



**CITY OF NEWPORT  
PLANNING COMMISSION MEETING  
NEWPORT CITY HALL  
SEPTEMBER 12, 2013 – 6:00 P.M.**

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

**AGENDA**

**1. CALL TO ORDER**

**2. ROLL CALL**

**3. APPROVAL OF PLANNING COMMISSION MINUTES**

A. Planning Commission Minutes of August 8, 2013

**4. APPOINTMENTS WITH COMMISSION**

A. **Public Hearing** – To consider an application from J & J Temperature Control LLC for Approval of a Conditional Use Permit for Property Located at 100 7<sup>th</sup> Avenue

1. Memo from Sherri Buss
2. Application
3. Notice of Public Hearing
4. Resolution No. P.C. 2013-8

B. **Public Hearing** – To consider an application from Brian Domeier for Approval of a Variance for Property Located at 615 8<sup>th</sup> Street

1. Memo from Sherri Buss
2. Application
3. Notice of Public Hearing
4. Resolution No. P.C. 2013-9

C. **Public Hearing** – To consider an application from Kim Brown for Approval of a Conditional Use Permit and Variance for Property Located at 1675 Kolff Street

1. Memo from Sherri Buss
2. Application
3. Notice of Public Hearing
4. Resolution No. P.C. 2013-10

D. **Public Hearing** – To consider amendments to the Zoning Code, Chapter 1300, Section 1330 General District Regulations and Section 1350 Nonresidential Districts

1. Memo from Renee Helm
2. Notice of Public Hearing
3. Resolution No. P.C. 2013-11

**5. COMMISSION & STAFF REPORTS**

**6. NEW BUSINESS**

**7. ANNOUNCEMENTS**

A. Upcoming Meetings and Events:

- |                                    |                    |            |
|------------------------------------|--------------------|------------|
| 1. City Council Meeting            | September 19, 2013 | 5:30 p.m.  |
| 2. Park Board Meeting              | September 26, 2013 | 7:00 p.m.  |
| 3. Annual Fun Walk – Loveland Park | September 28, 2013 | 10:00 a.m. |
| 4. City Council Meeting            | October 3, 2013    | 5:30 p.m.  |

**8. ADJOURNMENT**



**City of Newport  
Planning Commission Minutes  
August 8, 2013**

**1. CALL TO ORDER**

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

**2. ROLL CALL -**

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

Commissioners absent – Janice Anderson

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

**3. APPROVAL OF PLANNING COMMISSION MINUTES**

**Planning Commission Minutes of July 11, 2013**

**Motion by Prestegaard, seconded by Lindoo, to approve the July 11, 2013 minutes as presented. With 4 Ayes, 0 Nays, 1 Absent, the motion carried.**

**Susan Lindoo** – I watched the presentation from last month’s meeting because I wasn’t here and I would like to recommend that it be placed on the City website for future Planning Commission members and the public because I learned more from John Stewart in that hour than I have learned the whole time I have been on the Planning Commission. I thought it was an excellent presentation.

**Executive Analyst Helm** – There is an Engineering Section of the website that I can place it on.

**Vice-Chair Prestegaard** – I was approached by a Newport resident who had seen it on TV and had similar comments.

**4. APPOINTMENTS WITH COMMISSION**

**A. Public Hearing – To consider an application from David Quade to Vacate 1<sup>st</sup> Street between the BNSF and CP Rail Rights-of-Way in Newport**

Sherri Buss, TKDA Planner, presented on this item as outlined in the August 8, 2013 Planning Commission Packet.

**Chairperson Lund** – Were there any factors in favor of vacating the street?

**Ms. Buss** – Not from the City’s perspective.

**Vice-Chair Prestegaard** – Could you explain the map?

**Ms. Buss** – If you look at the map, there are dotted lines on either side, those are the railroad tracks. The northern area, where it says “Second” is the part of the street that Newport controls. Below that, where it says “Avenue” is the part of the street that St. Paul Park controls.

**Susan Lindoo** – I drove down there and it looked like a street. Is it that neither us nor St. Paul Park has maintained it and that’s why it’s not a street?

**Ms. Buss** – It is a street.

**Susan Lindoo** – Oh ok. I know that people have asked before to vacate unused streets like easements.

**Ms. Buss** – This is actually a street, not an easement.

**Anthony Mahmood** – Did staff come up with any ideas to help him with the vandalism?

**Ms. Buss** – We did not discuss that.

**The Public Hearing opened at 6:15 p.m.**

**Gordon Nesvig, Mr. Quade's Lawyer** – There are a lot of things that need correcting from what I've heard. First of all, from what I can tell, the City has no street between those railroad tracks. Years ago, there was a plat of east Newport and there was a part of County Road 74, which lines up with 65<sup>th</sup> Street that was vacated. That stopped east of the east tracks. There's a plat west of the Burlington Northern which does not go between the tracks. I've got the abstract for this property and have been up to Washington County; I can't find anything where the City has any ownership in this piece of property. The next thing that needs to be addressed is the pipeline. The City does not need to worry about the pipeline, the pipeline people look out for themselves. They have an easement from Mr. Quade on his property. That easement exists whether there's a street there or not. So the City doesn't need to defend the pipeline company. Secondly, that pipeline is on the St. Paul Park side. As far as the trucks are concerned, any property owner that owns land where the railroad tracks are knows that they cannot stop on the tracks. That's not something the City needs to worry about. Mr. Quade is not going to put a gate up so that his trucks can't get over the railroad tracks. I don't think the City has ever told any other property owner how to make sure that they don't stop on the tracks. As far as needing it in the future for right-of-way, that's not going to happen. Highway 61 runs down the east side of the track, it's a four lane divided highway with access at 70<sup>th</sup> and Glen Road. I don't think an act of Congress could get MN DOT to open up that highway. Newport Cemetery is across Highway 61 so there is no infrastructure that will ever go through there. There's really no advantage for the City to try to continue to assert any kind of ownership on this street. They don't need to maintain it, Mr. Quade will maintain it. I don't think the City has made any improvements on it ever. Mr. Quade needs to speak with the Post Office about some mailboxes back there. I don't even know that the vacation is necessary but it would simplify things so that everyone knows that there is not a street there. We could start a Torrance proceeding and register the property and then the City would need to show that there is a street there, I don't think they could do it because I can't find anything. I'd like to see the Planning Commission take a more neutral stand on it and tell the Council that it's up to them and acknowledge these facts that I've told you. We would not like to see you recommend denial.

**Chairperson Lund** – I don't think this is the venue to discuss whether or not the street exists. It is fine that you bring that up but it's our job to determine whether it's in the public interest to vacate the street.

**Attorney Knaak** – We had talked a bit about what is on and not on record and I had mentioned to you that I had gone to the surveyor's office and saw the survey. The survey shown is what I had seen and it shows that easement, which is still in existence. There is a portion of one of these streets that was vacated nearby but this one appears of record to still be there. You're able to withdraw your application if you want but it appears to me that this is of record and one way or another you're going to have to address it and putting a fence across isn't a good idea until the matter is resolved.

**Mr. Nesvig** – The thing is that a survey does not create title. The pipeline company can hire a surveyor and they will draw out what they're interested in. If they draw a street because they think one is there that doesn't create title to the street, it's just a survey.

**Attorney Knaak** – You can appreciate that the City needs to base their decision on what is on public record, which this is. There's nothing here that suggests that this was a mistake in putting the street there.

**Mr. Nesvig** – I'd have to see who did the survey work. Just because the pipeline company hired a surveyor that doesn't mean they are authorized to create titles that don't exist.

**Attorney Knaak** – The City’s position is that this is of record and they have to respond accordingly. If the City is aware of the fact that this is of record and you build a fence across it you’re kind of daring the City to do something about it.

**Mr. Nesvig** – We haven’t built the fence. I need to see how that survey is of record.

**Attorney Knaak** – I’m anticipating that the surveyor saw something in the platting records to put the street there. This was from the surveyor.

**Mr. Nesvig** – But they don’t record a bare survey, it has to be attached to something.

**Attorney Knaak** – It’s at the surveyor’s office; it’s supposed to reflect what is of record and we have to assume that it is.

**Mr. Nesvig** – Just because it’s at the surveyor’s office doesn’t mean it’s of record.

**Attorney Knaak** – I understand. It strikes me that you’ve got a couple options. The first is to assume that the City is right and that the City can vacate it or not. Or you can say that it’s not of record and withdraw your application but that gets you no further in advancing the problem.

**Mr. Nesvig** – It may or may not. It would seem logical if the City could just vacate whatever interest they might have. Mr. Quade’s legal description goes right to the center of the street and he pays the taxes right to the center of the street. There’s nothing taken out for a street like there is in other areas where you have a platted street. Here he’s paying right to the middle of the street.

**Attorney Knaak** - I disagree with your characterization. My response would be that virtually all the citizens of Newport are actually paying for a lot that includes a portion of the street easement.

**Mr. Nesvig** - No, when they calculate the square footage to calculate your taxes, it does not include the right-of-way in the plat.

**Attorney Knaak** - That’s how the ordinances handle it but that’s not technically the legal description of the lot, which includes the bordering...

**Mr. Nesvig** - If it’s a platted lot, it’s platted and you only get the four corners of the lot, you do not get the City right-of-way.

**Attorney Knaak** – If it’s vacated like you’re asking here...

**Mr. Nesvig** – Then half of the vacated goes to the lot owner on each side.

**Attorney Knaak** – The reason why is because he owns the underlying property subject to the easement. I’m just giving you the legal justification.

**Mr. Nesvig** – I know you don’t pay real estate taxes on a public street. I’ve talked with the Assessor’s Office, they have no indication that there’s a public street there. I’ve talked with the Surveyor’s Office, they have no indication that there’s a public street there.

**Attorney Knaak** – That’s where this came from.

**Mr. Nesvig** – You probably talked to someone different. I want to see who drew that survey, when it was drawn and how it came to be in the Surveyor’s Office.

**Attorney Knaak** – In representing the City, I have to assume that that’s a valid survey. Whatever action the City takes, it has to do so assuming that it is a valid survey because it’s of record and we have no indication to assume that it’s

incorrect. Which means, that in order to do what your client wants, they have to come up with a public purpose to justify vacating that easement.

**Mr. Nesvig** – The one public purpose is that they would get out of the liability to maintain a street. There's no point for the City to keep it because it's not going anywhere.

**Attorney Knaak** – What is the public purpose? The staff gave a detailed list of why it's not in the public purpose to vacate the street. One public purpose that I can think of would be that the fence would mitigate the crime problem. However, there is a lengthy list of items that the staff provided stating why the City shouldn't vacate the street. When there are vacations, very often there will be an allowance for the street easements and access to remain.

**Mr. Nesvig** – I don't see a problem with the utility easements to remain, he probably would go along with it.

**Attorney Knaak** – What about access to the railroad in event of an emergency?

**Mr. Nesvig** – The gate would be set back. There's a building on the east end of the tracks so the gate would probably be 100 feet back from the tracks. You also have to clear Hastings Avenue. Naturally, no one is going to block that. He wants his gate 100 feet east of there so that trucks have room to stop without stopping on the tracks. He has no problem with the Police or Fire having keys or access to the gates so that they can get in there if there is an emergency. The objective here is to prevent crimes and problems.

**Chairperson Lund** – Is there a finalized plan as to where you would put the fencing?

**Mr. Nesvig** – The whole perimeter would be fenced. When you go in up to the tracks and up Hastings, instead of turning south on Hastings, you'd go straight east. It would be about 140 to 160 feet past the tracks.

**Chairperson Lund** – Your plan is to surround both parcels with a fence, including adjacent to the railroad tracks.

**David Quade** – We would come up Hastings Avenue, make a right-hand turn, go about 140 feet and put a gate in.

**Chairperson Lund** – Is there a reason why you couldn't have two separate enclosures?

**Mr. Quade** – It's impossible to make a left-hand turn to get behind the property.

**Chairperson Lund** – You couldn't put a gate on the north side of 1<sup>st</sup> Street there?

**Mr. Nesvig** – You're carving it in half and there's not a good reason for doing that. Nobody needs to get back there.

**Vice-Chair Prestegaard** – You said earlier that you pay taxes to the middle of the street. I'm not sure I understand what you were saying. You pay taxes to St. Paul Park to the middle of the street?

**Mr. Nesvig** – Both sides. The middle of the street is the boundary line. Nothing is taken off of the tax rolls for the street.

**Susan Lindoo** – I have a question for Mr. Knaak. Is there some way that we can figure out if Newport does own the street?

**Attorney Knaak** – The City doesn't own anything other than have an easement for road purposes that it is the custodian of, similar to all of the other platted or surveyed roadways in the City. We have no reason to believe that the City actually owns this in fee. We haven't seen any indication that suggests that. It seems to be the more common situation that when it's dedicated the City has an easement for road purposes and nothing more. That appears to be the case here and the survey reflects that.

**Susan Lindoo** – Is this a road that the City has an easement for in the same way that it has an easement for the road in front of my house? Do we know that for certain?

**Attorney Knaak** – I know that with the same certainty that I would have going to the Surveyor's Office to look at a survey of your house and having that reflected on the survey. That's what we're basing this on. As long as there is a record that indicates that I think you have to assume that that is the case.

**Susan Lindoo** – I was looking at this survey and saw that it's from 1982. So as long as some surveyor as found it then that would legally indicate that there is an easement?

**Attorney Knaak** - Yes. A surveyor references all the reference points that are contained in the plat and they do that type of record search. The City has to assume that that's accurate. Mr. Nesvig doesn't believe it is accurate. The City has to go off of what's on the public record. If you want to go through a land registration action you can certainly do that. If in fact there is an easement there, you retain utility easements. Here it doesn't appear that there are utilities in there. The Engineer is anticipating future needs.

**Councilman Ingemann** – Back in 1974, I had a black lab and I took him to dog training at Red Dog Academy which was located on 1<sup>st</sup> Street, which is exactly in the middle of this property. I also recall that there was a house in that area. Red Dog Academy was located on 1<sup>st</sup> Street so I'm assuming if it was a street in 1974 it still is.

**Chairperson Lund** – I tried to focus this discussion on the application before us to vacate a street, which presumes that there is a street. I think it's a separate issue whether the City is entitled to the street or not. I don't want to get into that anymore here. I'm not going to consider, in my vote, the uncertainty related to the ownership of the street in deciding whether the City should vacate its rights to the street. I have one question for staff. The concerns we have appear to be related to potential uses for the street plus access to the railroad. Is there any way that we could let him put up a fence without giving him any legal rights to keep his fence there at any point in the future. A gentleman's agreement that unless and until it becomes a problem, assuming we give Police and Fire access. It seems that we're creating a big mess just because we want certainty on who does or doesn't own the street. Is that possible?

**Attorney Knaak** – You can authorize a license. You are the custodian of that easement and the adjoining property owners are not allowed to do anything to that property inconsistent with the right of the public. That's the standard rule. Where you run into it from time to time is that maybe someone will put a garage on something that is a platted alley that no one has ever used for a road. What you can do is offer a recorded license which authorizes the property owner to use the property in some way. They would have to agree to allow access if the City ever needed it. You can do that. I think we did that when we found out there were some encroachments on sidewalks. There are ways that you can address that kind of thing.

**Chairperson Lund** – That would be my preference, to authorize a license rather than make any legal rights or decision. If at some point it becomes an issue than the lawyers can fight about whether it's a street or not.

**Ms. Buss** – So it would be to deny the application to vacate and instead recommend the owner work with the City to apply for a license to put up a fence and grant access to the Police and Fire.

**Vice-Chair Prestegaard** – I had some similar feelings. There's no way we're going to be able to approve vacation today if we don't understand the ownership question but it pushes us into wanting to seek some solution. I was wondering something similar to Dan's solution but a little different. Is it in the City's interest to put a gate up to prevent cars from going back there and dumping? It's a play on the solution Dan was talking about but doesn't push the City as far as giving up the easement. My preference would be to seek some solution. I can't vote in favor of the vacation without the interest issue resolved.

**Susan Lindoo** – I agree with Matt and I like Dan's solution.

**Anthony Mahmood** – You guys said you wouldn't have a problem letting the Police and Fire in there and would be fine with letting us put a water line under there. It sounds like a perfect solution. So what would they do next?

**Ms. Buss** – This will need to go to the Council with your recommendation and they will need to decide if they want to go along with your same idea. If they do, he would need to negotiate with both cities to try to get that option.

**Vice-Chair Prestegaard** – I didn't think about St. Paul Park.

**Susan Lindoo** – It sounds like they were waiting for us to make a decision.

**Ms. Buss** – They don't have the same issues like the potential water looping. As John looks at it, this is the place to take a line across. St. Paul Park doesn't have the same issue.

**Susan Lindoo** – They still haven't come to a decision so they may be open to what we suggest.

**Chairperson Lund** – How far back from the railroad are you hoping to put your gate?

**Mr. Quade** – It will be past the office building on the north side.

**Chairperson Lund** – Looking at the overhead, it looks like it would be about 200 feet.

**The Public Hearing closed at 6:55 p.m.**

**Vice-Chair Prestegaard** – I had one further comment. I can't vote in favor of the vacation. It seems that our options are to defer and hope we have more information next time we meet. Or do it as a denial and seek a solution as suggested.

**Mr. Nesvig** – You could just table it and let us explore the ownership of the street. That way no one has to make a decision tonight.

**Attorney Knaak** – That does handicap the City Council because they technically won't be able to address this issue until you make a decision. So unless you advance it to them with no recommendation, it kind of freezes things and I'm not sure you would want to do that.

**Chairperson Lund** – It's my view that there may be a solution that works for both parties but looking at the factors for public interest I haven't seen enough in favor of vacating. So it would be my preference that we deny the petition but add an instruction for staff to work with the petitioner towards a license that would allow him to put a gate up and that addresses the City's concerns.

**Susan Lindoo** – It seems like that would move things along. It would also let St. Paul Park know what we are thinking.

**Attorney Knaak** – Just as a reminder, this is not a definitive decision but is part of a process that moves it forward to the Council.

**Vice-Chair Prestegaard** – My only concern is that by moving it to the Council, we are taking ourselves out of the process and we are hoping that folks work toward a solution but we no longer participate in the consideration of that solution. So it directly exposes it to the Council but we've undermined our own interest in finding a solution. I'm suggesting that if a matter is reached that we hear about it at the next meeting.

**Susan Lindoo** – The license won't come before us?

**Ms. Buss** – No.

**Mr. Nesvig** – I would recommend that we table the application for a month.

**Susan Lindoo** – That's not what we're choosing to do.

**Vice-Chair Prestegaard** – The assumption that I'm making is that it's a denial based on the information we have today. Should additional findings turn out that Newport has no interest then they can apply again?

**Ms. Buss** – They wouldn't need to apply if the City doesn't own the street.

**Motion by Mahmood, seconded by Lindoo, to approve Resolution No. P.C. 2013-6 recommending the City Council deny the request to vacate and instead work with the applicant to grant a license to install a fence across 1<sup>st</sup> Street that addresses all of the City's concerns, including access and future use of the street. With 4 Ayes, 0 Nays, 1 Absent, the motion carried.**

**B. Public Hearing – To consider an application from the Washington County Regional Railroad Authority to amend the Conditional Use Permit that was issued November 15, 2012**

Sherri Buss, TKDA Planner, presented on this item as outlined in the August 8, 2013 Planning Commission Packet.

**Chairperson Lund** – Last time, we recommended that there be a bike route between Maxwell Avenue and the transit station. Is that on there?

**Ms. Buss** – The sidewalk width is wide enough for a shared trail.

**Chairperson Lund** - I had the privilege of meeting with them on Tuesday. Basically, the bids came in way over budget. We're going to have a less elegant transit station but it's pretty much the same style, just smaller.

**Susan Lindoo** – I was wondering why the bids came in so much over price, what went wrong? Just for background information.

**The Public Hearing opened at 7:18 p.m.**

**Andy Gitzlaff, Washington County** – I was going to go through the bids in my presentation. Before starting, I just wanted to say thanks to Deb and her staff for the great turn-a-round and get plans changed in a record amount of time. It's been a tremendous effort. It's unfortunate that we're not constructing right now but I still think we have a great project.

Mr. Gitzlaff presented on this item as outlined in the attached PowerPoint.

**Chairperson Lund** – Where would the National Park signs go?

**Mr. Gitzlaff** – They would go in the plaza area, on a seat wall or freestanding. We've given them a few options.

**Chairperson Lund** – We're hoping to make this a pit stop along the bike trail, is there an easy way to add an outdoor drinking fountain and water bottle fill station?

**Mr. Gitzlaff** – It's not something we had contemplated. We do have a drinking fountain inside.

**Susan Lindoo** – The roof was what was more expensive than you had anticipated and you've done away with the roof so why is everything else being cut back so dramatically? It sounds like there were a lot of things that were way more than what you had anticipated.

**Mr. Gitzlaff** – That's correct, it wasn't just the building. The landscape and electrical both came in high as well. We do need to reserve some funds for contingency as well during the construction phase. The number that we put out there as our goal number is where we need to be.

**Susan Lindoo** – Are you thinking that the bids this fall will be less?

**Mr. Gitzlaff** – Yes.

**Susan Lindoo** – So if the bids come in better, will you be able to expand and do more things?

**Mr. Gitzlaff** – That’s not out of the question. One of the first priorities would be to reinstall those 50 parking spots to bring it up to 200.

**Susan Lindoo** – I’m concerned that there won’t be any overhang as people are waiting to get on the bus. As they stand there to get on the bus, they’ll be exposed to the elements. I would find that really unpleasant on a rainy day. I understand the overhang on the two ends of the building but I would think more people will want to stand where the buses are coming. I would want to be on the sidewalk waiting for the bus to come. That seems to be a real problem and I would like some rethinking in regards to the overhang.

**Mr. Gitzlaff** – We did explore an overhang on that side and you would need to do it within a ten foot footprint and that’s not in our budget. Not every transit station has a roof overhang; there will always be a small area of exposure.

**Susan Lindoo** – You said that you would have to build a second building if you need to expand in the future, is that correct?

**Ms. Buss** – We asked if the building is easily expandable if needed and the comment back was that they would more likely bring in a second shelter.

**Matt Kreilich, Julie Snow Architects** – It’s absolutely expandable. Our comment was that on a structure of this scale, it would be more economical to build a new structure.

**Susan Lindoo** – So you would take this one down and build one twice as big?

**Mr. Kreilich** – No, we would build an adjacent structure. That’s not uncommon for transit stations.

**Susan Lindoo** – Is the white what we’re going to use and the grey is what you’re proposing?

**Mr. Kreilich** – The white is what was proposed and the grey is the new proposal.

**Susan Lindoo** – It does look a lot like a concrete block to me. I worked at St. Johns when Brower came in and built a new science building and it was hideous. It was beautiful when it was lush and green but that was only four months of the year and during the winter it could not be more depressing.

**Ms. Buss** – It’s the color you’re talking about right?

**Susan Lindoo** – Yes, it looks like concrete to me. What are some suggestions that we could do to it? Like a beige or something?

**Chairperson Lund** – That’s not the only color is it?

**Mr. Kreilich** – No. We could do a beige building but we tend to avoid that because they are everywhere. One of the goals was to give it a presence in the landscape. It’s a small portion of block.

**Susan Lindoo** – Could you change it to a warmer color?

**Chairperson Lund** – Just to be clear, the brick will be on two of the walls and glass will be on two walls?

**Mr. Kreilich** – Yes.

**Mr. Gitzlaff** – We've vetted this material with our maintenance department and they believe it's a good material that they can easily maintain. We can certainly look into other colors for the block but we would like to stay with the burnished block.

**Susan Lindoo** – A new color won't affect the cost correct? The burnished block is cheaper correct?

**Mr. Kreilich** – Yes. Part of the conversation was to bring in some texture and color. We wanted to keep a material that was very durable and easy to maintain.

**Ms. Buss** – Could you bring some other options to the Council meeting for review?

**Mr. Gitzlaff** – Yes.

**Chairperson Lund** – I don't see that impacting our decision tonight.

**Susan Lindoo** – I think we should be able to give feedback. We all had an image of what this was going to look like and now it's going to be a lot smaller and not nearly as attractive. There's a certain amount of adjustment to that. If we can see ways that it can be aesthetically better that would help.

**Vice-Chair Prestegaard** – I had a question on the financials. It looked like the consultant fees nearly doubled, why is that?

**Mr. Gitzlaff** – We hired a construction manager instead of having an in-house person do it. We do that on almost all of our buildings. It helps to ensure that the project is done right.

**Vice-Chair Prestegaard** – My second question was on the contingency which is about \$235,000. It seems like what we're being asked to consider is a modification that grants more flexibility from a budget perspective and we're building in contingency that wasn't there before, what happens to that contingency money if it's not spent?

**Mr. Gitzlaff** – We'd have to look at whether it goes back to the original funding sources or if we can add items back in. We don't like to give money back if we don't have to.

