall be appropriate to the building in which the sign is attached. Elements to be considered include architectural appearance, sign size, type of illumination, sign motion, sign setback, surface colors, and message. The architectural appearance of the sign shall not be so dissimilar to the existing signage on surrounding buildings as to cause impairment in property value or constitute a blighting influence.

Where signs, banners, flags, and pennants for identification or decoration are provided, they shall conform to the following:

- Wall signs shall have a maximum of one-hundred fifty (150) total square feet or five percent (5%) of the building wall area occupied by the user, whichever is less. Wall signs may be increased by twenty (20) square feet per sign in lieu of a ground mounted or monument sign.
- Signs are permitted to project up to two feet (2') into the minimum setback as measured from the building. Under no circumstances shall a sign project more than four feet (4') from the back of the curb. A minimum overhead clearance of eight feet (8') from the sidewalk shall be maintained.
- Marquee signs are permitted.
- Ground mounted or monument signs are permitted as follows:
 - o Signs shall not exceed ten feet (10') in height and forty (40) square feet in area.
 - o Signs shall be located behind the right-of way and out of any sight distance triangle.
 - o Signs shall be setback five feet (5') from any property line.
 - o No freestanding pole signs shall be permitted.
 - o No off-premise signs shall be permitted.

Adopted June 6, 2002

Draft revision ~~November~~ December 19, 2011

- Signs shall also conform to Section 1380.02 and 1380.03 of this code.
- Landscaping Standards
 - The plan for landscaping must include ground cover, bushes, trees, foundation plantings, sculpture, fountains, decorative walks, or other similar site design features or materials. Landscaping must conform to the requirements of the City Code, and the following:
 - A minimum of one over-story tree per thirty-five lineal feet (35') ~~lineal feet~~ of street frontage.
 - A minimum of one (1) deciduous or evergreen shrub per one (1) linear foot of foundation.

END OF NEW MATERIAL

• **1350.12 Parking standards.**

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Parking requirements shall be governed by Section 1330.06 except as otherwise stated below:

- G. Surface Parking Lots in the MX-1 or MX-2 District shall be located at the side or rear of buildings and not in the front yard area. Surface parking lot or driveway access may not make up more than 25% of lot frontage.

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1350.13 Performance Standards for Mixed-Use Districts

1350.14 Additional Performance Standards for Mixed-Use Districts.

Additional performance standards for Mixed-Use Districts:

- A. Exterior Storage: No materials, product or equipment shall be stored outside of an enclosed building except for daily display (during store hours) of merchandise.
- B. All refuse and recycling containers must be stored inside of the principle structure or a fully enclosed accessory structure.
- C. All roof equipment must be screened from public view unless designed as an integral part of the building and is compatible with the site lines of the building, as determined by the Zoning Administrator.
- D. All developments (except for improvements to a single-family detached housing unit or construction of a new single-family detached housing unit) conducted within the MX-1 or MX-2 district must be completed through the Planned Development District process as outlined in Section 1360 of the Zoning Code.

1350.131 Commercial, Industrial, and Mixed Use Districts: "The Code of Ordinances of the City of Newport, County of Washington, State of Minnesota," shall be amended by amending Chapter 13 Zoning Ordinance of the City Code, for purposes of adding the following:

Subd. 1 Every primary and accessory building in a Commercial, Industrial or Mixed Use District shall be uniform in design and materials on all sides of a structure facing a public street, having extensive visual exposure from a public street or is adjacent to a residential zoning district, unless modified herein.

- 1.) Exterior surfaces of all buildings shall be faced with or a combination of brick, stone (or better), decorating architecturally textured concrete products, wood veneer, glass, stone, decorative pre-cast panels, equivalent products or better.

Adopted June 6, 2002

Draft revision ~~November~~ December 19, 2011

- 2.) Primary and accessory buildings: facades or roofs in any Commercial District shall not be constructed of non-textured cinder concrete block, sheet aluminum, steel, corrugated aluminum or steel, or similar products.
- 3.) Primary or accessory building facades in any Industrial District not fronting on a public street, not having extensive visual exposure from a public street or is not adjacent to a Residential Zone may be constructed of non-textured cinder block, sheet aluminum, steel, corrugated block, corrugated aluminum or steel or similar products.
- 4.) Within an Industrial District a multi-tenant, mini-storage or trucking terminal with extensive use of garage doors on many sides of a building or groups of buildings may be constructed of metal untextured cinder block, sheet aluminum, steel, corrugated aluminum or steel or similar products, provided that facades constructed of such materials are not facing a public street, have visual exposure from a public street or are adjacent to a residential district.
- 5.) Metal-like materials, in a zone other than Industrial, are only acceptable as trim, fascia, mansards, portions of the main facade, or the like. No structural metal roofs, except architectural uses of copper incorporating visible metal exteriors, are permitted.
- 6.) Accessory tanks, exterior equipment, stacks, pipes, towers and the like are exempt from these requirements.