**Vice-Chair Prestegaard** – I understand the need for a contingency but I was just wondering if there's a way to ensure that it's spent as it could possibly be. I don't know if that's a question for you.

**Susan Lindoo** – Like an overhang.

**Chairperson Lund** – Maybe you could expand on what the expected cost of the extra 50 spaces is.

**Mr. Gitzlaff** – It's roughly a \$125,000 savings. In regards to modifying the design, it would probably cost twice as much to make changes to the building after the bids have gone out.

**Chairperson Lund** – There's probably limitations on how much you can change as well.

**Mr. Gitzlaff** – Yes.

**Ms. Buss** – Have you thought about bidding the landscape separately?

**Mr. Gitzlaff** – We did, we only had one qualified landscape bid and they didn't meet regulations so we would have had to rebid that.

**Chairperson Lund** – We talked about this at our meeting on Tuesday. The issue with government projects with federal money is that they need to meet the disadvantage business regulations. If you have a small piece of the project, it's hard to meet that unless the owner is a disadvantaged business owner. So by combining the projects into fewer bids, then that

portion would not have to be from a disadvantaged business owner because it would be subcontracted. Each part you bid has to meet those requirements. So by combining a project of this size, it makes it easier to meet the regulations.

**Ms. Buss** – My experience is that the general guys mark up the landscaping a lot because it's a place where they can get profit and usually they don't do as good a job. So we tend to bid those separately.

**Chairperson Lund** – Do you have a list of disadvantaged business owners that you could share?

**Ms. Buss** – Yes. MN Dot has a list of qualified folks as well.

**Mr. Gitzlaff** – We go through Met Council with that.

**Vice-Chair Prestegaard** – Last month we had a presentation from the Engineer on storm water and were reprimanded for approving something that didn't yet get his approval and it feels like a similar situation. I'm conflicted for those same reasons.

**Ms. Buss** – The condition here is what John suggested just like he did for the Cold Storage one.

**Chairperson Lund** – When he presented he said that he loses authority and it's difficult for him when it's just his signature standing in the way. I'm assuming that the discussions with the County aren't the same as discussions with the Cold Storage.

**Admin. Hill** – This is John's suggestion.

**Chairperson Lund** – So he was comfortable with us moving forward?

**Admin. Hill** – Yes.

**Ms. Buss** – He gets the need to move forward.

**Vice-Chair Prestegaard** – But he did say it was bad practice on the part of the Planning Commission to approve a plan that he had not approved.

**Admin. Hill** – It's not unusual that that happens.

**Mr. Gitzlaff** – John has been involved and we're not really modifying anything in regards to storm water. We have our permits in place from the Watershed District and are meeting all of the requirements from them. We're more than happy to send John our final plans before we go out to bid.

**Chairperson Lund** – That is one important distinction. This is a new project so it needs the Watershed's approval where the Cold Storage was an addition and the City was the only entity approving the storm water plans.

**Susan Lindoo** – Would the plan be done before he goes to the City Council?

**Mr. Gitzlaff** – John has all of the plans that he needs to make his recommendation.

**Vice-Chair Prestegaard** – One last comment. So we talked about a \$619,000 deficit, we attributed that largely to construction costs. When I look at the original 2011 versus the 2013, I see \$200,000 in construction management costs and \$235,000 in contingency costs. That's \$435,000 out of the \$619,000 but it's all coming out of the construction. With that said, I don't think we have a choice.

**Chairperson Lund** – The budget did go up by \$500,000 since 2011.

**Ms. Buss** – You do have a choice. We would really like to get something going on this site; it's an important part of redevelopment from the City's perspective and I think the sense is that the County Board and Regional Rail Board will not give any more money for this. If we want to get something started this year and have something in place that will be better than what's there now we need to make a move on this now. With a CUP, we have our standards that they need to meet. We can recommend and suggest some changes but ultimately the things that we can really enforce are our standards and this meets the minimum.

**Anthony Mahmood** – It says that you'll reduce the grading and site preparation on the north outlot area. Who will be responsible for paying for the grading later?

**Mr. Gitzlaff** – We're not developers so we wouldn't be the ones leading that, we would be the ones that sell the property. We may sell it to the Washington County HRA who would work with a private developer. They may use TIF funds to pay for the grading.

**Ms. Buss** – I think part of the idea is to make it a little more attractive. When staff talked about it, that lot wasn't a priority. A lot of developers wouldn't expect us to do grading.

**The Public Hearing closed at 8:03 p.m.**

**Vice-Chair Prestegaard** – My remaining comment is that I'm in a position where I'm having to take someone's word in regards to the storm water. I believe John said yes but we got scorned last month for it.

**Ms. Buss** – What you're being asked to do for this application in regards to storm water is very typical.

**Admin. Hill** – John has been involved in this process since the beginning.

**Vice-Chair Prestegaard** – I think I'm just trying to make the assertion that I would like to be in a position where I feel more confident in the decisions that we're making and I don't feel that because the evidence isn't in front of us or is changing as we speak and we're asked to make decisions quickly.

**Susan Lindoo** – Along with what Matt is saying, it seems everything meets our conditions. The thing with John Stewart, I think that's something that we can ask for in the future where he gives us a sign as to whether or not we can move forward and let him make the decision later on.

**Ms. Buss** – He does see every staff report beforehand and does make recommendations.

**Susan Lindoo** – If he could give us some sort of sign when he isn't fine with us moving something forward that would be nice.

**Ms. Buss** – We can ask him to be more assertive.

**Admin. Hill** – He did send an email a couple days ago that says "We have not seen the final drainage plan showing grades and drainage arrows for the reduced parking area. I believe that approval can be contingents on Engineers review of the final Plan set."

**Vice-Chair Prestegaard** – That's what I'm looking for. Thank you.

**Anthony Mahmood** – If this passes, when will you tear the building down?

**Mr. Gitzlaff** – We're hoping this fall and will let you know.

**Motion by Lindoo, seconded by Prestegaard, to approve Resolution No. P.C. 2013-7 recommending the City Council approve an amendment to the Conditional Use Permit for the Transit Station. With 4 Ayes, 0 Nays, 1 Absent, the motion carried.**

**Vice-Chair Prestegaard** – I think it'll be an improvement and appreciate the partnership with the County.

**Chairperson Lund** – Absolutely.

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

**Executive Analyst Helm** – Just wanted to announce that Pioneer Day is on Sunday, August 11. The parade kicks off at 11 and the festival starts at 12. The Newport Business Association is sponsoring an Elvis Impersonator at 5:30 p.m. If you purchased a button you can get all-you-can-eat corn and it enters you into a raffle drawing.

## **6. NEW BUSINESS**

## **7. ANNOUNCEMENTS**

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

- |                         |                 |           |
|-------------------------|-----------------|-----------|
| 1. Pioneer Day          | August 11, 2013 |           |
| 2. City Council Meeting | August 15, 2013 | 5:30 p.m. |

## **8. ADJOURNMENT**

**Motion by Mahmood, seconded by Prestegaard, to adjourn the Planning Commission Meeting at 8:11 P.M. With 4 Ayes, 0 Nays, 1 Absent, the motion carried.**

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

Respectfully submitted,

Renee Helm  
Executive Analyst



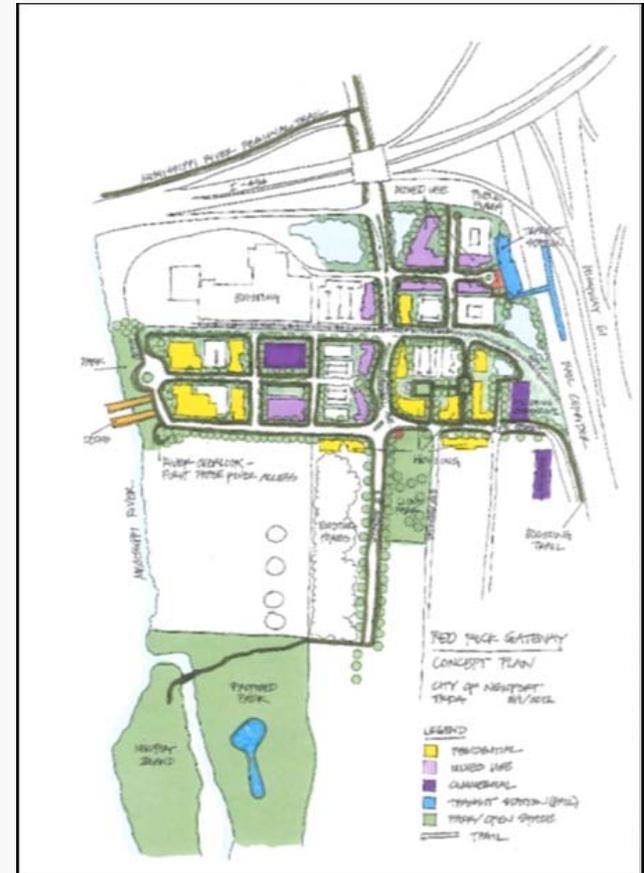
**Newport Transit Station  
CUP Amendment  
Planning Commission**

August 8, 2013



# Project Approach

- Partner with the City
- Establish a Vision
- Plan for both transit and redevelopment
- Engage the Public



# What We Heard

- Make the Transit Station Both Attractive and Functional
- Design for future growth
- Safety and Security is important
- Plan for pedestrians and trail users as well



# Redevelopment Partnership

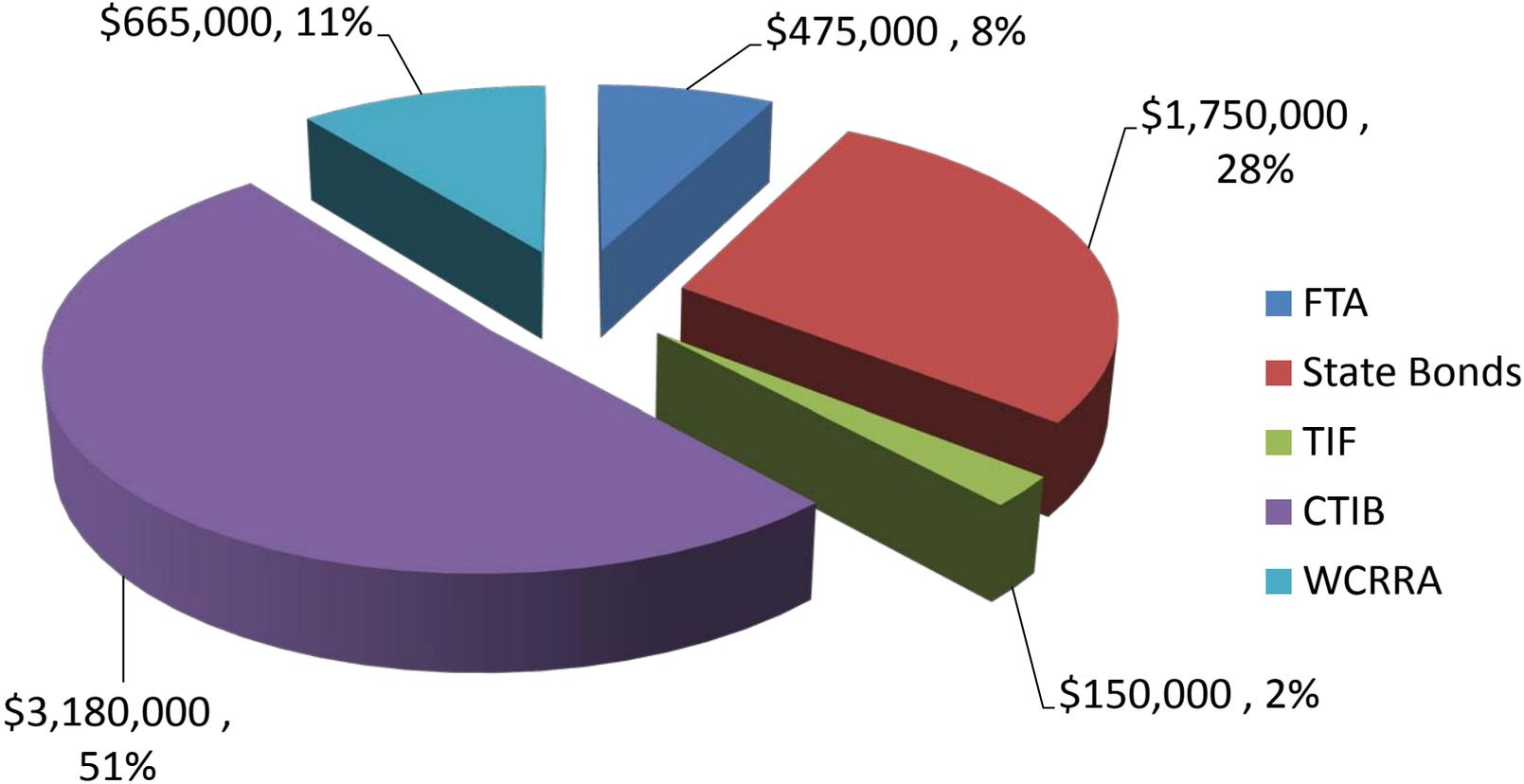
- Future transit expansion to go vertical
- 6 - 7 developable acres remain
- Initial Infrastructure investments



# Challenges

- Redevelopment Project
- High bedrock discovered
- Secure necessary funding
- Meet requirements of different funding sources

# Project Funding



# Project Expense

Phase	Initial (2011)	Revised (2013)	Bids (2013)
Land Acquisition	\$3,295,000	\$3,295,000	\$3,295,000
Consultant Services	\$250,000	\$450,000	\$450,000
Construction	\$2,225,000	\$2,475,000	\$3,094,000
<b>Total</b>	<b>\$5,770,000</b>	<b>\$6,220,000</b>	<b>\$6,839,000</b>

Construction Gap = \$619,000

- \$2,850,000 - Bids
- \$225,000 - Contingency
- \$19,000 – Material Testing, Permits



**Original Design**





**Revised Design**







# Sign Plan

- Interim Entrance Sign
  - Preserves flexibility for future site users
  - Future joint signage opportunities
- Other Signage
  - National Park Service Interpretive Signage
  - Way finding Signage
  - For Sale / Development Sign



# Key Site Features

- Stormwater “Treatment Train”
- B3 Sustainability Standards
- Security Camera System / Lighting
- Trail Connections, Bicycle parking
- Outdoor Gathering Space
- Seat walls, benches
- Well Landscaped
- Library Kiosk



# Next Steps

- City Approvals – August 2013
- Rebidding – September 2013
- Demolition – October-December 2013
- Construction – October-August 2014
- Opening of Bus Service – Fall 2014

# Thank You

Andy Gitzlaff

Senior Planner / Acting Transportation  
Coordinator,

Washington County Public Works

651-430-4338

[andy.gitzlaff@co.washington.mn.us](mailto:andy.gitzlaff@co.washington.mn.us)





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

## Memorandum

<b>To:</b>	Newport Planning Commission	<b>Reference:</b>	J&J Temperature Controls Conditional Use Permit
<b>Copies To:</b>	Deb Hill, City Administrator Renee Helm, Executive Analyst Jim Domeier, Applicant Gloria Miller, Owner	<b>Project No.:</b>	15258.005
<b>From:</b>	Sherri Buss, RLA AICP, Planner	<b>Routing:</b>	
<b>Date:</b>	September 3, 2013		

**SUBJECT:** J&J Temperature Control Conditional Use Permit (CUP) Request

**MEETING DATE:** September 12, 2013

**LOCATION:** 100 7<sup>th</sup> Avenue

**APPLICANT:** Jim Domeier  
910 1<sup>st</sup> Street  
Newport, MN 55055

**ZONING:** Light Industrial (I-1)

**60-DAY PERIOD:** September 28, 2013

**ITEMS REVIEWED:** Application, aerial photo, site visit with applicant

### BRIEF DESCRIPTION OF THE REQUEST

Jim Domeier operates a business called J&J Temperature Control at 910-1<sup>st</sup> Street in Newport. He also stores vehicles, truck trailers, and equipment for his business at other locations in Newport, including 100-7<sup>th</sup> Avenue and at 1649-4<sup>th</sup> Avenue (the Dahlen property). His business activities include snow plowing and other maintenance for the South Washington County School District, and the rental of refrigerated truck trailers to Walmart and other business.

Mr. Domeier is proposing to move his office and storing vehicles and equipment at 100-7<sup>th</sup> Avenue and 102-7<sup>th</sup> Avenue. In order to obtain a required state license for his business, he needs to show that his business complies with the City's zoning requirements. To meet those requirements, he needs to obtain a Conditional Use Permit (CUP) to store vehicles and

equipment at 100 and 102 7<sup>th</sup> Avenue. The associated office and shop use are permitted uses in the zoning district.

The building at 102 7<sup>th</sup> Avenue will be used for storage of vehicles and equipment, and the building at 100 7<sup>th</sup> Avenue will include an office and shop. J & J Temperature Control will also park some vehicles adjacent to the two buildings. The property at 100- and 102-7<sup>th</sup> Avenue is owned by Gloria Miller.

## **EVALUATION OF THE CONDITIONAL USE PERMIT (CUP) REQUEST**

### **Zoning District and CUP Standards**

The property at 100 and 102-7<sup>th</sup> Avenue is located in the Light Industrial (I-1). The City's Zoning Ordinance indicates that the intent and primary use of the Light Industrial (I-1) District is to "provide areas for research laboratories, small-scale processing, fabricating, storage, manufacturing, and assembly of products that do not produce hazardous wastes as by-products."

Section 1310.10 of the code indicates that the city may grant a CUP when the use is consistent with the Zoning Ordinance and Comprehensive Plan, and the City may impose conditions and safeguards to protect the health, safety, and welfare of the community. Criteria for evaluating the proposed uses and developing conditions for the CUP include the following:

1. The proposed use is designated in Section 1330 of the development code as a conditional use in the appropriate zoning district.
2. The proposed use is consistent with the Newport Comprehensive Plan.
3. The proposed use will not be detrimental to or endanger the public health, safety or general welfare of the City, including the factors of noise, glare, odor, electrical interference, vibration, dust, and other nuisances; fire and safety hazards; existing and anticipated traffic conditions and parking facilities on adjacent streets and land.
4. The potential effects of the proposed use on surrounding properties, including valuation, aesthetics and scenic views, land uses, and character and integrity of the neighborhood.
5. The potential impacts of the proposed use on governmental facilities and services, including roads, sanitary sewer, water and police and fire.
6. The potential impacts on sensitive environmental features, including lakes, surface and underground water supply and quality, wetlands, slopes, floodplains and soils.
7. The City may also consider whether the proposed use complies or is likely to comply in the future with all standards and requirements set out in other regulations or ordinances of the City and other governmental bodies having jurisdiction in the city.
8. In permitting a new conditional use, the City may impose additional conditions which it considers necessary to protect the best interest of the surrounding area or community as a whole.

### **Proposed Uses**

The applicant indicated that the proposed uses on the property include office, storage of vehicles, and a repair shop. The proposed office and repair shop uses are allowed in the I-1 District. The Auto (vehicle) Storage use is not currently permitted on the site and requires a Conditional Use Permit in the I-1 District.



The applicant, Jim Domeier, is proposing to rent the buildings and parking areas at the site. The site owner is Gloria Miller. Ms. Miller has indicated that she approves of the proposed use and is willing to accept the Conditional Use Permit to allow the use at the site.

### **Comprehensive Plan**

The Comprehensive Plan supports continuation of the existing Industrial Districts and uses while minimizing potential conflicts with adjacent residential and commercial districts. The uses at 100 and 102-7<sup>th</sup> Avenue will be surrounded by other industrial areas, and there will be no conflicts with residential or commercial uses. The proposed use is consistent with the Comprehensive Plan.

### **Dimensional Standards, Setbacks and Requirements**

The minimum lot size in the I-1 District is 30,000 square feet, the minimum lot depth is 200 feet, and the minimum lot width is 100 feet. The parcel at 100 7<sup>th</sup> Avenue is 1.46 acres in size (300'x250') and the parcel at 102 7<sup>th</sup> Avenue is .77 acres in size (200'x180').

The I-1 District setbacks requirements for buildings include the following:

- Front yard: 20 feet
- Side yard: 20 feet
- Rear yard: 20 feet

Parking lot setbacks include a 20-foot front setback and 5-foot rear and side yard setbacks. The parcels that will include the proposed uses meet the dimensional standard and setback requirements of the Zoning Ordinance.

### **Traffic**

The applicant is proposing to move existing uses from a neighboring property to the buildings at 100 and 102-7<sup>th</sup> Avenue. The change in location will not increase traffic to the area or change traffic patterns. Existing City streets (1<sup>st</sup> Street and 7<sup>th</sup> Avenue) have adequate capacity to continue to handle the traffic from the proposed uses.

### **Parking Requirements**

The Zoning Ordinance requires that off-street parking areas be improved with a durable and dustless surface and be graded to dispose of stormwater. Warehouse and Industrial Storage uses must provide 1 space for every 2 employees or one space for each 2,000 square feet of gross floor area. The storage building on the site includes approximately 5,000 square feet, and therefore requires 2-3 parking spaces. The parking area exceeds the ordinance requirement, and its surface meets the ordinance requirement.

### **Buildings**

No new buildings are proposed to accommodate the new uses on the site.



### **Accessory Structures**

The applicant is proposing to add a “hoop” structure to store salt and sand for the maintenance activities that are performed for the South Washington County School District. The structure is permitted by the Zoning Ordinance and covered storage is consistent with the District requirements. The applicant will need to obtain a building permit for the structure.

### **Exterior Storage**

The applicant indicated that he will store more of the vehicles on the site within the building at 100 7<sup>th</sup> Avenue rather than outside. He will also add a “hoop” structure to store the sand and salt at the site. The vehicles that will remain outside will not be visible from residential uses, and will be located in side and rear yards that are adjacent to other business and industrial uses. The applicant emphasized that the additional area for vehicle storage and the addition of the “hoop” structure will help to improve the neatness and appearance of the site. The proposed exterior storage meets the ordinance requirements.

### **Other Performance Standards**

The new use at the site will not affect how refuse is handled, the utility equipment on the site, or loading and service areas. No new lighting, landscaping, signage or fences are proposed. The site currently meets the ordinance requirements and will continue to do so if the new use is permitted.

### **Infrastructure and Public Services**

The addition of the new use at the site will not impact the stormwater generated at the site or impact City infrastructure or public services.

### **Hours of Operation**

The applicant indicated that the hours of operation at the site are generally from 7 a.m. to 7 p.m. during most of the year, and the site operates as needed during snow events in the winter in order to plow school district properties. The hours and use of the site will not impact adjacent residential or commercial uses.

### **EVALUATION OF THE REQUEST**

The Planner’s evaluation of the request based on the zoning ordinance criteria for CUP’s is as follows:

- *The proposed use is designated in Section 1330 of the development code as a conditional use in the appropriate zoning district.*

The proposed auto (vehicle) storage use is designated as a conditional use in the I-1 Zoning District.

- *The proposed use is consistent with the Newport Comprehensive Plan.*



The Comprehensive Plan supports the continuation of Industrial Uses in the designated districts within the City, as long as the use does not conflict with or negatively impact adjacent residential and commercial uses. There are no residential or commercial uses near the site that will be impacted by the proposed use.

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

The proposed use will not create noise, glare, odor, dust or other nuisances that could affect public health or welfare. It will not increase the danger of fire or other safety hazards, increase traffic, or increase parking on adjacent streets.

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

The properties surrounding the proposed use are industrial in nature, and the uses are similar to the proposed use, so it is unlikely to affect the value or aesthetics of the area. The use is consistent with the character of the surrounding neighborhood.

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

The proposed use is moving from an adjacent site, and will not create new impacts to governmental facilities and services. Existing infrastructure and City services are adequate to serve the site.

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

The proposed use will not require the creation of new impervious surfaces, and will not increase runoff or impacts to lakes, other surface waters or groundwater. The use will not impact slopes, floodplains or soils.

- *The City may also consider whether the proposed use complies or is likely to comply in the future with all standards and requirements set out in other regulations or ordinances of the City and other governmental bodies having jurisdiction in the city.*

The City has not proposed future changes in zoning or requirements for this area.

- *In permitting a new conditional use, the City may impose additional conditions which it considers necessary to protect the best interest of the surrounding area or community as a whole.*

Proposed conditions are identified in the recommendations, below.



### **ACTION REQUESTED FOR THE CUP REQUEST**

The Planning Commission should listen to public comments at the hearing scheduled on September 12, 2013, and can recommend for this application:

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

### **PLANNING STAFF RECOMMENDATIONS**

The Planner recommends that the Planning Commission recommend to the City Council the approval of the request for a Conditional Use Permit (CUP) for the Auto (vehicle) Storage Use of the site at 100 and 102-7<sup>th</sup> Avenue.

1. The use at the site shall be consistent with the application submitted to the City on July 30, 2013. The CUP shall include the storage of vehicles and equipment at the buildings located at 100 and 102 7<sup>th</sup> Avenue.
2. The applicant shall obtain a building permit from the City for the proposed “hoop” structure for storage of sand and salt.
3. The applicant shall pay all fees and escrows for this application.





Parcel ID: 0102722240015  
 Parcel Address:  
 100 7TH AVE, CITY OF NEWPORT

102-7th AVE  
 VEHICLE AND  
 EQUIPMENT  
 STORAGE

100 7th AVENUE  
 PROPOSED OFFICE  
 AND SHOP

910-1st ST.  
 J+J TEMP CONTROL CURRENT OFFICE

MAP FOR REFERENCE ONLY  
 NOT A LEGAL DOCUMENT

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

100 and 102 7<sup>th</sup> Avenue



# City of NEWPORT Planning Request Application

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

Application Date: 7-30-13 Public Hearing Date 09/12/13

## Applicant Information

Name: J + J - Temperature Control Telephone: 651-769-9564  
Mailing Address: 100 7th Ave / 910 - First St Telephone: 651-308-0099  
City/State/Zip: Newport, Mn 55055

## Property Owner Information

Name: M LORRA Meyers Telephone: 651 459-9101  
Mailing Address: 100 7th Ave Newport Telephone: \_\_\_\_\_  
City/State/Zip: Newport, Mn 55055

## Project Information

Location of Property: 100 7th Ave  
Legal Description of Property and P.I.D. #: 01-027.22.24.0016

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

- Comprehensive Plan Amendment \$500 or Actual Cost plus \$50 for Additional Staff Hours (10 Hr Min)
- Rezoning \$500 plus Escrow
- Zoning Amendment \$500
- Variance \$300 plus Escrow
- Conditional Use Permit
  - Residential \$300 plus Escrow
  - Commercial \$450 plus Escrow
- Subdivision Approval
  - Minor Subdivision \$300 plus Escrow and \$2,000 for Parkland Dedication Fee
  - Major Subdivision \$500 plus Escrow, \$50 per Lot, \$200 for Final Plat, and 10% of land value or fee for Parkland Dedication Fee
- Other: \_\_\_\_\_
- Applicable Zoning Code Chapter: \_\_\_\_\_
- Review by Engineer Cost: \_\_\_\_\_
- Total Cost: \_\_\_\_\_

The City of Newport requires that any developer or every person, company, or corporation that is seeking to commence construction or major alterations of a structure, and land subdivisions or lot combinations must first submit detailed site plans to the City. The person submitting site plans must also submit prepayment to the City to cover any expenses that the City incurs by investing extensive amounts of time reviewing these plans. Any funds in excess of those actually reimbursing the City for its expenses will be returned to the applicant upon completion of the project. The fees are as follows:

**Site Plan Review - Residential**

- 8 Units or Less \$2,000
- 9 to 40 Units \$3,200
- 41 Units or More \$4,500

**Site Plan Review - Commercial**

- 0 to 5,000 sq ft bldg \$2,000
- 5,001 to 10,000 sq ft bldg \$3,000
- 10,001 to 50,000 sq ft bldg \$3,750
- 50,001 sq ft plus bldg \$4,500

**Preliminary Plat**

- Under 10 Acres \$3,500
- Over 10 Acres \$6,500

**Present Use of Property:** Storage of Equipment - Trailers - Trucks.

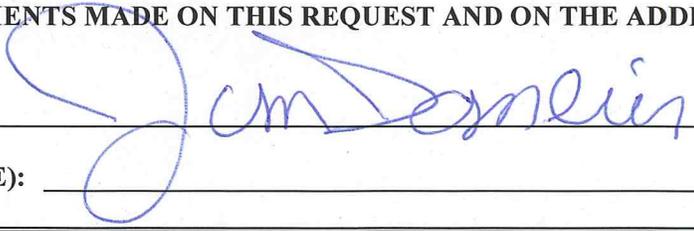
Have been at present location 15+ years

**State Reason for Planning Request:** Need to move dealer Licenses from

910 FAIST ST. Cost is too High for Rental  
to 100 7<sup>th</sup> Avenue, building #2.

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

I HEREBY DECLARE THAT ALL STATEMENTS MADE ON THIS REQUEST AND ON THE ADDITIONAL MATERIAL ARE TRUE.

SIGNATURE OF APPLICANT: \_\_\_\_\_ 

SIGNATURE OF OWNER (IF APPLICABLE): \_\_\_\_\_

For Office Use

Fee: \$450 Date Paid: 07/30/13 Receipt #: 1445

Publication of Notice Date: 08/28/13

Public Hearing Date: 09/12/13

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

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

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

**CITY OF NEWPORT  
PLANNING COMMISSION**

**NOTICE OF PUBLIC HEARING  
TO CONSIDER A REQUEST FOR A CONDITIONAL USE PERMIT**

Notice is hereby given that the Newport Planning Commission will hold a Public Hearing on Thursday, September 12, 2013, at 6:00 P.M. or as soon thereafter, in the City Hall Council Chambers at the Newport City Hall, 596 7<sup>th</sup> Ave., Newport, MN, to consider an application from J & J Temperature Control, 100 7<sup>th</sup> Avenue, Newport, MN 55055, for approval of a Conditional Use Permit. The request is for property located at 100 7<sup>th</sup> Avenue, Newport, MN 55055. The application is for a Conditional Use Permit to allow for outside storage of equipment.

**Said property is legally described as:**

**PID #01.027.22.24.0016**

THE SOUTH B= OF LOT 8 BLOCK 14 DIV #1 ST PAUL PARK LYING EAST OF THE ROAD COMMONLY KNOWN AS HASTINGS AVE & THE EASTERLY B= OF THE VACATED PORTION OF HASTINGS AVE LYING DIRECTLY ADJACENT TO THE SOUTH B= OF LOT 8 BLOCK 14 & LOTS 9 THRU 16 BLOCK 14 DIV #1 ST PAUL PARK INCLUDING THE VACATED STREET COMMONLY KNOWN AS HASTINGS AVE LYING WITHIN SAID LOTS & THE SOUTH B= OF LOT 8 BLOCK 14 DIV #1 ST PAUL PARK LYING WEST OF THE CENTER LINE OF THE VACATED ROAD COMMONLY KNOWN AS HASTINGS AVE & THAT CERTAIN ALLEY LYING BETWEEN LOTS 11 & 12 THRU LOT 16 BLOCK 14 DIV #1 ST PAUL PARK & THAT CERTAIN ALLEY LYING BETWEEN THE CHICAGO & QUINCY RAILROAD RIGHT-OF-WAY & THE EAST LINE OF LOT 12 BLOCK 14 DIV #1 ST PAUL PARK Block 14 Lot 8 SubdivisionCd 2674 SubdivisionName DIV #1 ST PAUL PARK Block 14 Lot 9 SubdivisionCd 2674 SubdivisionName DIV #1 ST PAUL PARK Block 14 Lot 10 SubdivisionCd 2674 SubdivisionName DIV #1 ST PAUL PARK Block 14 Lot 11 SubdivisionCd 2674 SubdivisionName DIV #1 ST PAUL PARK Block 14 Lot 12 SubdivisionCd 2674 SubdivisionName DIV #1 ST PAUL PARK Block 14 Lot 13 SubdivisionCd 2674 SubdivisionName DIV #1 ST PAUL PARK Block 14 Lot 14 SubdivisionCd 2674 SubdivisionName DIV #1 ST PAUL PARK Block 14 Lot 15 SubdivisionCd 2674 SubdivisionName DIV #1 ST PAUL PARK Block 14 Lot 16 SubdivisionCd 2674 SubdivisionName DIV #1 ST PAUL PARK

The Planning Request is governed under Chapter 13, Section 1310.10, Conditional Use Permit of the City Code of Ordinance.

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

Dated this 20<sup>th</sup> day of August, 2013

Deb Hill  
City Administrator

(Publish in the Washington County Bulletin Wednesday, August 28, 2013)

<b>Address/PID</b>	<b>Owner</b>	<b>Owner's Mailing Address</b>	<b>City, State Zip</b>
100 7th Avenue	Bam and Ram Inc	2444 River Rd	St. Croix Falls, WI 54025
901 1st Street	David Quade	905 1st Street	Newport, MN 55055
200 Hastings Avenue, St. Paul Park	David Quade	905 1st Street	Newport, MN 55055
101 7th Avenue	Markid Properties	10471 Barnes Avenue	Inver Grove Heights, MN 55077
01.027.22.31.0016	Markid Properties	10471 Barnes Avenue	Inver Grove Heights, MN 55077
01.027.22.24.0018	MB Tire	100 7th Avenue	Newport, MN 55055
01.027.22.24.0021	Richard Bruhn	18236 145th Avenue	Chippewa Falls, WI 54729
01.027.22.24.0013	St. Paul Park Refining Co	125 4th Avenue	Newport, MN 55055
01.027.22.24.0009	St. Paul Park Refining Co	1135 Glen Rd	Newport, MN 55055
01.027.22.31.0017	St. Paul Park Refining Co	125 4th Avenue	Newport, MN 55055
01.027.22.31.0019	St. Paul Park Refining Co	125 4th Avenue	Newport, MN 55055
01.027.22.31.0001	St. Paul Park Refining Co	125 4th Avenue	Newport, MN 55055
	St. Paul Park	600 Portland Avenue	St. Paul Park, MN 55071

**PLANNING COMMISSION  
RESOLUTION NO. P.C. 2013-8**

**A RESOLUTION RECOMMENDING THE NEWPORT CITY COUNCIL APPROVE A CONDITIONAL USE PERMIT REQUESTED BY J & J TEMPERATURE CONTROL, 100 7<sup>TH</sup> AVENUE, NEWPORT, MN 55055, FOR PROPERTY LOCATED AT 100 7<sup>TH</sup> AVENUE, NEWPORT, MN 55055**

**WHEREAS**, J & J Temperature Control, 100 7<sup>th</sup> Avenue, Newport, MN 55055, has submitted a request for a Conditional Use Permit to allow for outside storage of equipment; and

**WHEREAS**, the property is located at 100 7<sup>th</sup> Avenue, Newport, MN 55055 and is more fully legally described as follows:

**PID #01.027.22.24.0015** - LOTS 1 THRU 6 BLOCK 14 DIV #1 ST PAUL PARK Block 14 Lot 1 SubdivisionCd 2674 SubdivisionName DIV #1 ST PAUL PARK Block 14 Lot 2 SubdivisionCd 2674 SubdivisionName DIV #1 ST PAUL PARK Block 14 Lot 3 SubdivisionCd 2674 SubdivisionName DIV #1 ST PAUL PARK Block 14 Lot 4 SubdivisionCd 2674 SubdivisionName DIV #1 ST PAUL PARK Block 14 Lot 5 SubdivisionCd 2674 SubdivisionName DIV #1 ST PAUL PARK Block 14 Lot 6 SubdivisionCd 2674 SubdivisionName DIV #1 ST PAUL PARK

**PID #01.027.22.24.0018** - LOT 7 & THE NORTH 1/2 OF LOT 8 BLOCK 14 DIV #1 ST PAUL PARK INCLUDING THERIN THE PORTION FORMERLY OCCUPIED BY HASTINGS AVE NOW VACATED Block 14 Lot 7 SubdivisionCd 2674 SubdivisionName DIV #1 ST PAUL PARK Block 14 Lot 8 SubdivisionCd 2674 SubdivisionName DIV #1 ST PAUL PARK

**PID #01.027.22.24.0016** - THE SOUTH B= OF LOT 8 BLOCK 14 DIV #1 ST PAUL PARK LYING EAST OF THE ROAD COMMONLY KNOWN AS HASTINGS AVE & THE EASTERLY B= OF THE VACATED PORTION OF HASTINGS AVE LYING DIRECTLY ADJACENT TO THE SOUTH B= OF LOT 8 BLOCK 14 & LOTS 9 THRU 16 BLOCK 14 DIV #1 ST PAUL PARK INCLUDING THE VACATED STREET COMMONLY KNOWN AS HASTINGS AVE LYING WITHIN SAID LOTS & THE SOUTH B= OF LOT 8 BLOCK 14 DIV #1 ST PAUL PARK LYING WEST OF THE CENTER LINE OF THE VACATED ROAD COMMONLY KNOWN AS HASTINGS AVE & THAT CERTAIN ALLEY LYING BETWEEN LOTS 11 & 12 THRU LOT 16 BLOCK 14 DIV #1 ST PAUL PARK& THAT CERTAIN ALLEY LYING BETWEEN THE CHICAGO & QUINCY RAILROAD RIGHT-OF-WAY & THE EAST LINE OF LOT 12 BLOCK 14 DIV #1 ST PAUL PARK Block 14 Lot 8 SubdivisionCd 2674 SubdivisionName DIV #1 ST PAUL PARK Block 14 Lot 9 SubdivisionCd 2674 SubdivisionName DIV #1 ST PAUL PARK Block 14 Lot 10 SubdivisionCd 2674 SubdivisionName DIV #1 ST PAUL PARK Block 14 Lot 11 SubdivisionCd 2674 SubdivisionName DIV #1 ST PAUL PARK Block 14 Lot 12 SubdivisionCd 2674 SubdivisionName DIV #1 ST PAUL PARK Block 14 Lot 13 SubdivisionCd 2674 SubdivisionName DIV #1 ST PAUL PARK Block 14 Lot 14 SubdivisionCd 2674 SubdivisionName DIV #1 ST PAUL PARK Block 14 Lot 15 SubdivisionCd 2674 SubdivisionName DIV #1 ST PAUL PARK Block 14 Lot 16 SubdivisionCd 2674 SubdivisionName DIV #1 ST PAUL PARK

**WHEREAS**, The described property is zoned Light Industrial (I-1); and

**WHEREAS**, **Section 1310.10 Subd. 2 Criteria** states the criteria for acting upon a Conditional Use Permit (C.U.P.) application as follows: *“In acting upon an application for a conditional use permit, the City shall consider the effect of the proposed use upon the health, safety, and general welfare of the City including but not limited to the factors of noise, glare, odor, electrical interference, vibration, dust, and other nuisances; fire and safety hazards; existing and anticipated traffic conditions; parking facilities on adjacent streets and land; the effect on surrounding properties, including valuation, aesthetics and scenic views, land uses, character and integrity of the neighborhood; consistency with the Newport comprehensive plan; impact on governmental facilities and services, including roads, sanitary sewer, water and police and fire; effect on sensitive environmental features including lakes, surface and underground water supply and quality, wetlands, slopes flood plains and soils; and other factors as found relevant by the City. The City may also consider whether the proposed use complies or is likely to comply in the future with all standards and requirements set out in other regulations or ordinances of the City or other governmental bodies having jurisdiction over the City. In permitting a new conditional use or the alteration of an existing conditional use, the City may impose, in addition to the*

*standards and requirements expressly specified by this chapter, additional conditions which it considers necessary to protect the best interest of the surrounding area or the community as a whole.”; and*

**WHEREAS**, Following publication, posted, and mailed notice thereof, the Newport Planning Commission held a Public Hearing on September 12, 2013; and

**WHEREAS**, the Planning Commission’s findings related to the request for approval of a Conditional Use Permit include the following:

1. The proposed auto (vehicle) storage use is designated as a conditional use in the I-1 Zoning District.
2. The Comprehensive Plan supports the continuation of Industrial Uses in the designated districts within the City, as long as the use does not conflict with or negatively impact adjacent residential and commercial uses. There are no residential or commercial uses near the site that will be impacted by the proposed use.
3. The proposed use will not create noise, glare, odor, dust or other nuisances that could affect public health or welfare. It will not increase the danger of fire or other safety hazards, increase traffic, or increase parking on adjacent streets.
4. The properties surrounding the proposed use are industrial in nature, and the uses are similar to the proposed use, so it is unlikely to affect the value or aesthetics of the area. The use is consistent with the character of the surrounding neighborhood.
5. The proposed use is moving from an adjacent site, and will not create new impacts to governmental facilities and services. Existing infrastructure and City services are adequate to serve the site.
6. The proposed use will not require the creation of new impervious surfaces, and will not increase runoff or impacts to lakes, other surface waters or groundwater. The use will not impact slopes, floodplains or soils.
7. The City has not proposed future changes in zoning or requirements for this area.
8. Proposed conditions are identified in the recommendations, below.

**NOW, THEREFORE, BE IT FURTHER RESOLVED That** the Newport Planning Commission **Hereby Recommends Newport City Council Approval** for a Conditional Use with the following conditions:

1. The use at the site shall be consistent with the application submitted to the City on July 30, 2013. The CUP shall include the storage of vehicles and equipment at the buildings located at 100 and 102 7<sup>th</sup> Avenue.
2. The applicant shall obtain a building permit from the City for the proposed “hoop” structure for storage of sand and salt.
3. The applicant shall pay all fees and escrows for this application.

Adopted this 12th day of September, 2013 by the Newport Planning Commission.

VOTE: Lund	_____
Prestegaard	_____
Anderson	_____
Lindoo	_____
Mahmood	_____

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

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



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

## Memorandum

**To:** City of Newport Planning Commission      **Reference:** Domeier Variance Request

**Copies To:** Deb Hill, City Administrator      \_\_\_\_\_  
Renee Helm, Executive Assistant      \_\_\_\_\_  
Brian Domeier, applicant and property owner      \_\_\_\_\_

**From:** Sherri Buss, RLA AICP, Planner      **Routing:** \_\_\_\_\_

**Date:** September 3, 2013      \_\_\_\_\_

**Project No.:** 15258.006

**SUBJECT:** Domeier Variance Request

**MEETING DATE:** September 12, 2013

**LOCATION:** 615-8<sup>th</sup> Street

**APPLICANT:** Brian Domeier  
1040 10<sup>th</sup> Avenue  
Newport, MN

**OWNER:** Brian Domeier

**ZONING:** R-1 Low Density Single Family Residential

**60-DAY PERIOD:** October 17, 2013

**ITEMS REVIEWED:** Application Form, narrative, sketch plan and aerial photo

### BRIEF DESCRIPTION OF THE REQUEST

The applicant is requesting a variance from the required setback from the side property line to construct a garage 10 feet from the property line rather than the 30 feet required by the Zoning Ordinance. The property does not currently have a garage. It does have an existing driveway on 6<sup>th</sup> Avenue.

Analysis of the request indicates that construction of a two-car garage on the property would require a variance from the lot coverage standard in the R-1 zoning district.

## EVALUATION OF THE REQUEST

### ***Comprehensive Plan***

The property at 615-8<sup>th</sup> Street is located in the R-1 Low-Density Single-Family Residential District. The Comprehensive Plan generally supports the development of single-family residences and accessory structures in the R-1 District. The proposed use is consistent with the Comprehensive Plan.

### ***Development Code Requirements: Lot sizes and Setbacks***

The minimum lot size in the R-1 Zoning District is currently 9,100 square feet. The applicant's lot is 7,000 square feet in size, and is therefore a nonconforming lot.

The setback requirements in the R-1 Zoning District are as follows:

- Front yard setback: 30 feet
- Side yard setback for garages: 5 feet, or 30 feet on a corner lot
- Rear yard setback for garages: 5 feet

The applicant is requesting a variance to locate the garage 10 feet from the property boundary on 6<sup>th</sup> Street (side yard).

The City Engineer cited two issues related to the proposed variance request:

- A side yard setback would not allow for vehicles to be parked within the property on the driveway. A driveway that is at least 24 feet in length is needed to accommodate most vehicles. While there is city-owned right-of-way between the property line and 6<sup>th</sup> Street, the City does not allow parking on the right-of-way. The Engineer indicated that the garage should be setback at least 24 feet from the side lot line, rather than the 10 feet requested by the applicant, to allow for vehicle parking.
- The owner would need to locate the garage adjacent to the existing driveway, or remove the existing driveway. The City's standards permit one driveway per single-family parcel. The applicant will need to utilize the existing driveway to access the garage, or remove the existing driveway if the garage is placed in another location.

### ***Accessory Structure Requirements***

The Zoning Ordinance allows residential lots to have up to 2 accessory structures, and the total footprint of all accessory structures may be no larger than the footprint of the principal structure. (A residential lot may have at least 500 square feet of garage space, as long as the required setbacks and other code requirements are met.) The request proposes one accessory structure that is 576 square feet in size. The existing home on the property is approximately 960 square feet in size. The request meets the ordinance requirements for number and size of accessory structures.



### ***Building Height and Materials***

The application does not include a sketch or elevation that indicates the height of the proposed garage. Section 1340.04 of the Zoning Ordinance requires that no garage or accessory structure may be taller than the principal structure. The code also requires that accessory structure be compatible in materials and color to the principal structure. The Planner has included a condition for variance approval that the garage may be no taller than the principal structure, and must be constructed of durable, finished materials that are compatible to the exterior materials and color of the house.

### ***Lot Coverage***

The zoning ordinance allows a maximum lot coverage of 25% in the R-1 District. The analysis of proposed lot coverage for the variance request is as follows:

House (24'x40')	960 square feet
Garage (24'x24')	576 square feet
Driveway (24'x24')	<u>576 square feet</u>
TOTAL Coverage	2,112 square feet

The lot is 7,000 square feet in size. If a 576 square-foot garage is added, the impervious coverage on the lot would be approximately 30%. Construction of the proposed garage using the existing driveway or a similar single driveway would require a variance from the lot coverage requirement in the R-1 zoning district. The variance analysis that follows includes the lot coverage variance as well as the requested setback variance.

### ***Stormwater Management***

The Planner discussed the request for a variance from the coverage requirement with the City Engineer. The Engineer concluded that if the City grants the variance, it would not be practical to require stormwater management practices on the small parcel in order to mitigate for the additional lot coverage. Therefore, based on the Engineer's recommendation, the Planner has not included conditions related to stormwater management for the variance.

## **ORDINANCE REQUIREMENTS FOR EVALUATING A VARIANCE REQUEST**

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

- Granting the variance is consistent with the Comprehensive Plan, and in harmony with the general purposes and intent of the zoning ordinance.
- Strict enforcement of the zoning ordinance would result in "practical difficulties," which are defined as follows:
  - The property owner is proposing to use the property in a reasonable manner that is not permitted by the Zoning Ordinance.
  - The plight of the landowner is due to circumstances unique to the property and not created by the landowner.
  - Granting the variance will not alter the essential character of the locality.
  - Economic conditions alone shall not constitute the practical difficulties.
  - Granting the variance will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of public streets, or



- increase the danger of fire, or endanger public safety, or substantially diminish or impair property values within the neighborhood.
- The requested variance is the minimum action required to eliminate the practical difficulty.
- Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

### ***Findings***

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

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

The purpose of the R-1 District is to preserve, create and enhance areas for low-density single-family residential dwellings in areas identified in the Comprehensive Plan. The zoning ordinance permits garages and accessory structures in single-family residential districts. The requested variance is consistent with the Comprehensive Plan and in harmony with the general purposes of the development code.

- *The proposed use is reasonable.*

Single family homes and garages are permitted in the R-1 Zoning District. Garages are a near-necessity in Minnesota's climate. Therefore, the proposed use is a reasonable use.

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

The practical difficulties related to the addition of the garage are related to the small size of the existing lot. The owner/applicant did not create the size of the lot.

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

The home will remain a single-family residence. Adjacent properties have garages that are similar in size to the proposed garage. Granting the variance would not alter the essential character of the area.

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

The variance request is based on the small lot size, not on economic considerations.

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



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

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

The minimum variance that may be granted while meeting the City's standards is a variance to permit a new garage 24' from the side yard boundary. The proposed variance from the lot coverage requirements is the minimum variance needed to permit a two-car garage, driveway and the existing home. The proposed variance is the minimum action needed to eliminate the practical difficulty.

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

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

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

### **ACTION REQUESTED**

The Planning Commission can recommend to the City Council:

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

### **PLANNING STAFF FINDINGS AND RECOMMENDATIONS**

The Planner recommends that the Planning Commission recommend to the City Council approval of a variance for the property at 615 8<sup>th</sup> Street to construct a garage a minimum of 24 feet from the side property line on 6<sup>th</sup> Avenue, and to permit up to 30 percent lot coverage by impervious surfaces on the parcel.

The Planner finds the following:

1. The variance request is consistent with the Comprehensive Plan's goals to permit single-family uses in the R-1 zoning district, and in harmony with the general purposes of the Zoning Ordinance to permit single-family uses and garages in the R-1 district.
2. The proposed use is reasonable based on the Zoning Ordinance and the need for a garage due to the local climate.



3. The practical difficulties are related to the small size of the existing lot and were not created by the applicant.
4. Granting the variance would not alter the essential character of the area, which includes other single-family homes with similar garages.
5. The addition of the garage in the proposed location will not impair the supply of light or air to adjacent properties, increase street congestion, increase the danger of fire or endanger public safety, or impair property values within the neighborhood.
6. The variance is the minimum action needed to construct a garage on the parcel and eliminate the practical difficulty.
7. Granting the variance will not affect access to direct sunlight for solar energy systems.