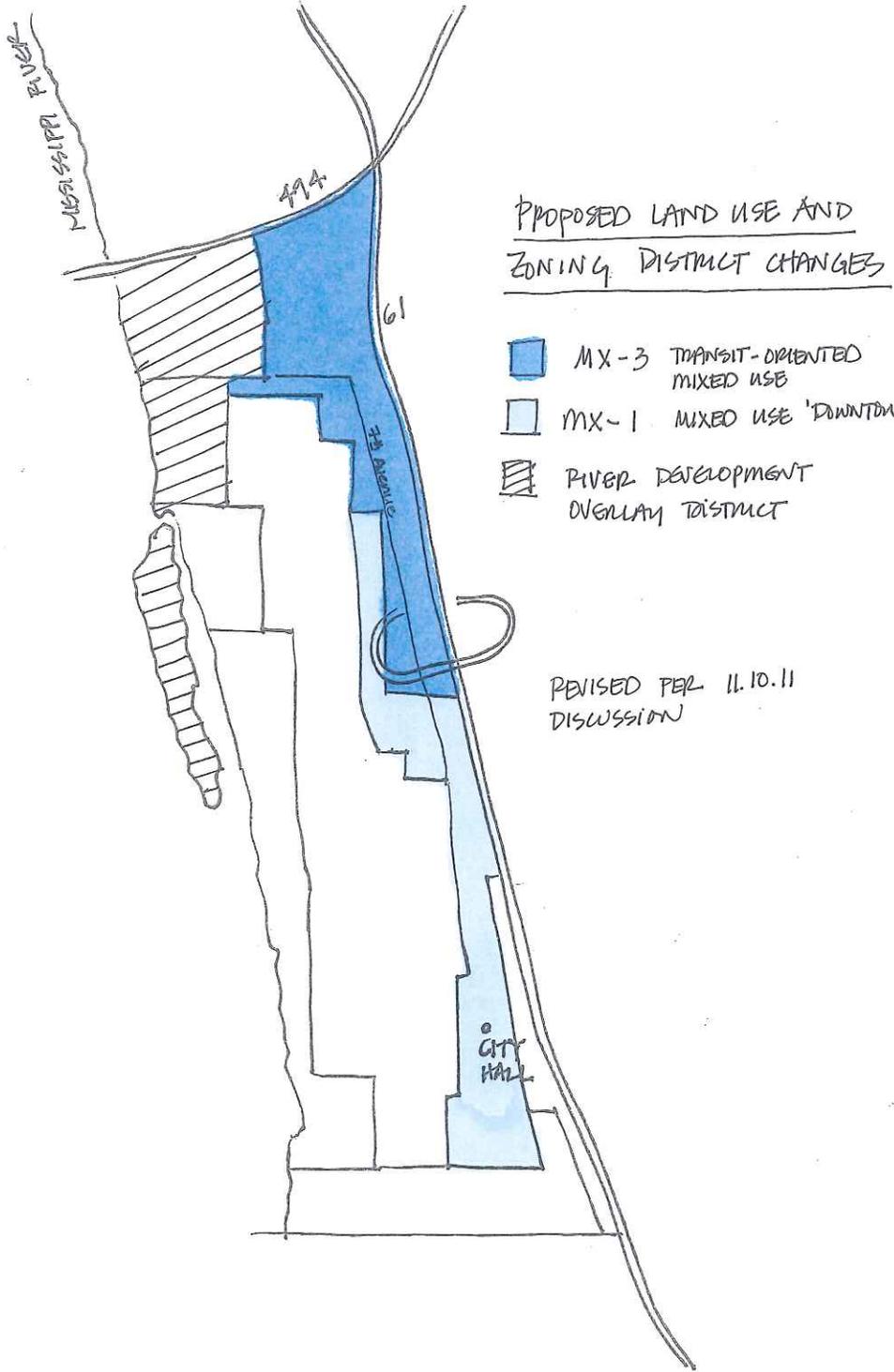
Subd. 2 Effective Date: Now Be it Resolved that this Ordinance shall be in full force and effect from and after its passage, approval, and publication according to law.