The Planner recommends the following conditions:

1. The garage shall be a minimum of 24' from the side lot line along 6<sup>th</sup> Avenue and shall meet the other setback requirements of the code. The total impervious surface shall be a maximum of 30 percent of the parcel.
2. The Applicant shall obtain a building permit for the proposed garage.
3. One driveway is permitted on the parcel.
4. The garage shall be no taller than the principal structure, and shall be constructed of durable, finished materials that are compatible to the colors and materials used on the exterior of the home.
5. The applicant shall pay all fees and escrow associated with this application.



## Renee Helm

---

**From:** John Stewart [jstewart@msa-ps.com]  
**Sent:** Thursday, September 05, 2013 3:43 PM  
**To:** 'sherri.buss@tkda.com'; Renee Helm; Deb Hill  
**Subject:** Variance 615 6th Avenue  
**Attachments:** image001.jpg; image002.gif; document1.pdf; image003.emz; image004.png; image005.emz; image008.png; image009.png

Sherri/ Renee

We have reviewed the information that you supplied, concerning 615 6th Avenue.

I understand that the applicant Brian Domeier has requested a variance to allow the proposed garage to be located 10 feet back from the east right of way line on 8th Avenue.

Permitting a 10 foot setback does not provide sufficient distance to park a vehicle in front the garage without a portion of the parked vehicle occupying the City right of way between the property line and the edge of pavement.

The city boulevard on the eastern side of 6th Avenue in front of 615 6th Avenue is approximately 20 feet wide . Parking a Ford F150, which is 19 feet 4 inches long (232 inches) would overhang 10 feet on to the boulevard.

6th Avenue in front of the Elementary School is 28 - 32 feet wide. During drop off and pick up in the morning and afternoon 6th Avenue in front of 615 is a very congested roadway.

Parents park in the street and on boulevards on both sides of 6th Avenue waiting to pick up their kids.

During morning and afternoon school busses exit the Elementary School. The busses are scheduled to make immediate right or left turns in upon exiting the parking lot. It is not uncommon that parked cars restrict these turns to either only right or left turns.

Allowing driveway parking in the boulevard in front of 615 6th Avenue would make an already critical situation worse.

We note that there is one other property,780 6th Avenue, across from the elementary school that has a driveway onto 6th Avenue. We note that on this property the garage is set back at least 25 feet from the right of way. You will note that the set back on this property allows a utility truck to be parked in front of the garage without encroaching onto the City boulevard.

We called the So Washington County School Transportation Coordinator to collect information on traffic in front of the school Ms. White provided the attached email.

Please advise if you require further input on this issue.

[\[cid:image004.png@01CEAA4E.89763700\]](#)

[\[cid:image002.gif@01CEAA4A.9F9D96D0\]](#)

Thanks:

John Stewart, PE | Team Leader  
MSA Professional Services, Inc.  
(651) 226 8091

[\[cid:image009.png@01CEAA4E.89763700\]](#)

## Renee Helm

---

**From:** John Stewart [jstewart@msa-ps.com]  
**Sent:** Thursday, September 05, 2013 3:03 PM  
**To:** Renee Helm  
**Subject:** FW: Variance  
**Attachments:** image001.gif

Renee see attached

[\[cid:image001.gif@01CEAA49.107216D0\]](#)

Thanks:

John Stewart, PE | Team Leader  
MSA Professional Services, Inc.  
(651) 226 8091

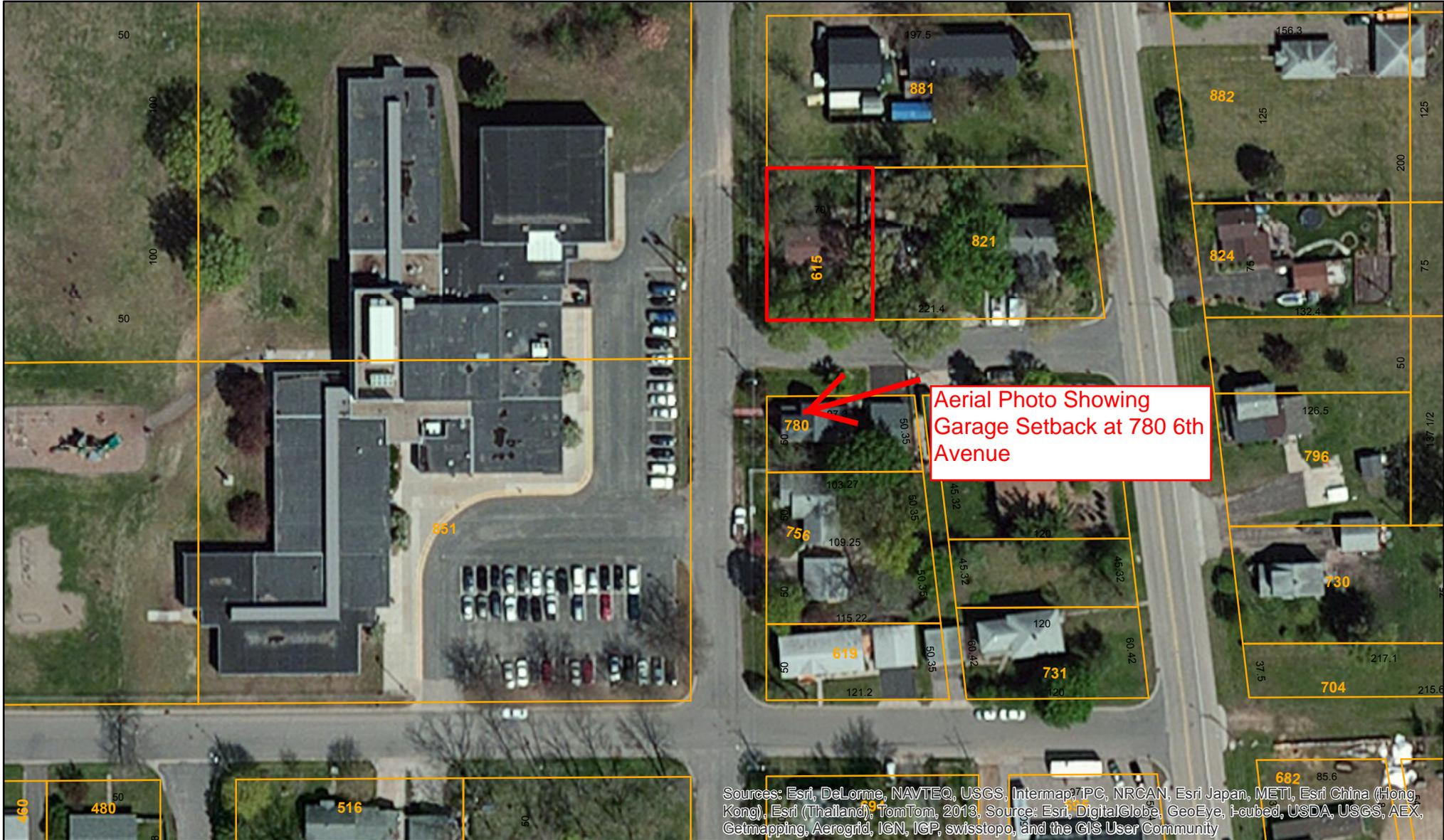
From: White, Emily [<mailto:EWhite@sowashco.k12.mn.us>]  
Sent: Thursday, September 05, 2013 2:58 PM  
To: John Stewart  
Subject: Variance

I understand that a house on 6th Ave was recently sold and the new owner is asking for a 20 foot variance to build a garage. This property is directly across the street from the exit/entrance to Newport Elementary school. I am the safety Manager for South Washington County Schools Transportation and I am writing to oppose this variance. When our buses exit the school it is a very difficult turn to go either direction. It can't be done without using the entire roadway. I would be very concerned if there is a building that close to the street with cars parked in the driveway at times. Thank you for your consideration to deny this request.

Emily White  
Transportation Safety/Special Education Manager Transportation  
Phone: 651-768-5311 Fax: 651-768-5313

[www.sowashco.k12.mn.us](http://www.sowashco.k12.mn.us)<<http://www.sowashco.k12.mn.us>>

ISD833: An east metro school district serving all or parts of the communities of Cottage Grove, Newport, St. Paul Park and Woodbury and Afton, Denmark and Grey Cloud Island Townships, Minnesota



Parcel ID: 3602822330021

Parcel Address:  
615 8TH ST, CITY OF NEWPORT

Created on 9/5/2013

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

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

615 8<sup>th</sup> Street



# City of NEWPORT Planning Request Application

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

Application Date: Aug 14, 2013 Public Hearing Date 09/12/13

## Applicant Information

Name: BRIAN DOMEIER Telephone: 651-398-8731  
Mailing Address: 1040 10<sup>TH</sup> AVENUE Telephone: \_\_\_\_\_  
City/State/Zip: NEWPORT, MN 55055

## Property Owner Information

Name: BRIAN DOMEIER Telephone: 651-398-8731  
Mailing Address: 1040 10<sup>TH</sup> AVENUE Telephone: \_\_\_\_\_  
City/State/Zip: NEWPORT, MN 55055

## Project Information

Location of Property: 615 8<sup>TH</sup> STREET NEWPORT, MN  
Legal Description of Property and P.I.D. #: PID # 3602822330021  
Browns Add to Newport PT of S 1/2 Block 011  
Being W 70 ft.

Zoning District: R1 Flood Plain: AE 0.2% Annual Chance Flood Hazard

- Comprehensive Plan Amendment \$500 or Actual Cost plus \$50 for Additional Staff Hours (10 Hr Min)
- Rezoning \$500 plus Escrow
- Zoning Amendment \$500
- Variance \$300 plus Escrow
- Conditional Use Permit
  - Residential \$300 plus Escrow
  - Commercial \$450 plus Escrow
- Subdivision Approval
  - Minor Subdivision \$300 plus Escrow and \$2,000 for Parkland Dedication Fee
  - Major Subdivision \$500 plus Escrow, \$50 per Lot, \$200 for Final Plat, and 10% of land value or fee for Parkland Dedication Fee
- Other: \_\_\_\_\_
- Applicable Zoning Code Chapter: \_\_\_\_\_
- Review by Engineer Cost: \_\_\_\_\_
- Total Cost: \_\_\_\_\_

The City of Newport requires that any developer or every person, company, or corporation that is seeking to commence construction or major alterations of a structure, and land subdivisions or lot combinations must first submit detailed site plans to the City. The person submitting site plans must also submit prepayment to the City to cover any expenses that the City incurs by investing extensive amounts of time reviewing these plans. Any funds in excess of those actually reimbursing the City for its expenses will be returned to the applicant upon completion of the project. The fees are as follows:

**Site Plan Review - Residential**

- 8 Units or Less \$2,000
- 9 to 40 Units \$3,200
- 41 Units or More \$4,500

**Site Plan Review - Commercial**

- 0 to 5,000 sq ft bldg \$2,000
- 5,001 to 10,000 sq ft bldg \$3,000
- 10,001 to 50,000 sq ft bldg \$3,750
- 50,001 sq ft plus bldg \$4,500

**Preliminary Plat**

- Under 10 Acres \$3,500
- Over 10 Acres \$6,500

**Present Use of Property:** Single family home there -  
without a garage.

**State Reason for Planning Request:** To improve the city of Newport by  
adding a garage to a property where vehicles have been  
parked outside for years. To add value to this property &  
the city. This Variance will allow this property & its  
family living here in Newport to have a garage & a  
back yard. Without the Variance the garage will  
destroy the back yard, as it would sit almost in the  
middle of the back yard. This Variance is a benefit  
to the city and the property owner, with  
zero negative effects.

The Variance would be to set the garage  
back 10 feet instead of 30 feet.

No neighbors are along this street section & no one  
would be negatively impacted.

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

I HEREBY DECLARE THAT ALL STATEMENTS MADE ON THIS REQUEST AND ON THE ADDITIONAL MATERIAL ARE TRUE.

SIGNATURE OF APPLICANT: Brian Domercq

SIGNATURE OF OWNER (IF APPLICABLE): Brian Domercq

For Office Use

Fee: \$300 + \$500 escrow Date Paid: 08/14/13 Receipt #: 1500; 1504

Publication of Notice Date: 08/28/13

Public Hearing Date: September 12, 2013

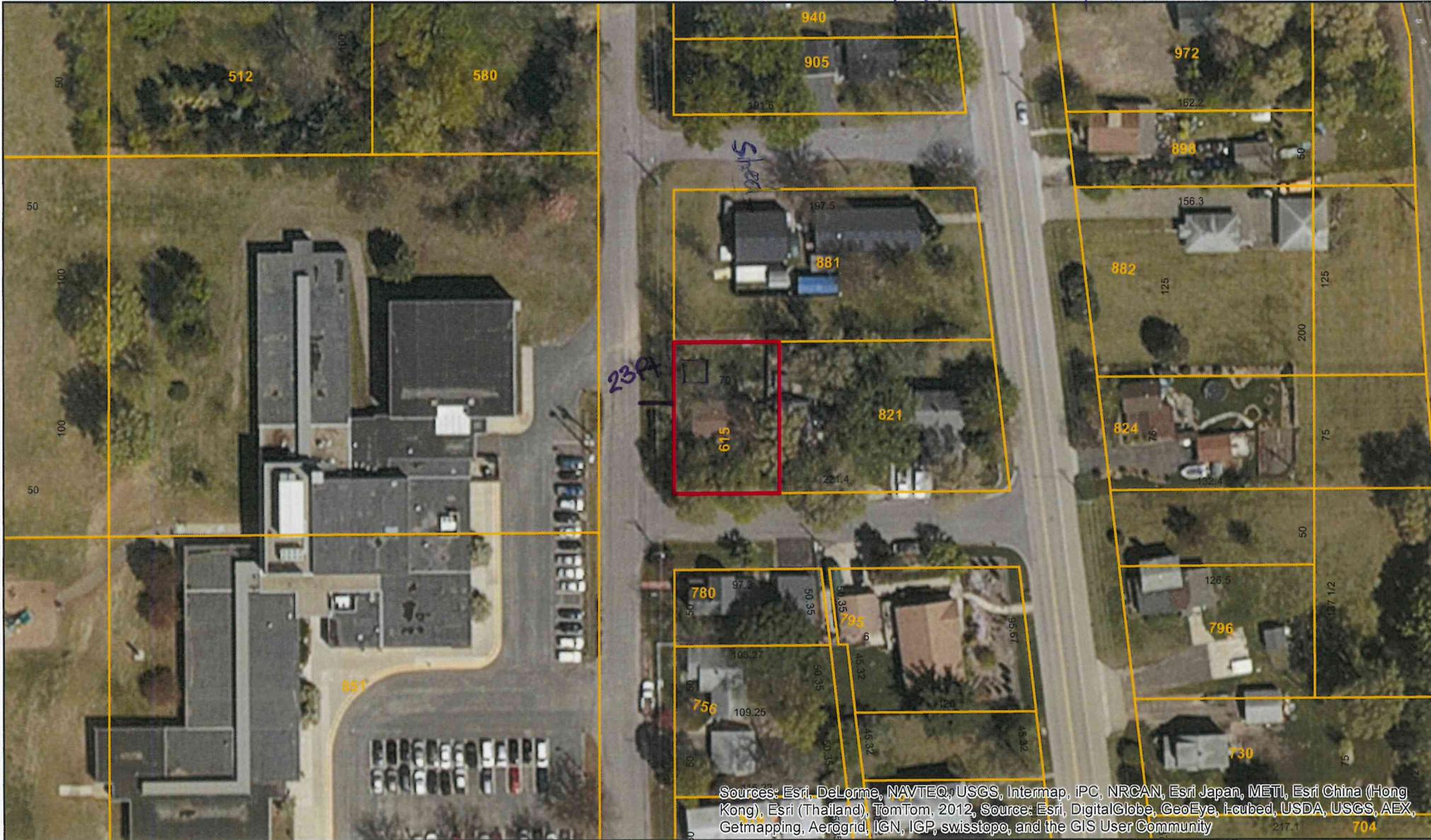
P.C. Resolution #: \_\_\_\_\_

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

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

Ja

1 driveway/lot



Sources: Esri, DeLorme, NAVTEQ, USGS, Intermap, iPC, NRCAN, Esri Japan, METI, Esri China (Hong Kong), Esri (Thailand), TomTom, 2012, Source: Esri, DigitalGlobe, GeoEye, i-cubed, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community

Parcel ID: 3602822330021  
 Parcel Address:  
 615 8TH ST, CITY OF NEWPORT

May 20 for June 13 P.C. Meeting

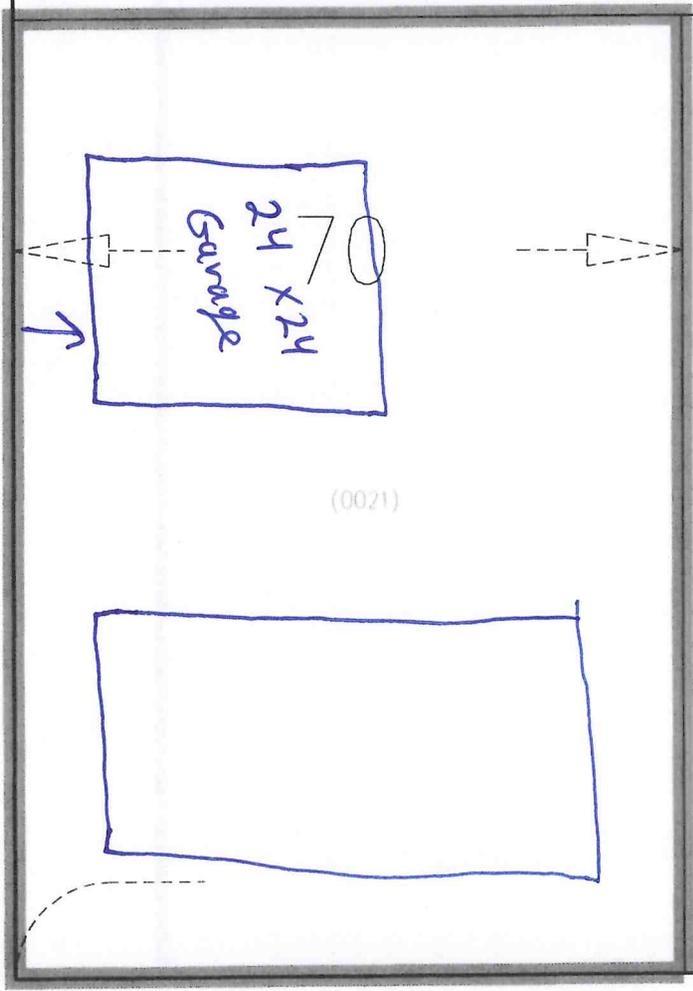
MAP FOR REFERENCE ONLY  
 NOT A LEGAL DOCUMENT

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

1.

221.4

8TH S1



(0021)

50

set back 10 feet vs 30  
 Variance needed because it's  
 A corner lot.

6th Street

**CITY OF NEWPORT  
PLANNING COMMISSION**

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

Notice is hereby given that the Newport Planning Commission will hold a Public Hearing on Thursday, September 12, 2013, at 6:00 P.M. or as soon thereafter, in the City Hall Council Chambers at the Newport City Hall, 596 7<sup>th</sup> Ave., Newport, MN, to consider an application from Brian Domeier, 1040 10<sup>th</sup> Avenue, Newport, MN 55055, for approval of a Variance. The request is for property located at 615 8<sup>th</sup> Street, Newport, MN 55055. The application is for a side yard setback variance.

**Said property is legally described as:**

**PID #36.028.22.33.0021**

PT OF S1/2 BLOCK 011 BEING W 70 FT THEREOF SubdivisionName BROWN'S ADD TO  
NEWPORT SubdivisionCd 54175

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

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

Dated this 20<sup>th</sup> day of August, 2013

Deb Hill  
City Administrator

(Publish in the Washington County Bulletin Wednesday, August 28, 2013)

Address/PID	Owner	Owner's Mailing Address	City, State Zip
695 7th Avenue	Cary Kissner	695 7th Avenue	Newport, MN 55055
36.028.22.33.0005	Chao Yang	796 7th Avenue	Newport, MN 55055
796 7th Avenue	Chao Yang	796 7th Avenue	Newport, MN 55055
795 7th Avenue	Debra Sanchez	795 7th Avenue	Newport, MN 55055
972 7th Avenue	Doug Scofield	1124 Holley Avenue	St. Paul Park, MN 55071
619 7th Street	Elizabeth Rottman	619 7th Street	Newport, MN 55055
756 6th Avenue	Jillian Wiebusch	756 6th Avenue	Newport, MN 55055
940 6th Avenue	Joel Munson	940 6th Avenue	Newport, MN 55055
580 10th Street	Kathleen Bausch	1503 Larpenteur Avenue	North St. Paul, MN 55109
730 7th Avenue	Keli Schiprett	730 7th Avenue	Newport, MN 55055
780 6th Avenue	Laura Borndale	780 6th Avenue	Newport, MN 55055
999 7th Avenue	Mark and Sarah McKenzie	999 7th Avenue	Newport, MN 55055
704 7th Avenue	MnDot	395 John Ireland Blvd	St. Paul, MN 55155
36.028.22.33.0022	Newport Elementary	851 6th Avenue	Newport, MN 55055
851 6th Avenue	Newport Elementary	851 6th Avenue	Newport, MN 55055
824 7th Avenue	Pamela and Kevin Larson	824 7th Avenue	Newport, MN 55055
881 7th Avenue	Philip and Joanne Broman	881 7th Avenue	Newport, MN 55055
36.028.22.33.0031	Phyllis Schilling	731 7th Avenue	Newport, MN 55055
731 7th Avenue	Phyllis Schilling	731 7th Avenue	Newport, MN 55055
898 7th Avenue	Raul Campos	898 7th Avenue	Newport, MN 55055
905 7th Avenue	Raymond and Marcia Hopp	905 7th Avenue	Newport, MN 55055
882 7th Avenue	Robert Vanzee	1641 Edwards Avenue E	South St. Paul, MN 55075
512 10th Street	Steven Haugse	512 10th Street	Newport, MN 55055
694 6th Avenue	Todd and Susan Peterson	694 6th Avenue	Newport, MN 55055
821 7th Avenue	Wade Glasgow	821 7th Avenue	Newport, MN 55055

**PLANNING COMMISSION  
RESOLUTION NO. P.C. 2013-9**

**A RESOLUTION RECOMMENDING CITY COUNCIL APPROVE A VARIANCE REQUESTED BY BRIAN DOMEIER, 1040 10<sup>TH</sup> AVENUE, NEWPORT, MN 55055, FOR PROPERTY LOCATED AT 615 8<sup>TH</sup> STREET, NEWPORT, MN 55055**

**WHEREAS**, Brian Domeier, 1040 10<sup>th</sup> Avenue, Newport, MN 55055, has submitted a request for a Variance; and

**WHEREAS**, the property is located at 615 8<sup>th</sup> Street, Newport, MN 55055, and is more fully legally described as follows:

**PID #36.028.22.33.0021 - PT OF S1/2 BLOCK 011 BEING W 70 FT THEREOF SubdivisionName BROWN'S ADD TO NEWPORT SubdivisionCd 54175**

**WHEREAS**, The described property is zoned Low Density Single Family Residential (R-1); and

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

**WHEREAS**, Following publication, posted, and mailed notice thereof, the Newport Planning Commission held a Public Hearing on September 12, 2013; and

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

1. The variance request is consistent with the Comprehensive Plan's goals to permit single-family uses in the R-1 zoning district, and in harmony with the general purposes of the Zoning Ordinance to permit single-family uses and garages in the R-1 district.
2. The proposed use is reasonable based on the Zoning Ordinance and the need for a garage due to the local climate.
3. The practical difficulties are related to the small size of the existing lot and were not created by the applicant.
4. Granting the variance would not alter the essential character of the area, which includes other single-family homes with similar garages.
5. The addition of the garage in the proposed location will not impair the supply of light or air to adjacent properties, increase street congestion, increase the danger of fire or endanger public safety, or impair property values within the neighborhood.
6. The variance is the minimum action needed to construct a garage on the parcel and eliminate the practical difficulty.
7. Granting the variance will not affect access to direct sunlight for solar energy systems.

**NOW, THEREFORE, BE IT FURTHER RESOLVED That** the Newport Planning Commission **Hereby Recommends Newport City Council Approval** for a Variance with the following conditions:

1. The garage shall be a minimum of 24' from the side lot line along 6<sup>th</sup> Avenue and shall meet the other setback requirements of the code. The total impervious surface shall be a maximum of 30 percent of the parcel.
2. The Applicant shall obtain a building permit for the proposed garage.
3. One driveway is permitted on the parcel.
4. The garage shall be no taller than the principal structure, and shall be constructed of durable, finished materials that are compatible to the colors and materials used on the exterior of the home.
5. The applicant shall pay all fees and escrow associated with this application.

Adopted this 12th day of September, 2013 by the Newport Planning Commission.

VOTE: Lund	_____
Prestegaard	_____
Anderson	_____
Lindoo	_____
Mahmood	_____

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

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



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

## Memorandum

<b>To:</b>	Newport Planning Commission	<b>Reference:</b>	Kim L. Brown Conditional Use Permit and Variance Request
<b>Copies To:</b>	Deb Hill, City Administrator Renee Helm, Executive Analyst Kim L. Brown, Applicant	<b>Project No.:</b>	15258.007
<b>From:</b>	Sherri Buss, RLA AICP, Planner	<b>Routing:</b>	
<b>Date:</b>	September 4, 2013		

**SUBJECT:** Kim L. Brown Conditional Use Permit (CUP) and Variance Request for an Accessory Structure

**MEETING DATE:** September 12, 2013

**LOCATION:** 1675 Kolff Street

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

**ZONING:** Residential Estate (RE) and Bluffland Overlay District

**60-DAY PERIOD:** October 17, 2013

**ITEMS REVIEWED:** Application, sketch plan, building plan, aerial photo, revised plan submitted on September 5, 2013

### BRIEF DESCRIPTION OF THE REQUEST

The applicant is requesting a Conditional Use Permit (CUP) and a Variance to add a 60'x156' pole building to the property at 1675 Kolff Street. The building will include space for a barn, hay storage and office. The size of the structure requires a CUP in the Residential Estates (RE) District. The applicant is proposing a 50-foot setback from the side lot line rather than the required 100-foot setback in order to avoid a building location on the steep slopes on the property. The parcel is 8.76 acres in size.

This staff report analyzes the Conditional Use Permit request, followed by the analysis of the Variance request.

## **EVALUATION OF THE CONDITIONAL USE PERMIT (CUP) REQUEST**

The property at 1675 Kolff Street is located in the Residential Estate (RE) District. The City's Zoning Ordinance indicates that the intent and primary uses of the RE District include "residential areas without public utilities; preserving lands in their natural state for agricultural uses pending provision of public utilities, and preserving and extending areas for single-family dwellings at very low densities."

Section 1310.10 of the code indicates that the city may grant a CUP when the use is consistent with the Zoning Ordinance and Comprehensive Plan, and the City may impose conditions and safeguards to protect the health, safety, and welfare of the community. Criteria for evaluating the proposed uses and conditions for a CUP include the following:

- The proposed use is designated as a conditional use in the appropriate zoning district.
- The proposed use is consistent with the Newport Comprehensive Plan.
- The proposed use will not be detrimental to or endanger the public health, safety or general welfare of the City, including the factors of noise, glare, odor, electrical interference, vibration, dust, and other nuisances; fire and safety hazards; existing and anticipated traffic conditions and parking facilities on adjacent streets and land.
- The potential effects of the proposed use on surrounding properties, including valuation, aesthetics and scenic views, land uses, and character and integrity of the neighborhood.
- The potential impacts of the proposed use on governmental facilities and services, including roads, sanitary sewer, water and police and fire.
- The potential impacts on sensitive environmental features, including lakes, surface and underground water supply and quality, wetlands, slopes, floodplains and soils.
- The City may also consider whether the proposed use complies or is likely to comply in the future with all standards and requirements set out in other regulations or ordinances of the City and other governmental bodies having jurisdiction in the city.
- In permitting a new conditional use, the City may impose additional conditions which it considers necessary to protect the best interest of the surrounding area or community as a whole.

Additional conditions apply for a CUP for large accessory structures in the RE Zoning District. Section 1340.04 of the zoning ordinance indicates that approval of a Conditional Use Permit is required for accessory structures have a larger footprint than 2,000 square feet in the RE District. The following additional conditions must be satisfied to obtain the CUP for the accessory structure:

- The parcel shall not be re-platted, split or subdivided so that it results in a lot size of less than 3 acres without first removing or altering the structure so that it conforms to the standards in the zoning ordinance.
- The site must demonstrate that the accessory structure(s) does not encroach upon existing septic systems, and that an alternative septic system area is protected.
- Plantings consisting of a combination of trees and shrubs shall be installed within the setback area providing a buffer between the accessory structure and future development on adjacent properties.



- The accessory structure shall not be placed closer to the public right-of-way that constitutes the front yard of the parcel than the primary structure unless the structure is completely screened from public view by natural vegetation including trees and shrubbery.
- The structure must meet the other requirements of Section 1340.04 apply, including:
  - Compatibility of the structure with the primary structure.
  - Additional setback requirement of 1 foot of setback beyond the standard front and side yard setbacks, up to a total maximum setback of 100 feet, for every 40 square feet of area over 2,000 square feet of area in garages or accessory structures on the lot. The rear yard setback shall have a maximum of 50 feet.
  - Additional setback for structure height of 2 feet of setback beyond the minimum required for front, side or rear yard setbacks for every 1 foot of height of the eave line over 8 feet.
  - All door openings must be 8 feet in height or less, except one door opening on one accessory structure per lot may be a maximum height of 12 feet. Door openings over 8 feet shall be turned perpendicular to the front lot line, or must be set back an additional 10 feet for every 1 foot of door opening over 8 feet.

The staff analysis of the CUP request is as follows:

### **Proposed Uses—Zoning Ordinance**

The applicant is proposing to add a pole building on the property that will be 60'x156' in size (9360 square feet). The building will be an accessory building to the existing primary structure (house) on the parcel. Single-family residential units and accessory structures are permitted uses in the RE Zoning District.

### **Comprehensive Plan**

The Comprehensive Plan supports continuation of the low-density single-family residential uses in the RE District, with a minimum lot size of 2 acres. The plan places a priority on natural resource protection in this area, including bluffs and existing woodlands.

The applicant is proposing a location that will utilize an existing flat area and avoid the bluffs and steep slopes on the property. The proposed location will also preserve most of the existing woodlands that provide screening for the proposed building. The applicant is requesting a variance to permit a side setback of 50 feet rather than 100 feet in order to avoid disturbing the slopes and bluffs. The location of steep slopes and bluffs is identified with arrows on the site plan, and the bluff line on the property is identified on the City's zoning map. The proposed use is consistent with the goals for uses in the RE District proposed in the Comprehensive Plan. The proposed location is consistent with Comprehensive Plan goals to protect bluffs, slopes and existing woodlands.

### **Dimensional Standards, Setbacks and Requirements**

The minimum lot size in the RE District is 2 acres. The 8.76 parcel meets the ordinance requirement.



The RE District general setback requirements for accessory buildings include: Front yard: 40 feet, side yard: 40 feet, and rear yard: 10 feet. Section 1340.04 includes additional setback requirements for accessory structures that have a footprint larger than 2000 square feet, as noted above. The proposed building is 9,360 square feet in size, and therefore requires a front setback of 100 feet, a side setback of 100 feet and a rear yard setback of 50 feet. (This maximum setback includes the additional setback for building size and structure height identified in the criteria in Section 1340.04)

The applicant's original site plan included the following setbacks: Front: approximately 735'; Rear: approximately 150'; Side: 10'.

The Planner contacted the applicant to request that the plan be revised to meet the 100-foot side setback requirement for large structures in the RE District. The applicant attempted to revise the proposed building location to include the required 100' setback from the side lot line. However, if the building were setback 100' from the northern parcel boundary (side setback) and separated a reasonable distance from the existing home, it would impact the steep slopes on the west side of the property. The applicant is therefore requesting a variance to allow the accessory structure to be located approximately 50 feet from the northern parcel boundary (side setback) on an existing flat location, to avoid the existing buildings and the steep slopes on the property, and has submitted a revised plan showing the proposed location of the structure with a 50' side setback.

The proposed setbacks for the revised building location include the following: Front: approximately 640'; Rear: approximately 200'; side: 50'. The proposed side setback requires a variance. The analysis of the variance request follows the CUP findings.

The RE District has no lot coverage standard.

### **Proposed Building—Criteria for Accessory Structures in the RE District**

Residential lots may have two accessory structures. Accessory structures may not be taller than the primary structure, and must be compatible with the primary structure. In the RE District, the footprint of accessory structures may be greater than the footprint of the primary structure if the accessory structures meet the requirements identified in 1340.04. The analysis of the proposed structure in relation to the code requirements for accessory buildings is as follows:

- The applicant's parcel has an existing accessory structure as indicated on the revised plan. The proposed pole barn will be the second accessory structure on the property, and is consistent with the ordinance requirement.
- The proposed building will be approximately 19' in height based on the definition of building height in the City's ordinance. The applicant indicated that the height of the primary structure (house) is approximately 25' (two stories). The proposed conditions require that the accessory structure may not be taller than the primary structure (home). The height of the house and relationship to the accessory structure must be verified before a building permit may be issued.



- The zoning ordinance requires that “all accessory structures of any size shall be constructed of durable, finished materials and shall be compatible in color to the principal structure. All accessory structure over one hundred fifty (150) square feet in area shall be compatible with the principal structure in terms of design, roof style, roof pitch, color and exterior finish materials.”

The applicant is proposing a pole building that will be the same color as the existing home. Both the home and structure have gable roofs. The exterior material of the pole building will be steel. The RE District supports agricultural use of the large lots in the District, and pole buildings are typical building types for agricultural uses. The Planning Commission should discuss whether the proposed building color and design are sufficient to meet the ordinance requirement for compatibility with the primary structure.

- The plan indicates that the footprint of the proposed accessory structure will be larger than the footprint of the existing house. Therefore, the structure must meet the requirements of Section 1340.04, as follows (Requirements in standard type; Planner’s evaluation in *italics*):
  - The parcel shall not be re-platted, split or subdivided so that it results in a lot size of less than 3 acres without first removing or altering the structure so that it conforms to the standards in the zoning ordinance. *The Planner included a condition for approval of the CUP that prohibits subdivision resulting in a lot size of less than 3 acres in the proposed conditions.*
  - The site must demonstrate that the accessory structure(s) do not encroach upon existing septic systems and that an alternative septic system area is protected. *The revised plan indicates the locations of the existing septic system and alternative drainfield. The proposed structure does not encroach on those structures..*
  - Plantings consisting of a combination of trees and shrubs shall be installed within the setback area providing a buffer between the accessory structure and future development on adjacent properties. *The property is heavily wooded. If a 50’ setback and existing vegetation are maintained on the north side of the property, the building will be buffered from future development on adjacent properties. The adjacent property to the north is a City-owned property and is unlikely to be developed. The Planning Commission may recommend additional plantings if members believe that additional screening is needed.*
  - The accessory structure shall not be placed closer to the public right-of-way that constitutes the front yard of the parcel than the primary structure unless the structure is completely screened from public view by natural vegetation including trees and shrubbery. *The proposed location is not closer to the right-of-way than the existing home.*
  - Compatibility of the structure with the primary structure. *The applicant indicated that she will paint the pole barn the same color as the house. Both structures will have gable-style roofs.*



- Additional setback requirement of 1 foot of setback beyond the standard front and side yard setbacks, up to a total maximum setback of 100 feet, for every 40 square feet of area over 2,000 square feet of area in garages or accessory structures on the lot. The rear yard setback shall have a maximum of 50 feet. The applicant is requesting a variance to allow a side setback of 50 feet. The proposed front and rear setbacks meet the ordinance requirement.
- Additional setback for structure height of 2 feet of setback beyond the minimum required for front, side or rear yard setbacks for every 1 foot of height of the eave line over 8 feet. This is included in the requested 50-foot setback. The other setbacks meet the requirement.
- All door opening must be 8 feet in height or less, except one door opening on one accessory structure per lot may be a maximum height of 12 feet. Door openings over 8 feet shall be turned perpendicular to the front lot line, or must be set back an additional 10 feet for every 1 foot of door opening over 8 feet. The applicant is proposing 2 doors, each approximately 10 feet in height, on the narrow ends of the building. The proposed front and rear setbacks meet the requirement for an additional setback to accommodate the taller doors.

### **Evaluation of the General Criteria for CUP's**

The Planner's evaluation of the request based on the general zoning ordinance criteria for CUP's (Section 1310.10) is as follows:

- *The proposed use is designated in the development code as a conditional use in the appropriate zoning district.*

Section 1340.04 of the Zoning Ordinance requires that accessory structures larger than 2,000 square feet in size on lots of 3 acres or larger in the RE District obtain a Conditional Use Permit.

- *The proposed use is consistent with the Newport Comprehensive Plan.*

The Comprehensive Plan supports the continuation of large lot single-family residences in the RE District, and supports the protection of bluffs and woodlands in the area. The proposed building location will avoid impacts to the existing bluff, slopes and significant woodland areas.

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

The proposed use will not create noise, glare, odor, dust or other nuisances that could affect public health or welfare. It will not increase the danger of fire or other safety hazards, increase traffic, or increase parking on adjacent streets.



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

The Planning Commission should listen to comments at the Public Hearing regarding potential impacts to neighboring properties. If the required setbacks are implemented and woodland areas are preserved, the new building should not be visible or have impacts on neighboring properties.

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

Existing infrastructure and City services are adequate to serve the site.

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

The proposed building is setback from the bluffs to the west and is not located in a floodplain. The new building will not impact surface or ground waters.

- *The City may also consider whether the proposed use complies or is likely to comply in the future with all standards and requirements set out in other regulations or ordinances of the City and other governmental bodies having jurisdiction in the city.*

The City has not proposed future changes in zoning or requirements for this area.

- *In permitting a new conditional use, the City may impose additional conditions which it considers necessary to protect the best interest of the surrounding area or community as a whole.*

Proposed conditions are identified in the recommendations that follow the Variance evaluation.

## **ORDINANCE REQUIREMENTS FOR EVALUATING A VARIANCE REQUEST**

The applicant is requesting a variance from the required 100' side yard setback for a large accessory structure in the RE District to allow a 50' side yard setback. The applicant's rationale is that a location that would satisfy the ordinance requirement and avoid existing buildings and structures would impact the steep slopes on the property. The proposed location is an existing flat area. Existing vegetation would be preserved along the side setback to provide screening from adjacent properties. The adjacent property along this setback is a city-owned parcel that is unlikely to be developed.

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

- Granting the variance is consistent with the Comprehensive Plan, and in harmony with the general purposes and intent of the zoning ordinance.
- Strict enforcement of the zoning ordinance would result in "practical difficulties," which are defined as follows:



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

### **Evaluation of the Variance Request**

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

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

The purpose of the RE District is to preserve and create areas for large-lot single-family residential development, while protecting natural resources such as bluffs, steep slopes and woodlands. The variance from the required side yard setback is requested to avoid building on steep slopes on the west side of the property. The applicant will preserve existing vegetation along the side boundary to provide a visual screen. The property to the north is owned by the City, and is unlikely to be developed, so the reduced setback to the north will not affect an adjacent residential property. The requested variance is consistent with the Comprehensive Plan and in harmony with the general purposes of the development code.

- *The proposed use is reasonable.*

Single family homes and accessory structures are permitted in the R-1 Zoning District. Agricultural uses are support in the RE District. Therefore, the proposed use is a reasonable use.

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

The practical difficulties relate to the location of existing steep slopes and bluffs, and the existing home and structures on the property. The owner did not create the practical difficulties.

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



The home will remain a single-family residence. Adjacent properties also have large accessory structures. The structure will be screened from view from neighboring properties by existing woodlands. Granting the variance would not alter the essential character of the area.

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

The variance request is based on the location of steep slopes and existing structures, not on economic considerations.

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

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

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

The 50-foot setback will maintain a significant separation from the property to the north and preserve existing vegetation as a screen, prevent impacts to steep slopes, and provide for a reasonable separation from the house and the pole barn. The proposed variance is the minimum action needed to eliminate the practical difficulty.

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

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

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

## **FINDINGS**

### **CUP**

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

1. The proposed use requires a Conditional Use Permit in the RE District based on the size of the structure.
2. The proposed single-family use is consistent with the Comprehensive Plan. The proposed building location will avoid steep slopes and existing woodlands on the



parcel, and is consistent with Comprehensive Plan goals to protect natural resources in the RE District

3. The proposed structure will not create noise, glare, odor, dust or nuisances that could affect public health or welfare. It will not increase create safety hazards, traffic congestion or parking on adjacent streets.
4. The proposed setbacks and existing vegetation will mitigate potential impacts to neighboring properties and maintain the character of the neighborhood.
5. Existing infrastructure and City services are adequate to serve the proposed use of the property.
6. The proposed building setback and location will protect sensitive environmental features including the bluffs and existing woodlands.
7. The City has not proposed future changes in zoning or requirements for the area that would impact this use.
8. With the proposed conditions and if the requested side setback variance is granted, the structure will comply with the requirements of Section 1340.04 of the zoning ordinance for large accessory structures in the RE District.

### **Variance**

1. The requested variance will protect steep slopes and existing vegetative screening, and is consistent with the goals of the Comprehensive Plan and in harmony with the general purposes of the Zoning Ordinance
2. The proposed use is permitted in the RE District and is a reasonable use.
3. The practical difficulties are related to the location of steep slopes on the property and the location of existing structures. The owner did not create the practical difficulties.
4. Granting the variance will not alter the essential large-lot single-family residential character of the area.
5. The variance request is based on the location of steep slopes and existing structures, and not solely on economic considerations.
6. The structure will not impair the supply of light or air to adjacent properties, increase street congestion, increase the danger of fire or endanger public safety, or impair property values within the neighborhood.
7. The 50-foot setback will maintain a significant separation from adjacent parcels while avoiding steep slopes and existing structures. The proposed variance is the minimum action needed to eliminate the practical difficulty.
8. Granting the variance request will not affect access to direct sunlight for solar energy systems.

### **ACTION REQUESTED FOR THE CUP REQUEST**

The Planning Commission should listen to public comments at the hearing scheduled on September 12, 2013, and can recommend any of the following for this application:

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

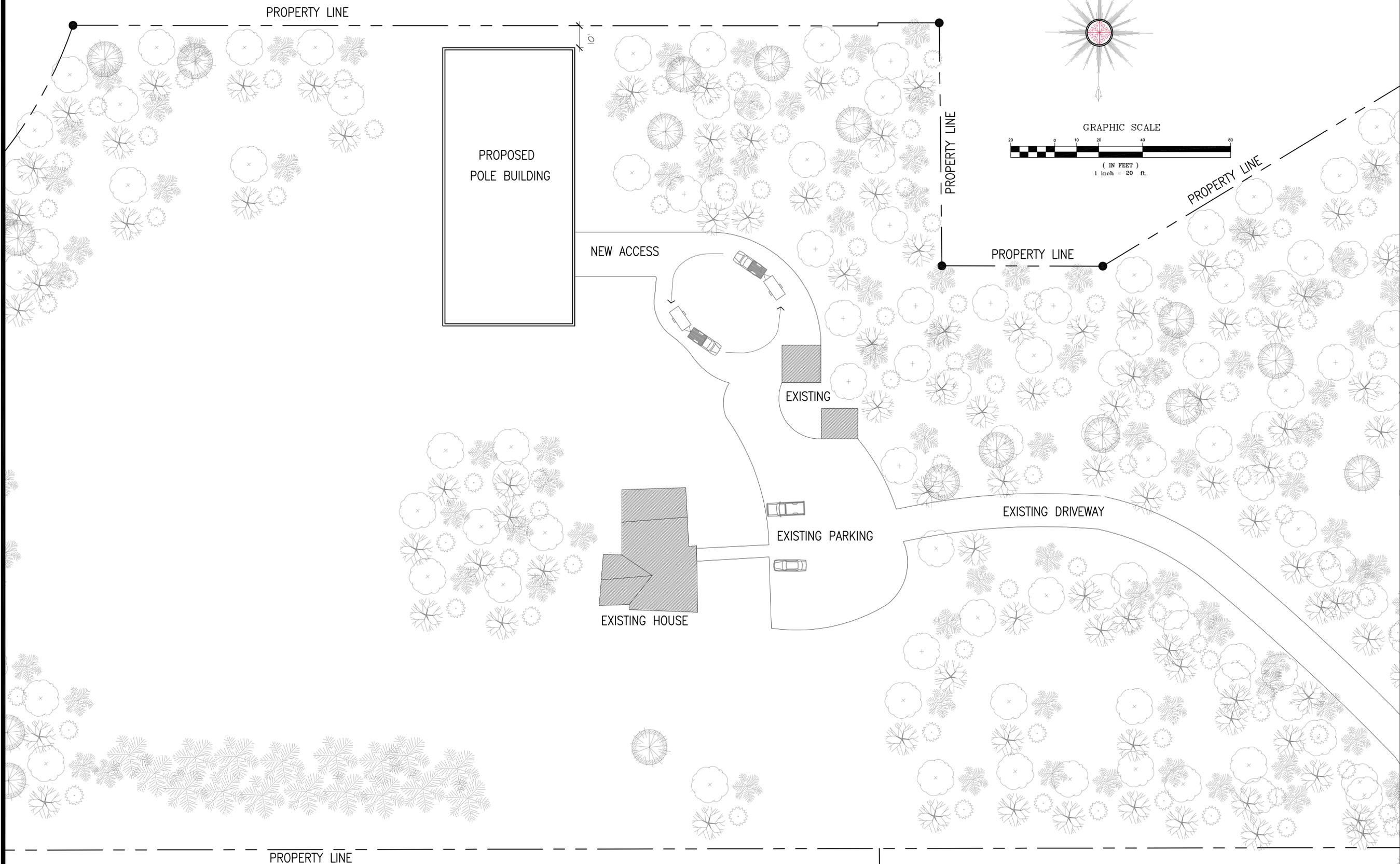


## **PLANNING STAFF RECOMMENDATIONS**

The Planner recommends that the Planning Commission recommend to the City Council the approval of the request for a Conditional Use Permit (CUP) for a 60'x156' pole building on the property at 1675 Kolff Street. The Commission also recommends that the City Council grant a variance to the required 100-foot side yard setback to allow a side setback of 50' for the pole building.

1. The use at the site shall be consistent with the application submitted to the City on August 14, 2013, and revised plans submitted on September 5, 2013. The CUP permits the construction of a 60'x 156' pole building to be used for storage, agricultural use, and an office space.
2. The applicant shall obtain a building permit from the City for the proposed accessory structure.
3. The accessory structure may not be used for commercial use or include a dwelling unit.
4. The parcel may not be re-platted, split or divided so that it results in a lot size of less than 3 acres without first removing or altering the accessory structure so that it conforms to the standards in the zoning ordinance.
5. Existing trees and shrubs shall be maintained to the degree possible, particularly along the north parcel boundaries.
6. The accessory structure shall not be taller than the primary structure.
7. The pole barn shall be painted the same color as the house.
8. The applicant shall pay all fees and escrows for this application.