1350.14 Administrative Procedure for Development.

- A. All petitions for rezoning to establish or expand a nonresidential district shall also concurrently follow subdivision platting procedures and a complete preliminary plat with all supporting data required which shall be filed with the Zoning Administrator.
- B. All public rights-of-way within nonresidential districts shall be considered collector streets or arterials as defined in the City thoroughfare plan.
- C. Upon finding by the Planning Commission and City Council that the proposed zoning district and preliminary plat shall constitute a district of sustained desirability, shall be consistent with long range comprehensive plans for the City and meet the requirements of the district, the City Council may establish such district on the property included in the preliminary plat. The preliminary plat as approved together with such covenants, deed restrictions, controls, or special conditional use permits as may be attached to it, shall be filed and recorded by the owners or developer in the office of the county register of deeds and shall become a part of the ordinance establishing the zoning charge. Any substantial change to the plat shall require resubmission to and approval by the Planning Commission and City Council.

Adopted June 6, 2002
 | Draft revision ~~November~~ December 19, 2011

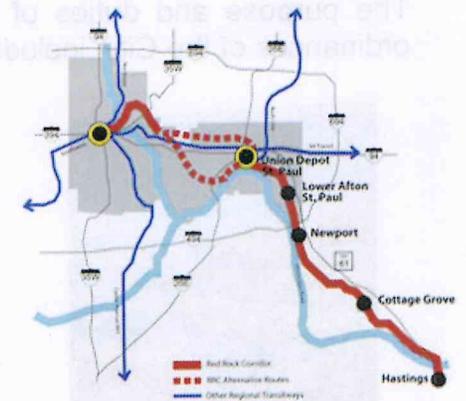
- D. The final platting of such land shall be subject to such requirements for approval, recording, and the installation of improvements as required by other City ordinances.
- E. Prior to obtaining a building permit or constructing any building improvements on an individual lot or site within any nonresidential district, three (3) copies of the site plan of proposed improvements shall be submitted to the Zoning Administrator, and reviewed by the Planning Commission and City Council. Such site plan shall show the location and extent of proposed building, parking, loading, access drives, landscaping, sewage and water systems and any other improvements.
- F. If a zoning change for a nonresidential district is approved, the first phase of construction shall begin or show reasonable progress within two (2) years after approval of the general development plan and zoning change by ordinance or the district may be zoned back to its original zoning district classification or other appropriate zoning district classification.



COMMUNITY & ECONOMIC DEVELOPMENT

The Newport Economic Development Authority is dedicated to improving the economic wellbeing of the City by creating opportunities for well-managed residential and commercial growth, encouraging quality community developments, and promoting meaningful employment opportunities for citizens that will enhance the quality of life in Newport.

- Create a business policy that includes incentives for businesses that want to locate in Newport and/or reinvest in their current businesses.
- Promote new construction and redevelopment projects throughout Newport.
- Support the development of a new transit station, along with the Red Rock Corridor Station Planning Project.
- Research the options of Transit Orientated Development Plan for the areas around the proposed transit station.
- Assist in marketing the larger parcels of commercial land for development through economic websites and other media outlets.
- Provide for enhanced Chamber, EDA, and Council business outreach coordination.



Housing Development

- Market Newport's 20 acres in the northeast corner of the City in conjunction with adjoining properties.
- Market the old public works site(s) to encourage single family homes.
- Explore the possible development of residential housing along the bluff.
- Continue to monitor all houses and businesses for code compliance.
- Monitor foreclosed properties to reduce unwanted blight.

PLANNING

Mission Statement - The purpose of the Planning & Zoning Commission is to provide professional support to ensure proper and legal interpretation of the Zoning Ordinance, make recommendations on planning related matters, and to oversee and enforce the Zoning Ordinance, subdivision process, and Comprehensive Plan.

Duties

The purpose and duties of the Planning Commission are those vested in it by the statutes of the State and other ordinances of the City, including, but not limited to:

- Hold public hearings, review applications, and make recommendations as set forth in the City Code.
- Review and make recommendations on proposed amendments to zoning, subdivision, Comprehensive Plan, and district plan provisions of the City Code.
- Enforce the Zoning Ordinance to achieve the goals of the Comprehensive Plan.
- Work cooperatively with all City staff, City Council, and commissions to achieve the goals of the Comprehensive Plan and address issues related to planning and zoning.
- Work cooperatively with Washington County, the Metropolitan Council, and neighboring communities to address issues related to the Comprehensive Plan and its implementation.

2011 Projects

- Establish standards for the MX-3 Transit Oriented Design District.
- Review the Linn Development proposal.
- Review the Bancor 58-acre RE (Residential Estate) Development proposal.