Project Title

1675 KOLFF ST.  
NEWPORT, MN  
651.238.0866  
KIM BROWN

Issue Date :  
8/15/2013

Drawn By:

ALL DIMENSIONS AND  
CONDITIONS TO BE  
VERIFIED BY OTHERS

Revisions :

Item	Date
Preliminary	8/15/13
Preliminary	8/19/13

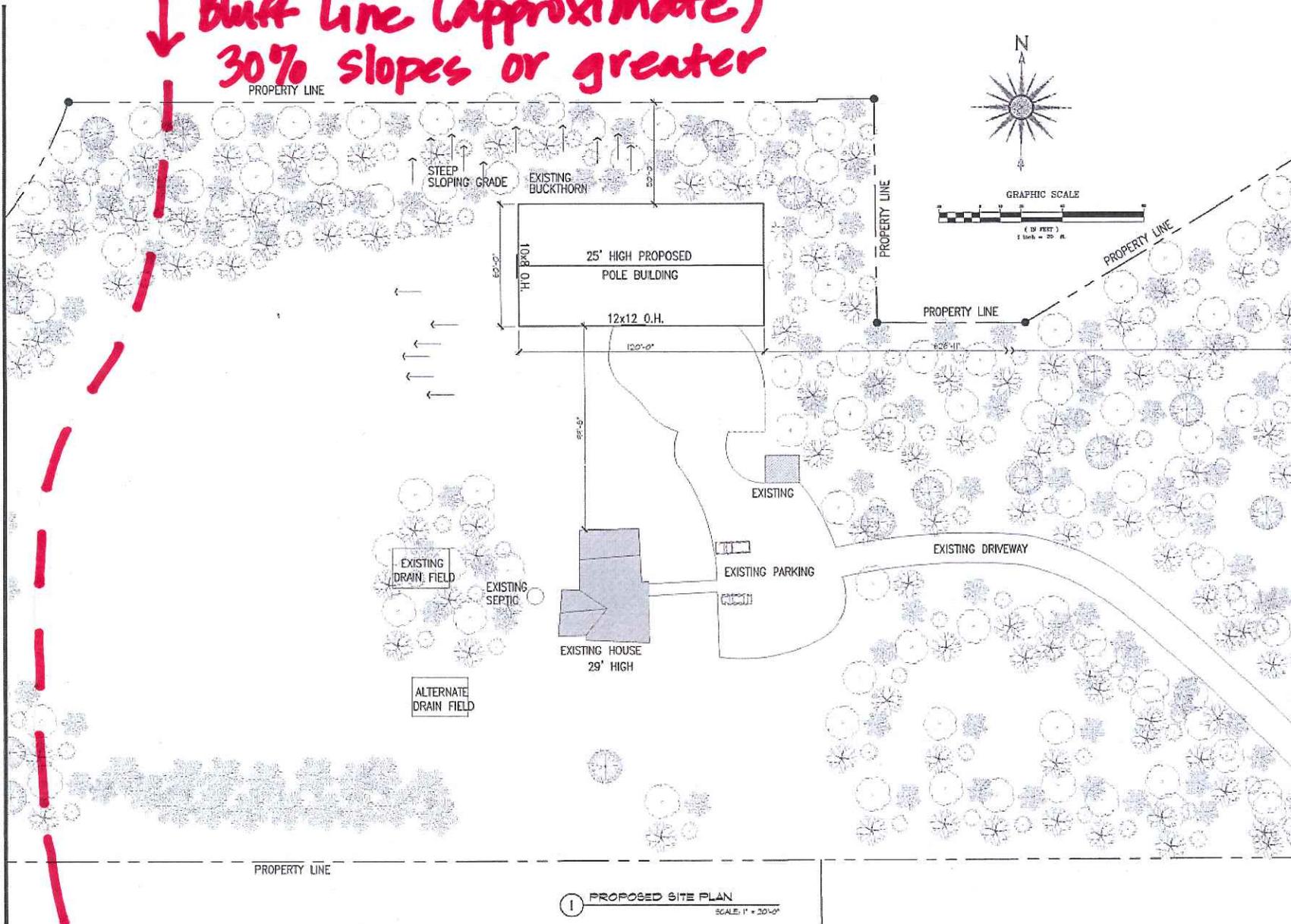
Sheet Title :  
**PROPOSED  
SITE  
PLAN**

Sheet Number :

**AS1**

©2013

↓ Bluff Line (Approximate)  
30% Slopes or greater



1675 KOLFF ST.  
NEWPORT, MN  
651.238.0866  
KIM BROWN / OWNER

Issue Date: 6/27/2013

Drawn by:  
E. THORNE  
612.602.1252

ALL DIMENSIONS AND  
CONDITIONS TO BE  
VERIFIED BY OTHERS

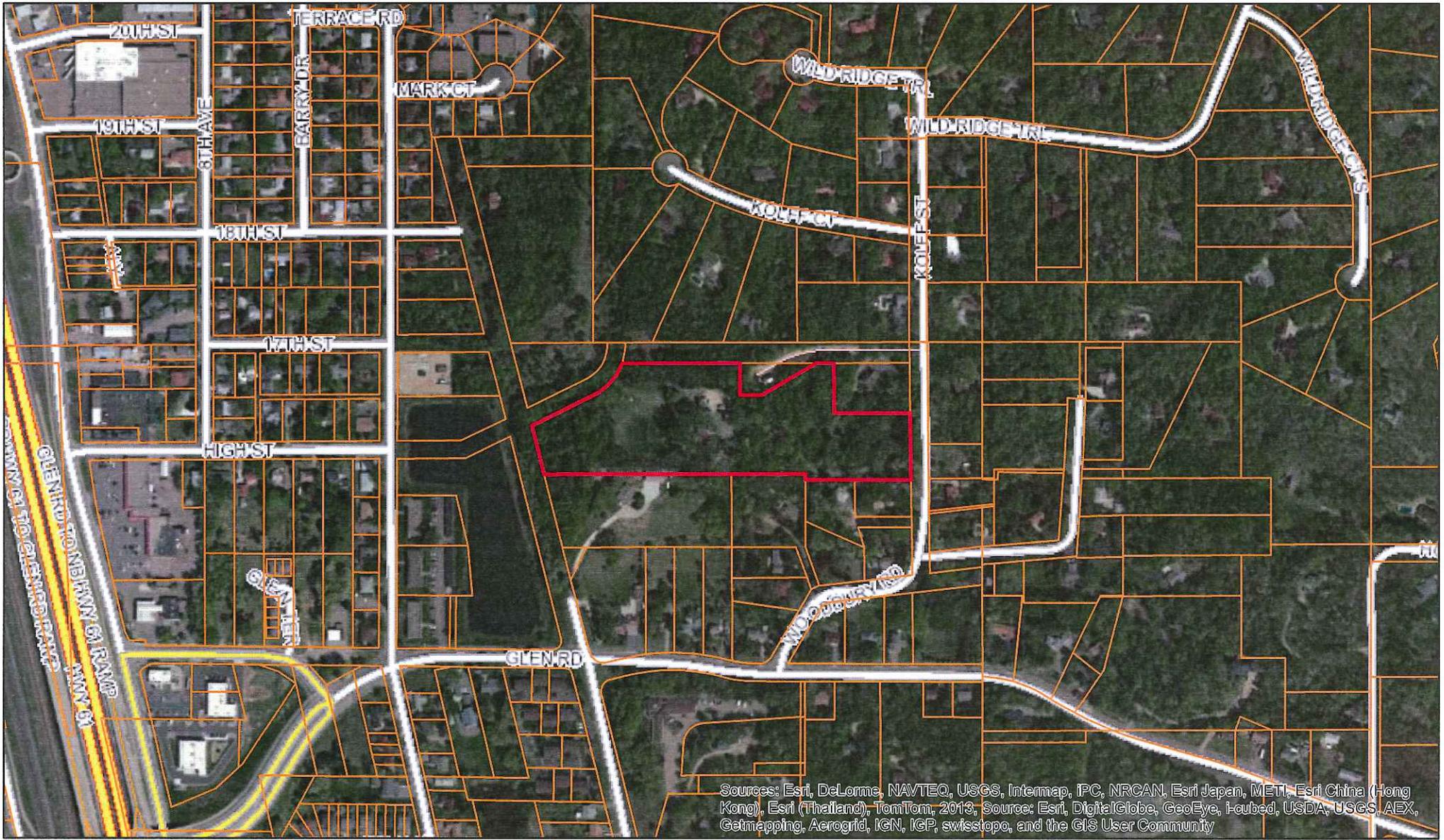
Sheet Title:  
PROPOSED  
SITE  
PLAN

Sheet Number:

AS1

©2013

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



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

Parcel ID: 3602822120002  
Parcel Address:  
1675 KOLFF RD, CITY OF NEWPORT

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

Created on 8/16/2013

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

# City of NEWPORT Planning Request Application

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

Application Date: 8-14-13

Public Hearing Date 09/12/13

## Applicant Information

Name: Kim L Brown

Telephone: 651-238-0866

Mailing Address: P.O. Box 25407

Telephone: 651-730-9803

City/State/Zip: Woodbury MN 55125

## Property Owner Information

Name: same as above

Telephone: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

## Project Information

Location of Property: 1675 Kolff Street Newport MN 55055

Legal Description of Property and P.I.D. #: \_\_\_\_\_

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

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

**Escrow Fees**

The City of Newport requires that any developer or every person, company, or corporation that is seeking to commence construction or major alterations of a structure, and land subdivisions or lot combinations must first submit detailed site plans to the City. The person submitting site plans must also submit prepayment to the City to cover any expenses that the City incurs by investing extensive amounts of time reviewing these plans. Any funds in excess of those actually reimbursing the City for its expenses will be returned to the applicant upon completion of the project. The fees are as follows:

**Site Plan Review - Residential**

- 8 Units or Less \$2,000
- 9 to 40 Units \$3,200
- 41 Units or More \$4,500

**Site Plan Review - Commercial**

- 0 to 5,000 sq ft bldg \$2,000
- 5,001 to 10,000 sq ft bldg \$3,000
- 10,001 to 50,000 sq ft bldg \$3,750
- 50,001 sq ft plus bldg \$4,500

**Preliminary Plat**

- Under 10 Acres \$3,500
- Over 10 Acres \$6,500

**Present Use of Property:** \_\_\_\_\_  
parking area  
\_\_\_\_\_  
\_\_\_\_\_

**State Reason for Planning Request:** \_\_\_\_\_  
Adding a 60 X 156 pole building for barn and hay storage and office area  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

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

SIGNATURE OF APPLICANT: Kim Brown

SIGNATURE OF OWNER (IF APPLICABLE): Kim Brown

For Office Use

Fee: \$300 + \$1,000 escrow Date Paid: 08/14/13 Receipt #: 1501, 1503

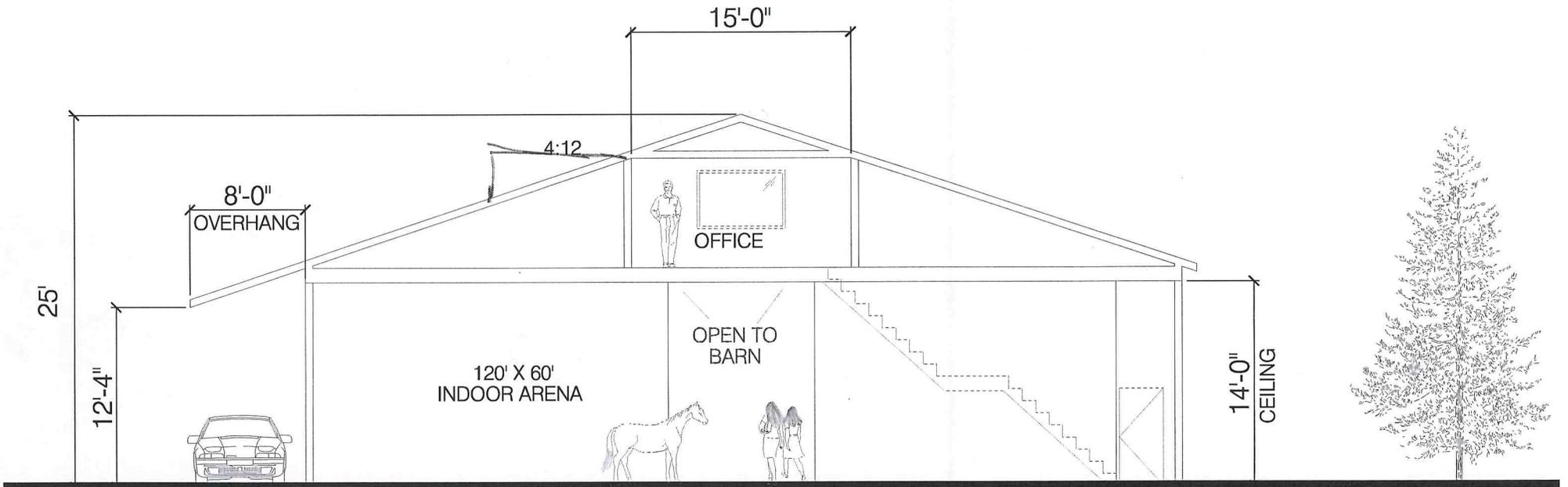
Publication of Notice Date: 08/28/13

Public Hearing Date: September 12, 2013

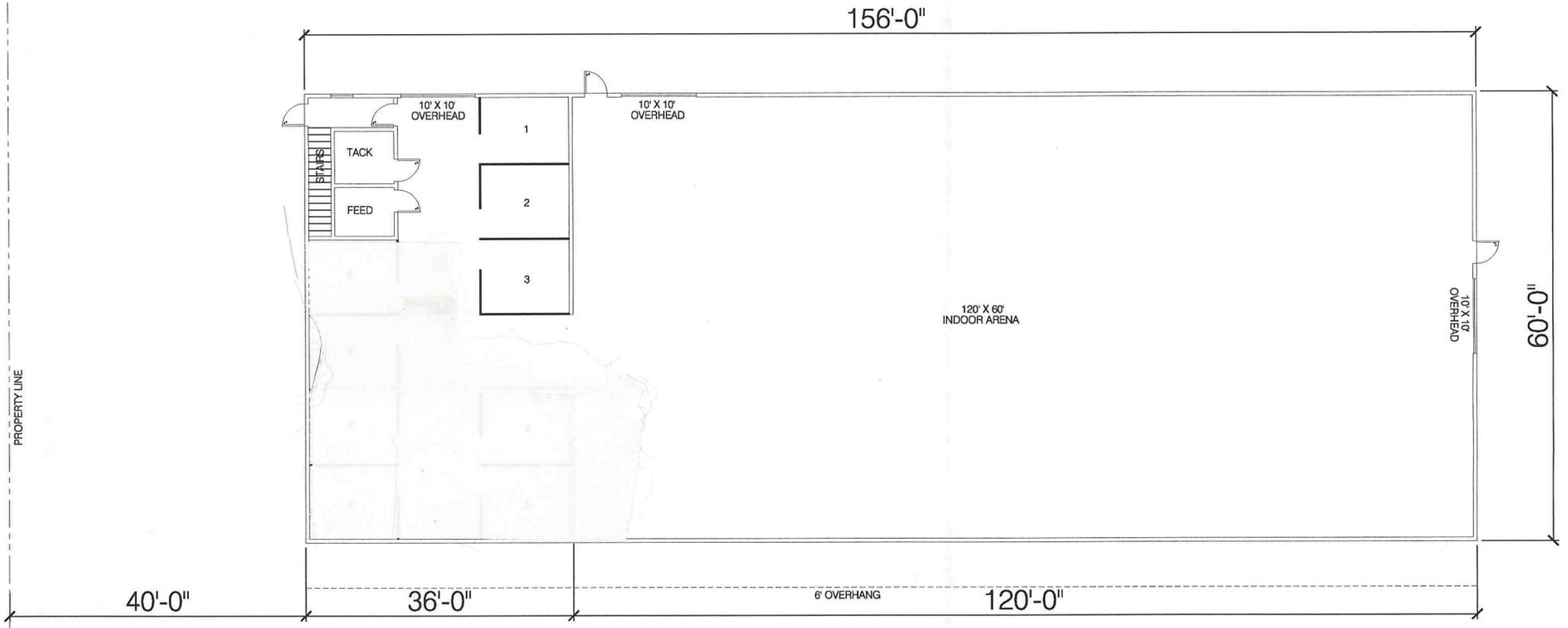
P.C. Resolution #: \_\_\_\_\_

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

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



KIMS BARN 8/8/13  
BUILDING SECTION



KIMS BARN 8/8/13  
 FLOOR PLAN PRELIMINARY

**CITY OF NEWPORT  
PLANNING COMMISSION**

**NOTICE OF PUBLIC HEARING  
TO CONSIDER A REQUEST FOR A CONDITIONAL USE PERMIT**

Notice is hereby given that the Newport Planning Commission will hold a Public Hearing on Thursday, September 12, 2013, at 6:00 P.M. or as soon thereafter, in the City Hall Council Chambers at the Newport City Hall, 596 7<sup>th</sup> Ave., Newport, MN, to consider an application from Kim Brown, 1675 Kolff Road, Newport, MN 55055, for approval of a Conditional Use Permit (CUP). The request is for property located at 1675 Kolff Road, Newport, MN 55055. The application is for a Conditional Use Permit to construct a pole barn accessory structure that is 9,360 square feet. The zoning district requires a CUP for accessory structures that are more than 2,000 square feet in size.

**Said property is legally described as:**

**PID #36.028.22.12.0002**

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

The Planning Request is governed under Chapter 13, Section 1310.10, Conditional Use Permit of the City Code of Ordinance.

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

Dated this 20<sup>th</sup> day of August, 2013

Deb Hill  
City Administrator

(Publish in the Washington County Bulletin Wednesday, August 28, 2013)

<b>Address/PID</b>	<b>Owner</b>	<b>Owner's Mailing Address</b>	<b>City, State Zip</b>
1135 Glen Rd	Brent Larson	1135 Glen Rd	Newport, MN 55055
1296 Woodbury Rd	Current Resident	1296 Woodbury Rd	Newport, MN 55055
1817 Kolff St	Curtis Yangxiavua and Michelle Yang	1817 Kolff St	Newport, MN 55055
1555 Woodbury Rd	David and Wilhelm Bruestle	1555 Woodbury Rd	Newport, MN 55055
1296 Woodbury Rd	David Zenner	000 Calle Camino de Las Lomas 56	Humacao, PR 00791
1690 Kolff St	Donald Strege	1690 Kolff St	Newport, MN 55055
36.028.22.12.0021	Donald Strege	1690 Kolff Street	Newport, MN 55055
1800 Kolff St	Duane and Desiree Bailey	1800 Kolff St	Newport, MN 55055
1175 Glen Rd	Gerald Faehnrich	1175 Glen Rd	Newport, MN 55055
36.028.22.11.0036	Gilbert and Grace Sanchez	7780 Military Road	Woodbury, MN 55129
1294 Woodbury Rd	Herbert and Irmgard Gerhards	1294 Woodbury Rd	Newport, MN 55055
1310 Woodbury Rd	Hilding and Yvonne Mickelson	1310 Woodbury Rd	Newport, MN 55055
1240 Kolff Ct	Howard Buttery	1240 Kolff Ct	Newport, MN 55055
1810 11th Avenue	Howard Swanlund	1810 11th Avenue	Newport, MN 55055
1270 Kolff Ct	Jeffrey and Beverly Robinson	1270 Kolff Ct	Newport, MN 55055
1698 Kolff St	Jennifer Lessard	PO Box 222	Cottage Grove, MN 55016
1155 Glen Rd	Jody Holmes	1155 Glen Rd	Newport, MN 55055
1775 Kolff St	Jonathan Akers	1775 Kolff St	Newport, MN 55055
1665 Woodbury Road	Larry and Mary Nickolay	1665 Woodbury Road	Newport, MN 55055
1660 10th Avenue	Lion Rock Newport LLC	1660 10th Avenue	Newport, MN 55055
1698 10th Avenue	Magellan Pipeline	PO Box 22186	Tulsa, OK 74121
1695 Kolff St	Matthew and Erin Smith	1695 Kolff St	Newport, MN 55055
1115 Glen Rd	Nicholas and Joan Devito	1115 Glen Rd	Newport, MN 55055
36.028.22.21.0060	Peder Wallace and Chris Briguet	1651 11th Avenue	Newport, MN 55055
1651 11th Avenue	Peder Wallace and Chris Briguet	1651 11th Avenue	Newport, MN 55055
1290 Woodbury Rd	Rita and Stewart Lorence	1290 Woodbury Rd	Newport, MN 55055
1821 Kolff St	Robert and Shirley Pawlit	1821 Kolff St	Newport, MN 55055
1250 Kolff Ct	Robert Niebuhr	1250 Kolff Ct	Newport, MN 55055
1300 Woodbury Rd	Robert Sierakowski	1300 Woodbury Rd	Newport, MN 55055
1260 Kolff Ct	Russell Schweihs	1260 Kolff Ct	Newport, MN 55055
1650 Woodbury Rd	Shirley Wamstad	1650 Woodbury Rd	Newport, MN 55055
36.028.22.11.0016	Shirley Wamstad	1650 Woodbury Rd	Newport, MN 55055
36.028.22.11.0035	Stephen Sanchez	9070 Parkside Drive	St. Paul, MN 55125-7514
1280 Kolff Ct	Steven and Mari Bern	1280 Kolff Ct	Newport, MN 55055
25.028.22.44.0028	Susan Albrecht and Nancy Desmond	1520 Wild Ridge Trail	Newport, MN 55055
1685 Kolff St	Virgel Voller	1685 Kolff St	Newport, MN 55055

**PLANNING COMMISSION  
RESOLUTION NO. P.C. 2013-10**

**A RESOLUTION RECOMMENDING THE NEWPORT CITY COUNCIL APPROVE A CONDITIONAL USE PERMIT AND VARIANCE REQUESTED BY KIM BROWN, PO BOX 25407, WOODBURY, MN 55125, FOR PROPERTY LOCATED AT 1675 KOLFF ROAD, NEWPORT, MN 55055**

**WHEREAS**, Kim Brown, PO Box 25407, Woodbury, MN 55125, has submitted a request for a Conditional Use Permit and Variance to allow for construction of a pole barn accessory structure that is 9,360 square feet and has a 50 foot side yard setback; and

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

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

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

**WHEREAS, Section 1310.10 Subd. 2 Criteria states** the criteria for acting upon a Conditional Use Permit (C.U.P.) application as follows: *“In acting upon an application for a conditional use permit, the City shall consider the effect of the proposed use upon the health, safety, and general welfare of the City including but not limited to the factors of noise, glare, odor, electrical interference, vibration, dust, and other nuisances; fire and safety hazards; existing and anticipated traffic conditions; parking facilities on adjacent streets and land; the effect on surrounding properties, including valuation, aesthetics and scenic views, land uses, character and integrity of the neighborhood; consistency with the Newport comprehensive plan; impact on governmental facilities and services, including roads, sanitary sewer, water and police and fire; effect on sensitive environmental features including lakes, surface and underground water supply and quality, wetlands, slopes flood plains and soils; and other factors as found relevant by the City. The City may also consider whether the proposed use complies or is likely to comply in the future with all standards and requirements set out in other regulations or ordinances of the City or other governmental bodies having jurisdiction over the City. In permitting a new conditional use or the alteration of an existing conditional use, the City may impose, in addition to the standards and requirements expressly specified by this chapter, additional conditions which it considers necessary to protect the best interest of the surrounding area or the community as a whole.”*; and

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

should be the minimum action required to eliminate the practical difficulties; and practical difficulties include, but are not limited to inadequate access to direct sunlight for solar energy systems; and

**WHEREAS**, Following publication, posted, and mailed notice thereof, the Newport Planning Commission held a Public Hearing on September 12, 2013; and

**WHEREAS**, the Planning Commission's findings related to the request for approval of a Conditional Use Permit and Variance include the following:

**CUP**

1. The proposed use requires a Conditional Use Permit in the RE District based on the size of the structure.
2. The proposed single-family use is consistent with the Comprehensive Plan. The proposed building location will avoid steep slopes and existing woodlands on the parcel, and is consistent with Comprehensive Plan goals to protect natural resources in the RE District
3. The proposed structure will not create noise, glare, odor, dust or nuisances that could affect public health or welfare. It will not increase create safety hazards, traffic congestion or parking on adjacent streets.
4. The proposed setbacks and existing vegetation will mitigate potential impacts to neighboring properties and maintain the character of the neighborhood.
5. Existing infrastructure and City services are adequate to serve the proposed use of the property.
6. The proposed building setback and location will protect sensitive environmental features including the bluffs and existing woodlands.
7. The City has not proposed future changes in zoning or requirements for the area that would impact this use.
8. With the proposed conditions and if the requested side setback variance is granted, the structure will comply with the requirements of Section 1340.04 of the zoning ordinance for large accessory structures in the RE District.

**Variance**

1. The requested variance will protect steep slopes and existing vegetative screening, and is consistent with the goals of the Comprehensive Plan and in harmony with the general purposes of the Zoning Ordinance
2. The proposed use is permitted in the RE District and is a reasonable use.
3. The practical difficulties are related to the location of steep slopes on the property and the location of existing structures. The owner did not create the practical difficulties.
4. Granting the variance will not alter the essential large-lot single-family residential character of the area.
5. The variance request is based on the location of steep slopes and existing structures, and not solely on economic considerations.
6. The structure will not impair the supply of light or air to adjacent properties, increase street congestion, increase the danger of fire or endanger public safety, or impair property values within the neighborhood.
7. The 50-foot setback will maintain a significant separation from adjacent parcels while avoiding steep slopes and existing structures. The proposed variance is the minimum action needed to eliminate the practical difficulty.
8. Granting the variance request will not affect access to direct sunlight for solar energy systems.

**NOW, THEREFORE, BE IT FURTHER RESOLVED That** the Newport Planning Commission **Hereby Recommends Newport City Council Approval** for a Conditional Use Permit for a 60' x 156' Pole Building and Variance to Allow a Side Setback of 50' for the Pole Building with the following conditions:

1. The use at the site shall be consistent with the application submitted to the City on August 14, 2013, and revised plans submitted on September 5, 2013. The CUP permits the construction of a 60' x 156' pole building to be used for storage, agricultural use, and an office space.
2. The applicant shall obtain a building permit from the City for the proposed accessory structure.
3. The accessory structure may not be used for commercial use or include a dwelling unit.
4. The parcel may not be re-platted, split or divided so that it results in a lot size of less than 3 acres without first removing or altering the accessory structure so that it conforms to the standards in the zoning ordinance.
5. Existing trees and shrubs shall be maintained to the degree possible, particularly along the north parcel boundaries.
6. The accessory structure shall not be taller than the primary structure.
7. The pole barn shall be painted the same color as the house.
8. The applicant shall pay all fees and escrows for this application.

Adopted this 12th day of September, 2013 by the Newport Planning Commission.

VOTE: Lund	_____
Prestegaard	_____
Anderson	_____
Lindoo	_____
Mahmood	_____

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

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



# MEMO

TO: Newport Planning Commission  
Deb Hill, City Administrator

FROM: Renee Helm, Executive Analyst

DATE: September 3, 2013

SUBJECT: Ordinance Amendments

---

## BACKGROUND

Please find attached Resolution No. P.C. 2013-11, which recommends the City Council amend Sections 1330 and 1350 of the Zoning Code. The amendments are before you for two reasons. The first is that it was recently requested at a City Council meeting to amend Section 1330.05, Subdivisions 15 and 21 to allow for vinyl fences. The second reason for the amendment is from a recent review of the allowed uses in regards to day care centers.

## DISCUSSION

**Fence Amendment** – Section 1330.05, Subdivisions 15 and 21 outline the regulations for fences in all of the zoning districts, including allowable materials. Currently, the two subdivisions have the following list of allowed materials:

### **Subd. 15 Fences. Except in the RE, R-1, R-1A, MX-1, MX-2, and MX-3 districts:**

- Treated wood, cedar, or redwood
- Simulated wood
- Decorative brick or stone
- Wrought iron or aluminum designed to simulate wrought iron
- Coated or non-coated chain link
- Split rail

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

- Barbed wire - RE District only
- Treated wood, cedar, or redwood
- Simulated wood
- Decorative brick or stone
- Wrought iron or aluminum designed to simulate wrought iron
- Coated or non-coated chain link
- Split rail
- Welded wire – RE District only
- Snow fences – RE District only

The Planning Commission will need to discuss whether or not it would like to add language to allow for vinyl fencing. Staff would recommend that the following language be added to both Subdivision 15(D) and 21(I) “Other materials or fence types as approved by the Zoning Administrator.” By adding this language, the Planning Commission and City Council will not have to go through a zoning amendment every time a new material is created for fencing. This language is typical for regulating materials for fences. Below are pictures of vinyl fences being sold by stores such as Home Depot and Menards for your review:



**Uses Tables** – There was a recent application for a certificate of occupancy for a daycare center on 2<sup>nd</sup> Avenue and a question came up as to where day care centers are allowed without a Conditional Use Permit. Per State Statute 462.357, Subdivision 7, day care centers in single-family homes with less than 14 children are permitted in any district that allows single-family homes. Currently, Section 1330.04 requires individuals to obtain a Conditional Use Permit for nursery school/day care services in the RE, R-1A, and R-1 Districts and Section 1350.14 requires individuals to obtain a Conditional Use Permit for day care centers in the MX-1, MX-2, MX-3, MX-4, B-1, I-1, I-2, and I-S Districts. The Planning Commission will need to discuss whether or not it would like to amend the uses tables in Sections 1330 and 1350 to reflect the State Statute regarding where day care centers in single-family homes are permitted. Staff is recommending that the below sections be added in each uses table to reflect the State Statute:

Section 1330.04 –

- Day Care Services in Single Family Homes with less than 14 children being attended to – Permitted in RE, R-1A, R-1, R-2, and R-3 Districts
- Nursery School/Day care services in Single Family Homes with more than 14 children being attended to – CUP required for RE, R-1A, and R-1 Districts, permitted in R-2 and R-3 Districts
- Nursery School/Day care services in Multi-Family Homes – CUP required for R-2 and R-3 Districts, not permitted in RE, R-1A, and R-1 Districts

Section 1350.14

- Day care centers in Single Family Homes with less than 14 children being attended to – Permitted in MX-1, MX-2 and MX-4 Districts, not permitted in MX-3 District
- Day care centers in Single Family Homes with more than 14 children being attended to – CUP required in MX-1, MX-2 and MX-4 Districts, not permitted in MX-3 District

**RECOMMENDATION**

It is recommended that the Planning Commission approve Resolution No. P.C. 2013-11 as presented.

**CITY OF NEWPORT  
PLANNING COMMISSION**

**NOTICE OF PUBLIC HEARING  
TO CONSIDER AMENDMENTS TO CHAPTER 1300, SECTION 1330 AND SECTION  
1350 OF THE ZONING CODE**

Notice is hereby given that the Newport Planning Commission will hold a Public Hearing on Thursday, September 12, 2013, at 6:00 P.M. or as soon thereafter, in the City Hall Council Chambers at Newport City Hall, 596 7<sup>th</sup> Ave., Newport, MN, to consider amendments to Chapter 1300, Section 1330 and Section 1350 of the Zoning Code.

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

Dated this 20<sup>th</sup> day of August, 2013

Deb Hill  
City Administrator

(Publish in the Washington County Bulletin Wednesday, August 28, 2013)

PLANNING COMMISSION  
**RESOLUTION NO. P.C. 2013-11**

**A RESOLUTION RECOMMENDING CITY COUNCIL APPROVE A ZONING AMENDMENT TO SECTION 1330 GENERAL DISTRICT REGULATIONS, AND SECTION 1350 NONRESIDENTIAL DISTRICTS**

**WHEREAS**, Vinyl is becoming a common material for fences; and

**WHEREAS**, The City of Newport feels it is advantageous to provide language in the *Newport Code of Ordinances* that provides regulations for fence materials; and

**WHEREAS**, Minnesota State Statute 462.357, Subdivision 7 allows day care centers with less than 14 children being attended to be permitted in single-family homes without a conditional use permit; and

**WHEREAS**, the City of Newport needs to amend its uses tables to reflect the State Statutes; and

**WHEREAS**, The Planning Commission held a public hearing on this Zoning Amendment at its regularly scheduled meeting of Thursday, September 12, 2013; and

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

**Section 1330 – General District Regulations**

**1330.04 Uses**

Land Use Classification													NP	Not Permitted
													P	Permitted
													PUD	Planned Unit Developments
													C	Conditional Use Permit (CUP) required
													A	Permitted Accessory Use
													CC	Certificate of Compliance
Land Use	Zoning District												Additional Use Regulations (See footnotes)	
	RE—Rural Estate	R-1A—River Residential	R-1—Low Density Single Family	R-2—Medium Density Residential	R-3—High Density Residential	B-1—Business Park /Office/ Warehouse	I-1—Light Industrial	I-2—General Industrial	I-S—Industrial Storage	MX-1—Downtown Mixed Use	MX-2—Commercial Mixed Use	MX-3—Transit-Oriented Mixed Use		MX-4—General Mixed Use
<b>Residential</b>														
Single Family Detached, one dwelling per lot	P	P	P	P	P	Please see Section 1350.14 (B) for allowed uses in the Business and Industrial Districts.				Please see Section 1350.14 (A) for allowed uses in the Mixed Use Districts.				
Single Family Detached, more than one dwelling unit per lot	PUD	PUD	PUD	PUD	PUD									
Two Family residences				P	P									Includes townhomes
Multi-family (eight units or fewer per building)				C	P									Includes townhomes







Land Use Classification											NP	Not Permitted	
											P	Permitted	
											PUD	Planned Unit Developments	
											C	Conditional Use Permit (CUP) required	
											A	Permitted Accessory Use	
											CC	Certificate of Compliance	
Land Use	Zoning District												Additional Use Regulations (See footnotes)
	RE—Rural Estate	R-1A—River Residential	R-1—Low Density Single Family	R-2—Medium Density Residential	R-3—High Density Residential	B-1—Business Park /Office/ Warehouse	I-1—Light Industrial	I-2—General Industrial	I-S—Industrial Storage	MX-1—Downtown Mixed Use	MX-2—Commercial Mixed Use	MX-3—Transit-Oriented Mixed Use	
Bakeries (Retail sales)						Industrial Districts.			Districts.				
Bakeries (Wholesale)													
Restaurant--Liquor Served--Bar Grill													
Restaurant--Fast food													
Restaurant--Traditional (no liquor, sit down restaurant)													
Building materials and services													
Catering services													
Professional Offices						Please see Section 1350.14 (B) for allowed uses in the Business and Industrial Districts.			Please see Section 1350.14 (A) for allowed uses in the Mixed Use Districts.				In the MX district, drive up windows require a conditional use permit (CUP)
Convenience Stores													
Bicycle Sales Dry Cleaner Laundromat Drug Store/Pharmacy Floral/Flower shop Hobby Shop													
Wholesale sales													
Produce sales: vegetables, fruit, flowers, etc...													
Drive up Banks													
Entertainment/a musement halls Bowling Alley Skating Rink, Indoor													
Movie Theater					Please see Section 1350.14 (B) for allowed uses in the Business and Industrial Districts.			Please see Section 1350.14 (A) for allowed uses in the Mixed Use Districts.				If alcohol is part of the use a (CUP) is required.	
Movie Theater												300 or less capacity	
Movie Theater												300 or greater capacity	
Coliseums, stadiums													
Country Club and Golf Course	C	C	C	C	C								



Land Use Classification											NP	Not Permitted							
											P	Permitted							
											PUD	Planned Unit Developments							
											C	Conditional Use Permit (CUP) required							
											A	Permitted Accessory Use							
											CC	Certificate of Compliance							
Land Use	Zoning District													Additional Use Regulations (See footnotes)					
	RE—Rural Estate	R-1A—River Residential	R-1—Low Density Single Family	R-2—Medium Density Residential	R-3—High Density Residential	B-1—Business Park /Office/ Warehouse	I-1—Light Industrial	I-2—General Industrial	I-S—Industrial Storage	MX-1—Downtown Mixed Use	MX-2—Commercial Mixed Use	MX-3—Transit-Oriented Mixed Use	MX-4—General Mixed Use						
Manufacturing						Please see Section 1350.14 (B) for allowed uses in the Business and Industrial Districts.			Please see Section 1350.14 (A) for allowed uses in the Mixed Use Districts.										
Warehousing																			
Storage and Distribution of Bulk Petroleum Products, Oil and Gasoline																			
Storage and distribution of bulk liquid fertilizer, chemicals or similar materials						Please see Section 1350.14 (B) for allowed uses in the Business and Industrial Districts.			Please see Section 1350.14 (A) for allowed uses in the Mixed Use Districts.										
Retail Sale, Installation and remanufacturing of vehicle parts and accessories.																			

### 1330.05 Performance Standards

**Subd. 15 Fences.** Except in the RE, R-1, R-1A, MX-1, MX-2, and MX-3 districts, fences shall comply with the following standards:

- A. A fence may be placed along a property line provided no physical damage of any kind results to the abutting property.
- B. That side of the fence considered the face (the finished side as opposed to the structural supports) shall face the abutting property.
- C. A fence shall be of one color or pattern, may not contain or support pictures, signage or lettering, and must be maintained in good condition and appearance.
- D. A fence shall only be constructed of the following materials:
  - 1) Treated wood, cedar, or redwood
  - 2) Simulated wood
  - 3) Decorative brick or stone
  - 4) Wrought iron or aluminum designed to simulate wrought iron
  - 5) Coated or non-coated chain link
  - 6) Split rail
  - 7) Other materials or fence types as approved by the Zoning Administrator
- E. A fence may be no more than twelve (12) feet in height.
- F. A fence shall not visually screen or interfere with streets, sidewalks, or vehicular traffic.
- G. In the I-S district, a fence at least six (6) feet in height shall be required around all storage tanks.
- H. No fence shall be constructed on public rights-of-way.

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

- A. A fence may be placed along a property line provided no physical damage of any kind results to the abutting property.
- B. That side of the fence considered being the face (the finished side as opposed to the structural supports) shall face the abutting property.
- C. A fence in the front yard shall be of one color or pattern, and may not contain or support pictures, signage or lettering visible to a public street or to adjacent properties.
- D. A fence may be no more than four (4) feet in height in the front yard.
- E. A fence may be no more than six (6) feet in height in a side or rear yard, unless the side or rear lot line is common with the front yard of an abutting lot, in which case the portion of the side or rear lot line equal to the required front yard of the abutting lot may have a fence no more than four (4) feet in height.
- F. Except in the RE district, barbed wire may not be used for fences.
- G. A fence shall not visually screen or interfere with streets, sidewalks, or vehicular traffic.
- H. All fences shall be maintained in good condition and appearance.
- I. A fence shall only be constructed of the following materials:
  - 1) Treated wood, cedar, or redwood
  - 2) Simulated wood
  - 3) Decorative brick or stone
  - 4) Wrought iron or aluminum designed to simulate wrought iron
  - 5) Coated or non-coated chain link
  - 6) Split rail
  - 7) Other materials or fence types as approved by the Zoning Administrator
- J. Except in the RE District, welded wire may not used for fences on property boundaries.
- K. Welded wire may be used in the RE District for fences on property boundaries of rear yards.
- L. Welded wire may only be used for small enclosures in all districts to protect vegetation such as trees, gardens, plants, and bushes.
- M. Except in the RE District, snow fences may not be used for fences.
- N. Snow fences may be erected in the RE District for controlling snow between November 1 and April 15. All snow fences must be removed by April 16.
- O. No fence shall be constructed on public rights-of-way.

### Section 1350 – Non-residential Districts

#### 1350.14 Uses in the Non-Residential Districts

Use	MX-1	MX-2	MX-3	MX-4
<b>Residential Uses</b>				
Single-family detached, one dwelling per lot	P	P	N	P
Single-family detached, more than one dwelling per lot	PUD	PUD	N	PUD
Two-family residences	P	P	N	P
Townhouse, rowhouse	P	P	P	P
Manufactured single-family dwelling	P	P	N	P
Mobile homes	N	N	N	N
Multi-Family, condos, apartments and cooperatives	P	P	P—less than 8 units; C—8 or more units	P
Congregate housing for senior populations	P	P	P	P
Homes for handicapped or infirm including group homes or halfway houses but not containing more than 6 unrelated persons	P	P	P	P
Mixed-Use (dwelling unit above ground floor)	P	P	P	P
Live-work building	C	C	C	C
PUD	PUD	PUD	PUD	PUD
<b>Civic and Semi-Public Uses</b>				

Use	MX-1	MX-2	MX-3	MX-4
Day care centers in Single Family Homes with less than 14 children being attended to	P	P	N	P
Day care centers in Single Family Homes with more than 14 children being attended to	C	C	N	C
Day care centers	C	C	C	C
Day care centers in a mixed-use building	P	P	P	P
Essential services/public utilities	P	P	P	P
Funeral Home	C	C	C	C
Hospitals	C	C	C	C
Military reserve, national guard centers	C	N	N	N
Park and public recreation facilities	P	P	P	P
Parking Garage (as a principal use)	C	N	C	N
Parking Lot, Surface (as a principal use)	C	N	N	N
Penal/correctional facilities	N	N	N	N
Place of worship and associated facilities, except schools	C	C	C	C
Public Facilities including government offices, emergency services facilities, public works facilities, schools, libraries, museums, post offices and other municipally owned or operated facilities	C	C	C—50,000 sq ft maximum	C
Schools – trade, college, vocational, and associated facilities	C	C	C—50,000 sq ft maximum	C
Schools for business, trade, dancing, music	C	C	C	C
Social and fraternal clubs and lodges, union halls	P	P	C—10,000 sq ft maximum	P
Transit stations and related parking facilities	C	C	C	C
<b>Commercial Uses</b>				
Administrative support services	P	P	P	P
Adult Uses	N	N	N	N
Animal boarding, grooming, veterinary clinics, retail sales	C	C	C—10,000 sq ft maximum	C
Artist studios	P	P	P	P
Auto body repair and major auto repair, towing services	C	N	N	N
Auto sales, rental	C	N	N	N
Automotive services, car specialty services (not including body repair or major repair)	C	C	C—Maximum 4 repair bays	C
Bakeries, delicatessens, coffee shops	P	P	P	P
Bakeries, wholesale	P	C	C	C
Bed and Breakfast	P	P	N	P
Biotechnology	P	P	P	P
Building materials and services	C	N	N	N
Catalog and mail order	P	P	P	P
Conference Center, 50,000 square feet or less	C	C	C	C
Convenience stores	P	P	P	P
Data centers	C	C	C	C
Entertainment/amusement halls, bowling alley, indoor skating rink	P	P	C	C
Fabrication of apparel, leather products and other	P	C	P	C

Use	MX-1	MX-2	MX-3	MX-4
products from prepared products				
Fabrication of office and computer equipment	P	P	P	P
Financial services	P	P	P	P
Fitness and recreation centers, in a mixed-use building	C	C	C	C
Gas, diesel or other motor fuel retail sales	C	C	N	C
Grocery and produce sales	C	C	C—50,000 sq ft maximum	C
Internet publishing and broadcasting	P	P	P	P
Medical, dental, or veterinary clinics and laboratories	C	C	C—10,000 sq ft maximum	C
Medical appliance assembly	P	P	P	P
Motion picture and sound recording industries	C	C	C	C
Offices – general, medical, professional, free-standing, or mixed-use building	P	P	P--to 10,000 sq ft; C—larger than 10,000 sq ft	P
Printing, publishing, bookbinding, blueprinting	C	C	C	C
Processing and packaging of drugs, pharmaceuticals, perfumes and cosmetics	C	C	P	C
Retail and service establishments, free-standing, or mixed-use building	P	P	P--to 10,000 sq ft; C—10,000 to 50,000 sq ft maximum	P
Rental of vehicles (with limited outside storage)	C	C	C	C
Research, development and testing laboratory	C	C	C	C
Restaurants, including open air or sidewalk cafes, freestanding or in mixed-use buildings—no liquor served	P	P	P	P
Restaurants, including open air or sidewalk cafes, freestanding or in mixed-use buildings—liquor served	C	C	C	C
Restaurants with drive-through service	C	C	C	C
Service businesses, such as beauty shops, barbershops, dry-cleaning, drop-off/pickup (no on-site processing) in mixed-use buildings	P	P	P	P
Small scale manufacturing and artisans	P	P	P—5,000 sq ft or less; C—5,000 to 10,000 sq ft	P
Theaters (with structured parking)	P	P	P	P
Theaters	C	C	C	C
Towing services (no outside storage of vehicles)	P	C	P	C
Warehousing as a primary use	N	N	N	N
<b>Accessory Uses</b>				
Drive up facilities	C	C	C	C
Gazebo, arbor, play equipment in public or private open space area	P	P	P	P
Outdoor sales, in conjunction with permitted use	C	C	N	C

Use	MX-1	MX-2	MX-3	MX-4
Renewable energy system	P	P	P	P
Parking lot, as an accessory use	C	C	C	C
Swimming Pool	P	P	P	P

Adopted this 12<sup>th</sup> day of September 2013 by the Newport Planning Commission.

VOTE: Lund \_\_\_\_\_  
 Prestegaard \_\_\_\_\_  
 Anderson \_\_\_\_\_  
 Lindoo \_\_\_\_\_  
 Mahmood \_\_\_\_\_

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

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

**Section 1330--General District Regulations****1330.01 District Classification.**

In order to implement the Comprehensive Plan and achieve an orderly development pattern that protects the health, safety, and general welfare of the City of Newport, its residents, and business community, and minimizes development impacts on the environment, the city is hereby divided into the following zoning districts:

**1330.01.1 Residential Districts**

- RE Residential Estate
- R-1A River Residential District
- R-1 Low Density Single Family Residential District
- R-2 Medium Density Residential District
- R-3 High Density Residential District

**1330.01.2 Nonresidential Districts**

- B-1 Business Park/Office/Warehouse
- I-1 Light Industrial District
- I-2 General Industrial District
- I-S Industrial Storage District

**1330.01.3 Mixed Use Districts**

- MX-1 Downtown Mixed Use District
- MX-2 Commercial Mixed Use District
- MX-3 Transit-Oriented Mixed Use District
- MX-4 General Mixed Use District

**1330.01.4 Planned Unit Developments (PUD)****1330.01.5 Special Overlay Districts**

- Shoreland Management District
- Critical Area Overlay District
- Flood Plain Management District
  - Floodway
  - Floodfringe
- Bluffland Area Overlay District
- Historic Neighborhood Conservation Overlay District
- Conservation Residential Overlay District
- River Redevelopment Overlay District

**1330.02 Zoning Map**

The location and boundaries of the districts established by this Chapter shall be hereby set forth in a map known as the "City of Newport Zoning Map" hereinafter referred to as the Zoning Map. The map and all notations, references, and data shown thereon are hereby incorporated by reference into this Chapter. It shall be the responsibility of the Zoning Administrator to maintain the Zoning Map, and amendments shall be recorded on the map within thirty (30) days after official publication of the amendments. The official zoning map shall be kept on file in the City hall.

**1330.03 Boundary Lines**

Wherever any uncertainty exists as to the boundary of any use district as shown on the zoning map incorporated herein, the following rules shall apply:

- A. Where district boundary lines are indicated as following streets, alleys, railroads, or similar rights-of-way, they shall be construed as following the centerlines thereof;
- B. Where district boundary lines are indicated as approximately following lot lines or section lines, such lines shall be construed to be such boundaries;
- C. Where a lot of record at the effective date of this Code that is held in one (1) ownership is divided by a district boundary line, the entire lot shall be construed to be within the less restricted district; provided that this section shall not apply if it increases the area of the less restricted portion of the lot by more than twenty (20) percent;

#### **1330.04 Uses**

It is the policy of the City of Newport that the enforcement, amendment, and administration of this Ordinance be accomplished with due consideration of the recommendation contained in *Chapter 1300, Section 1340.02* and *Sections 1350.01-1350.12, Intent of the Newport City Code of Ordinances* and the *City of Newport Comprehensive Plan* as developed and amended from time to time by the Planning Commission and City Council of the City of Newport.

Within the City's zoning districts, no land or buildings may be used or occupied in any manner except for the uses set forth in the following land use classification chart and described in the following subsections. If a use is not identified in the following land use classification chart, the Zoning Administrator shall issue a statement of clarification, finding that the use is or is not substantially similar in character and impact to a use regulated in the land use classification chart. If the use is not substantially similar to any other use regulated in the land use classification chart, the Zoning Administrator shall refer the matter to the City Council for determination. The Zoning Administrator and City Council shall take into consideration if the use meets the City's goals and plans, what zoning district may be most appropriate for the use as well as what conditions and standards should be imposed relating to development of the use. In addition, the Zoning Administrator and City Council shall take into consideration whether the use will conform to the performance standards (*Section 1330.05*) and overlay districts (*Section 1370*) described in this Chapter.

An appeal may be taken to the board of appeals and adjustments as described in *Section 1310.03 Appeal from Administrative Decisions* by any person aggrieved by any order, requirement, decision or determination made by the Zoning Administrator or any other administrative office of the City in enforcement of this Section.

Section 1330.04 Uses

Land Use Classification											NP	Not Permitted	
											P	Permitted	
											PUD	Planned Unit Developments	
											C	Conditional Use Permit (CUP) required	
											A	Permitted Accessory Use	
											CC	Certificate of Compliance	
Land Use	Zoning District												Additional Use Regulations (See footnotes)
	RE—Rural Estate	R-1A—River Residential	R-1—Low Density Single Family	R-2—Medium Density Residential	R-3—High Density Residential	B-1—Business Park /Office/ Warehouse	I-1—Light Industrial	I-2—General Industrial	I-S—Industrial Storage	MX-1—Downtown Mixed Use	MX-2—Commercial Mixed Use	MX-3 – Transit-Oriented Mixed Use	
<b>Residential</b>													
Single Family Detached, one dwelling per lot	P	P	P	P	P	Please see Section 1350.14 (B) for allowed uses in the Business and Industrial Districts.			Please see Section 1350.14 (A) for allowed uses in the Mixed Use Districts.				
Single Family Detached, more than one dwelling unit per lot	PUD	PUD	PUD	PUD	PUD								
Two Family residences				P	P								Includes townhomes
Multi-family (eight units or fewer per building)				C	P								Includes townhomes
Multi-family (eight or more units per building)				C	P								Includes townhomes

Land Use Classification							NP Not Permitted P Permitted PUD Planned Unit Developments C Conditional Use Permit (CUP) required A Permitted Accessory Use CC Certificate of Compliance						
Land Use	Zoning District										Additional Use Regulations (See footnotes)		
	RE—Rural Estate	R-1A—River Residential	R-1—Low Density Single Family	R-2—Medium Density Residential	R-3—High Density Residential	B-1—Business Park /Office/ Warehouse	I-1—Light Industrial	I-2—General Industrial	I-S—Industrial Storage	MX-1—Downtown Mixed Use		MX-2—Commercial Mixed Use	MX-3 – Transit-Oriented Mixed Use
Homes for handicapped or infirm including group homes or halfway houses but not containing more than 6 unrelated persons	P	P	P	P	P	Please see Section 1350.14 (B) for allowed uses in the Business and Industrial Districts.							
Planned residential developments	PUD	PUD	PUD	PUD	PUD								
Manufactured Single-Family Dwelling	P	P	P	P	P								
Mobile Homes	C												
<b>Public and Semi-Public Services</b>													
Airport	C					Please see Section 1350.14 (B) for allowed uses in the Business and Industrial							
Cemetery													

Land Use Classification							NP Not Permitted P Permitted PUD Planned Unit Developments C Conditional Use Permit (CUP) required A Permitted Accessory Use CC Certificate of Compliance						
Land Use	Zoning District										Additional Use Regulations (See footnotes)		
	RE—Rural Estate	R-1A—River Residential	R-1—Low Density Single Family	R-2—Medium Density Residential	R-3—High Density Residential	B-1—Business Park /Office/ Warehouse	I-1—Light Industrial	I-2—General Industrial	I-S—Industrial Storage	MX-1—Downtown Mixed Use		MX-2—Commercial Mixed Use	MX-3 – Transit-Oriented Mixed Use
Churches, synagogues, temples and associated facilities except schools	C	P	P	P	P	Districts.						In Residential Districts and Mixed Use Districts building footprints shall not exceed 10,000 sq. ft.	
Crematorium													
Funeral Home													
Hospitals													
Medical Clinics					C								In the MX district, facilities must not exceed a 10,000 square foot footprint
Military Reserve, National Guard Centers						Please see Section 1350.14 (B) for allowed uses in the Business and Industrial Districts.			Please see Section 1350.14 (A) for allowed uses in the Mixed Use Districts.				
<u>Day Care Services in Single Family Homes with less than 14 children being attended to</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>								

Land Use Classification							NP Not Permitted P Permitted PUD Planned Unit Developments C Conditional Use Permit (CUP) required A Permitted Accessory Use CC Certificate of Compliance							
Land Use	Zoning District										Additional Use Regulations (See footnotes)			
	RE—Rural Estate	R-1A—River Residential	R-1—Low Density Single Family	R-2—Medium Density Residential	R-3—High Density Residential	B-1—Business Park /Office/ Warehouse	I-1—Light Industrial	I-2—General Industrial	I-S—Industrial Storage	MX-1—Downtown Mixed Use		MX-2—Commercial Mixed Use	MX-3 – Transit-Oriented Mixed Use	MX-4 – General Mixed Use
Nursery School/Day care services <u>in Single Family Homes with more than 14 children being attended to</u>	C	C	C	P	P									
<u>Nursery School/Day care services in Multi-Family Homes</u>				C	C									
Parking Garage (as principal use)														
Parking Lots--Surface (as principal use)														
Penal/correctional facilities														
Post Office														

Land Use Classification						NP Not Permitted P Permitted PUD Planned Unit Developments C Conditional Use Permit (CUP) required A Permitted Accessory Use CC Certificate of Compliance						
Land Use	Zoning District										Additional Use Regulations (See footnotes)	
	RE—Rural Estate	R-1A—River Residential	R-1—Low Density Single Family	R-2—Medium Density Residential	R-3—High Density Residential	B-1—Business Park /Office/ Warehouse	I-1—Light Industrial	I-2—General Industrial	I-S—Industrial Storage	MX-1—Downtown Mixed Use		MX-2—Commercial Mixed Use
Pubic Facilities including government offices, emergency facilities, public works facilities, Schools, libraries, museums, art galleries, and other municipally owned or operated facilities.	C	C	C	C	C	Please see Section 1350.14 (B) for allowed uses in the Business and Industrial Districts.				Please see Section 1350.14 (A) for allowed uses in the Mixed Use Districts.		Public Facilities located in Residential Districts must not exceed 10,000 square foot footprint except if located in the RE District.
Public utility	C	C	C	C	C							
Schools--Trade, College, Vocational and associated facilities												
Social, fraternal clubs and lodges, union halls						Please see Section 1350.14 (B) for allowed uses in the Business and Industrial Districts.				Please see Section 1350.14 (A) for allowed uses in the Mixed Use Districts.		
Sanitary Landfill												

Land Use Classification							NP Not Permitted P Permitted PUD Planned Unit Developments C Conditional Use Permit (CUP) required A Permitted Accessory Use CC Certificate of Compliance							
Land Use	Zoning District										Additional Use Regulations (See footnotes)			
	RE—Rural Estate	R-1A—River Residential	R-1—Low Density Single Family	R-2—Medium Density Residential	R-3—High Density Residential	B-1—Business Park /Office/ Warehouse	I-1—Light Industrial	I-2—General Industrial	I-S—Industrial Storage	MX-1—Downtown Mixed Use		MX-2—Commercial Mixed Use	MX-3 – Transit-Oriented Mixed Use	MX-4 – General Mixed Use
Towers and antennas														See Ordinance 97-4
Transit Station														
Park-and-ride Lot														
<b>Commercial</b>														
Bed and Breakfast	C	C	C	C	C	Please see Section 1350.14 (B) for allowed uses in the Business and Industrial Districts.								Please see Section 1350.14 (A) for allowed uses in the Mixed Use Districts.
Hotels														
Motels														
Adult Uses (bookstore, theater, nightclub, nude or partially nude dancing)						Please see Section 1350.14 (B) for allowed uses in the Business and Industrial Districts.								Please see Section 1350.14 (A) for allowed uses in the Mixed Use Districts.
Animal boarding														
Animal grooming														
Animal hospitals														
Animal retail sales														
Antique Shops														

Land Use Classification											NP	Not Permitted		
											P	Permitted		
											PUD	Planned Unit Developments		
											C	Conditional Use Permit (CUP) required		
											A	Permitted Accessory Use		
											CC	Certificate of Compliance		
Land Use	Zoning District											Additional Use Regulations (See footnotes)		
	RE—Rural Estate	R-1A—River Residential	R-1—Low Density Single Family	R-2—Medium Density Residential	R-3—High Density Residential	B-1—Business Park /Office/ Warehouse	I-1—Light Industrial	I-2—General Industrial	I-S—Industrial Storage	MX-1—Downtown Mixed Use	MX-2—Commercial Mixed Use		MX-3 – Transit-Oriented Mixed Use	MX-4 – General Mixed Use
Artist studios														
Auto sales, rental and services														
Auto services only														No more than 4 bays in the MX districts
Auto storage														
Auto washing														
Bakeries (Retail sales)														
Bakeries (Wholesale)														
Restaurant--Liquor Served--Bar Grill														Please see Section 1350.14 (A) for allowed uses in the Mixed Use Districts.
Restaurant--Fast food														
Restaurant--Traditional (no liquor, sit down restaurant)														
Building materials and services														
Catering services														
														Please see Section 1350.14 (B) for allowed uses in the Business and Industrial Districts.

Land Use Classification											NP	Not Permitted									
											P	Permitted									
											PUD	Planned Unit Developments									
											C	Conditional Use Permit (CUP) required									
											A	Permitted Accessory Use									
											CC	Certificate of Compliance									
Land Use	Zoning District											Additional Use Regulations (See footnotes)									
	RE—Rural Estate	R-1A—River Residential	R-1—Low Density Single Family	R-2—Medium Density Residential	R-3—High Density Residential	B-1—Business Park /Office/ Warehouse	I-1—Light Industrial	I-2—General Industrial	I-S—Industrial Storage	MX-1—Downtown Mixed Use	MX-2—Commercial Mixed Use		MX-3 – Transit-Oriented Mixed Use	MX-4 – General Mixed Use							
Professional Offices						Please see Section 1350.14 (B) for allowed uses in the Business and Industrial Districts.				Please see Section 1350.14 (A) for allowed uses in the Mixed Use Districts.											
Convenience Stores																					
Bicycle Sales Dry Cleaner Laundromat Drug Store/Pharmacy Floral/Flower shop Hobby Shop																					In the MX district, drive up windows require a conditional use permit (CUP)
Wholesale sales																					
Produce sales: vegetables, fruit, flowers, etc...																					
Drive up Banks																					
Entertainment/ amusement halls Bowling Alley Skating Rink, Indoor						Please see Section 1350.14 (B) for allowed uses in the Business and Industrial Districts.				Please see Section 1350.14 (A) for allowed uses in the Mixed Use Districts.			If alcohol is part of the use a (CUP) is required.								
Movie Theater																			300 or less capacity		

Land Use Classification											NP	Not Permitted		
											P	Permitted		
											PUD	Planned Unit Developments		
											C	Conditional Use Permit (CUP) required		
											A	Permitted Accessory Use		
											CC	Certificate of Compliance		
Land Use	Zoning District											Additional Use Regulations (See footnotes)		
	RE—Rural Estate	R-1A—River Residential	R-1—Low Density Single Family	R-2—Medium Density Residential	R-3—High Density Residential	B-1—Business Park /Office/ Warehouse	I-1—Light Industrial	I-2—General Industrial	I-S—Industrial Storage	MX-1—Downtown Mixed Use	MX-2—Commercial Mixed Use		MX-3 – Transit-Oriented Mixed Use	MX-4 – General Mixed Use
Movie Theater														300 or greater capacity
Coliseums, stadiums														
Country Club and Golf Course	C	C	C	C	C									
Private athletic fields or courts	C	C	C	C	C									
Golf Driving Range														
Horseback Riding, Stables	C													
Auto and motorcycle racing tracks														
Drive-in movie theater														
Mobile Home Sales														
Manufactured Home Sales														

Land Use Classification											NP	Not Permitted		
											P	Permitted		
											PUD	Planned Unit Developments		
											C	Conditional Use Permit (CUP) required		
											A	Permitted Accessory Use		
											CC	Certificate of Compliance		
Land Use	Zoning District											Additional Use Regulations (See footnotes)		
	RE—Rural Estate	R-1A—River Residential	R-1—Low Density Single Family	R-2—Medium Density Residential	R-3—High Density Residential	B-1—Business Park /Office/ Warehouse	I-1—Light Industrial	I-2—General Industrial	I-S—Industrial Storage	MX-1—Downtown Mixed Use	MX-2—Commercial Mixed Use		MX-3 – Transit-Oriented Mixed Use	MX-4 – General Mixed Use
Automobile Parts/accessories retail sales and installation														
Automobile painting and body work														
Gas, diesel or other motor fuel retail sales														
Storage Mini-storage/cold storage														
Salvage yard (auto or scrap iron)														
Animal Kennel for more than 6 animals	C													
Agricultural operations, row cropping, tree farming (excluding livestock)	P													No on-premises sales

Land Use Classification		Zoning District											Additional Use Regulations (See footnotes)	
		RE—Rural Estate	R-1A—River Residential	R-1—Low Density Single Family	R-2—Medium Density Residential	R-3—High Density Residential	B-1—Business Park /Office/ Warehouse	I-1—Light Industrial	I-2—General Industrial	I-S—Industrial Storage	MX-1—Downtown Mixed Use	MX-2—Commercial Mixed Use		MX-3 – Transit-Oriented Mixed Use
Commercial Greenhouse operations	C					Please see Section 1350.14 (B) for allowed uses in the Business and Industrial Districts.					Please see Section 1350.14 (A) for allowed uses in the Mixed Use Districts.			Outside storage or sales requires a CUP. No on-premise sales permitted in RE district.
Veterinarian Clinic, animal hospital														
<b>Industrial</b>														
Manufacturing						Please see Section 1350.14 (B) for allowed uses in the Business and Industrial Districts.					Please see Section 1350.14 (A) for allowed uses in the Mixed Use Districts.			
Warehousing														
Storage and Distribution of Bulk Petroleum Products, Oil and Gasoline						Please see Section 1350.14 (B) for allowed uses in the Business and Industrial Districts.					Please see Section 1350.14 (A) for allowed uses in the Mixed Use Districts.			
Storage and distribution of bulk liquid fertilizer, chemicals or similar materials														

Land Use Classification											NP	Not Permitted	
											P	Permitted	
											PUD	Planned Unit Developments	
											C	Conditional Use Permit (CUP) required	
											A	Permitted Accessory Use	
											CC	Certificate of Compliance	
Land Use	Zoning District											Additional Use Regulations (See footnotes)	
	RE—Rural Estate	R-1A—River Residential	R-1—Low Density Single Family	R-2—Medium Density Residential	R-3—High Density Residential	B-1—Business Park /Office/ Warehouse	I-1—Light Industrial	I-2—General Industrial	I-S—Industrial Storage	MX-1—Downtown Mixed Use	MX-2—Commercial Mixed Use		MX-3 – Transit-Oriented Mixed Use
Retail Sale, Installation and remanufacturing of vehicle parts and accessories.													

**1330.05 Performance Standards**

**Subd. 1 Intent.** It shall be the intent of this section to promote high standards of design and construction in the City. These standards are set forth in order to enhance the visual appearance of the built environment within the City, to preserve the taxable value, to implement the goals and policies of the Comprehensive Plan and to promote the public health, safety, and welfare of the general public.

**Subd. 2 General Scope.** Except in the RE, R-1, and R-1A districts, any construction or alteration of buildings, structures, property or exterior equipment in the City which requires a building permit under the provisions of this Chapter shall be reviewed by the Zoning Administrator and shall comply with the standards set in Subds. 3 through 19 inclusive. If the Zoning Administrator determines that the plans comply with the intent and standards contained herein, a building permit may be issued. All decisions of the Zoning Administrator may be appealed to the City Council as provided for in this Chapter.

**Subd. 3 Building Materials.** Exterior building materials of all structures shall be one of, or a combination of, the following materials:

A. Permitted materials:

- 1) Face brick, stone, or glass;
- 2) Decorative concrete block with a color and texture theme that is directly related to the building material, if not more than 50% of the building elevation faces any public roadway. Plain, flat unpainted concrete block is not allowed, nor is any type of painted concrete block;
- 3) Architecturally treated concrete or cast-in-place or precast concrete panels;
- 4) Stucco or other cement like coating applied in a manner so as to create a harmonious design with other exterior materials;
- 5) Metal panels with interlocking, concealed, or tongue-and-groove seams, and concealed fasteners, if the exterior surface finish is warranted by the manufacturer for twenty years against blistering, peeling, cracking, flaking, checking, or chipping, if not more than 50% of the building elevation faces any public roadway;
- 6) Wood, wood siding, metal siding, or vinyl siding, but only in the R-2 and R-3 districts, and only on buildings with eight (8) or fewer units.

B. Conditional materials. Other exterior building materials may be approved by Conditional Use Permit, if it is determined that:

- 1) The materials are similar to or better than the permitted materials listed above;
- 2) The materials are high quality, long-lasting, attractive, reasonably maintenance-free, and;
- 3) The materials are integrated harmoniously into the building design and with neighboring uses.
- 4) The materials are approved by the building official.

**Subd. 4 Additions, Alterations, and Accessory Structures.** All subsequent additions, exterior alterations, and accessory structures, built after the construction of the original building or buildings shall be of the same materials as those used in the original building and shall be designed to conform to the original architectural concept and general appearance. These provisions shall not prevent the upgrading of the quality of materials used in a remodeling or expansion project. Such alterations shall also maintain the appearance of the building exterior due to fading, cracking, peeling, rotting, or other degradations or inconsistencies, particularly where signage, equipment, fixtures, or other features may have been removed, revealing an inconsistent color or condition of materials.

**Subd. 5 Other Structures.** Garages, screen walls, and other areas of exposed permanent materials shall be of a similar type, quality and appearance as the principal structure. These provisions shall not prevent the upgrading of the quality of materials used in a remodeling or expansion project. Exposed areas of retaining walls shall be of high quality durable materials compatible with the overall design of the site plan and structures.

**Subd. 6 Outside Storage.** All outside storage of equipment, materials, or vehicles shall be completely screened from the eye-level view of adjacent residential property and public streets, and from the public front and office sides of business and industrial uses, subject to the following conditions and exceptions:

- A. Temporary, daily parking of vehicles, for a period of no more than forty-eight (48) consecutive hours, for employees or patrons of a business, need not be screened in side and rear yards adjacent to other business or industrial uses, but shall be completely screened from residential uses. In front yards, all such vehicles need to be screened to a height of three (3) feet. Any vehicle parked for more than forty-eight (48) consecutive hours shall be completely screened from the eye-level view of adjacent residential property and public streets, and from the public front and office sides of business and industrial uses.
- B. Any outside storage or display of vehicles for sale, rent, or lease shall be by Conditional Use Permit only as governed by this Chapter, and shall include only operable new vehicles or operable used vehicles in good working order and of good appearance.
- C. Open storage of any kind shall be prohibited in any required front, side or rear yard setback.
- D. Overnight storage of perishable goods shall be allowed only within a completely enclosed permanent structure.

**Subd. 7 Paving and Curbing.** All parking areas and drives shall be constructed of concrete, blacktop, or similar durable hard surface free of dust. The periphery of all parking areas and drives shall be constructed with poured-in-place concrete curbing unless otherwise approved by the City.

**Subd. 8 Utility Equipment.** All utility equipment, such as heating and ventilating equipment, meters and other devices shall be completely screened from eye-level view of adjacent properties and streets. Equipment shall be screened with a screen wall, berm, or landscaping if located on the ground. If on the roof, the equipment shall be screened with a parapet or screen wall of materials compatible with the principal structure. Vertical or horizontal wood slats, fencing or similar materials are not acceptable screening material.

**Subd. 9 Loading and Service Areas.** All loading and service areas shall be completely screened from eye-level view of adjacent residential uses, adjacent public streets, and the public front and



- A. At least one (1) overstory tree shall be provided in the front yard for each fifty (50) feet of lot frontage.
- B. There shall be a minimum of one (1) tree for every one thousand (1,000) square feet of non-impervious surface area on the lot.
- C. All landscape materials shall be appropriate to the physical characteristics of the site in terms of hardiness, salt-tolerance, and sun or shade tolerance. Trees provided shall be at least twenty-five (25) percent overstory deciduous and at least twenty-five (25) percent coniferous. All deciduous trees provided shall be long-lived hardwood species.
- D. All areas not otherwise improved in accordance with approved site plans shall be sodded. Exceptions shall be as follows:
  - 1) Seeding of future expansion areas as shown on approved plans.
  - 2) Undisturbed areas containing existing viable natural vegetation that can be maintained free of foreign and noxious plant material.
  - 3) Areas designated as open space or future expansion areas properly planted and maintained with native prairie grass.
  - 4) Use of mulch material such as rock or wood chips in support of shrubs and foundation plantings.
- E. Slopes and Berms. Final slope grades steeper than the ratio of 3:1 shall not be permitted without special landscaping treatments such as terracing, retaining walls, or ground cover.
- F. Berming used to provide screening of parking lots shall be 3 feet in height and shall have a maximum slope ratio of 3:1.
- G. Parking Lot Requirements.
  - 1) Parking lots for more than eight (8) cars shall landscape 10 percent of the parking lot surface area. The landscaped area may be in the form of landscape islands, special brick paving or other landscaping as approved by the Zoning Administrator. Landscape islands shall be a minimum width of 16 feet and with a minimum surface area of 250 square feet. The landscaped area shall adhere to the size and material requirements of this Chapter.
  - 2) On a corner lot, and at entrances, nothing shall be placed or allowed to grow in such a manner as to impede vision between a height of 2 ½ and 10 feet above the centerline grades of the intersecting streets within a triangular area 30 feet from the intersecting street right-of-way lines.
- H. Plant Size Requirements. Plant size requirements for landscaping areas shall be as follows:
  - 1) Deciduous trees shall be at least 2 ½ inches in diameter.
  - 2) Ornamental trees shall be a minimum of 1 ½ inches in diameter
  - 3) Evergreen trees shall have a minimum height of 6 feet.

- 4) Potted shrubs shall be in a 5 gallon pot or larger.
- 5) Evergreen shrubs used for screening purposes shall be at least 3 feet in height at planting. Evergreen shrubs will have a minimum spread of 24 inches.
- I. Landscape plans and screening plantings shall be completed within one year from the date a building permit is issued.

**Subd. 15 Fences.** Except in the RE, R-1, R-1A, MX-1, MX-2, and MX-3 districts, fences shall comply with the following standards:

- A. A fence may be placed along a property line provided no physical damage of any kind results to the abutting property.
- B. That side of the fence considered the face (the finished side as opposed to the structural supports) shall face the abutting property.
- C. A fence shall be of one color or pattern, may not contain or support pictures, signage or lettering, and must be maintained in good condition and appearance.
- D. A fence shall only be constructed of the following materials:
  - 1) Treated wood, cedar, or redwood
  - 2) Simulated wood
  - 3) Decorative brick or stone
  - 4) Wrought iron or aluminum designed to simulate wrought iron
  - 5) Coated or non-coated chain link

6) Split rail

~~6) Other materials or fence types as approved by the Zoning Administrator~~

- E. A fence may be no more than twelve (12) feet in height.
- F. A fence shall not visually screen or interfere with streets, sidewalks, or vehicular traffic.
- G. In the I-S district, a fence at least six (6) feet in height shall be required around all storage tanks.
- H. No fence shall be constructed on public rights-of-way.

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

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

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

**Subd. 19 Exceptions for Legal Non-Conforming Structures.** The standards in this section do not apply to legal non-conforming single family residential structures and properties in Business and Industrial districts, provided they are continuously used for residential purposes only, and provided any additions or alterations to these structures meet the standards of the R-1 district and other applicable zoning and building code standards. For legal non-conforming non-residential structures in the Business and Industrial districts or for existing non-residential development on properties that are rezoned to a Business or Industrial zoning district, the following exceptions shall apply:

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

- 2) Construction projects involving an expansion of exterior space between ten (10) and fifty (50) percent of the size of the parking lot or other outdoor space need not meet all the standards of this section, but shall be required to meet a reasonable proportion of the requirements as determined by the Planning Commission, upon the advice of the Zoning Administrator.
- 3) For the purposes of this section, adding one inch or more of new material to an existing parking lot surface shall be considered an increase of one hundred (100) percent of the area involved.

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

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

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

| 6 Split rail

7) Other materials or fence types as approved by the Zoning Administrator

- J. Except in the RE District, welded wire may not be used for fences on property boundaries.
- K. Welded wire may be used in the RE District for fences on property boundaries of rear yards.
- L. Welded wire may only be used for small enclosures in all districts to protect vegetation such as trees, gardens, plants, and bushes.
- M. Except in the RE District, snow fences may not be used for fences.
- N. Snow fences may be erected in the RE District for controlling snow between November 1 and April 15. All snow fences must be removed by April 16.
- O. No fence shall be constructed on public rights-of-way.

**Subd. 22 Exterior Storage and Screening in RE, R-1, and R-1A districts.**

- A. All waste, refuse, garbage and containers shall be kept in a building or in a fully screened area, except as allowed before a scheduled collection.
- B. All non-operating vehicles or equipment shall be kept within a fully enclosed building.
- C. No exterior storage shall be allowed in the front yard, except parking of operable vehicles, subject to the following conditions and exceptions:
  - 1) All vehicles parked in the front yard shall be on concrete, blacktop, or similar durable hard surface free of dust.
  - 2) No more than three (3) vehicles may be parked in the front yard at any one time, only one of which may be over six thousand (6,000) pounds gross vehicle weight or over twenty (20) feet in length.
  - 3) Additional operable vehicles above the limit of three (3) may be parked in the front yard on a temporary basis, for no more than forty-eight (48) consecutive hours.
- D. All exterior storage in the street side yard of a corner lot shall be fully screened from the street and adjacent properties.

**Subd. 23 Lighting in the RE, R-1, and R-1A districts.** Lighting used to illuminate any exterior area or structure shall be arranged so as to direct the light away from any adjoining property or from the public street.

**Subd. 24 Landscaping in the RE, R-1 and R-1A Districts.** All areas of land not covered by structures or pavement shall be landscaped with sod, mulch, or rock materials, and landscaped according to the provisions of this section:

- A. At least one (1) overstory tree shall be provided in the front yard for each fifty (50) feet of lot frontage.

- B. There shall be a minimum of one (1) tree for every one thousand (1,000) square feet of non-impervious surface area on the lot.
- C. All landscape materials shall be appropriate to the physical characteristics of the site in terms of hardiness, salt-tolerance, and sun or shade tolerance.
- D. All areas of land not covered by structures, pavement, or landscaping may be covered by natural characteristics, when appropriate.
- E. All areas not otherwise improved in accordance with approved site plans shall be sodded. Exceptions shall be as follows:
  - 1) Seeding of future expansion areas as shown on approved plans.
  - 2) Undisturbed areas containing existing viable natural vegetation that can be maintained free of foreign and noxious plant material.
  - 3) Areas designated as open space or future expansion areas properly planted and maintained with native prairie grass.
  - 4) Use of mulch material such as rock or wood chips in support of shrubs and foundation plantings.
- F. Slopes and Berms. Final slope grades steeper than the ratio of 3:1 shall not be permitted without special landscaping treatments such as terracing, retaining walls, or ground cover.
- G. Plant Size Requirements. Plant size requirements for landscaping areas shall be as follows:
  - 1. Deciduous trees shall be at least 2 ½ inches in diameter.
  - 2. Ornamental trees shall be a minimum of 1 ½ inches in diameter.
  - 3. Evergreen trees shall have a minimum height of 6 feet.
  - 4. Potted shrubs shall be in a 5 gallon pot or larger.
  - 5. Evergreen shrubs used for screening purposes shall be at least 3 feet in height at planting. Evergreen shrubs will have a minimum spread of 24 inches.
  - 6. Except when a property's topsoil depth is less than 24 inches, the plant size requirement may be reduced by 50% or to 1 ¼ inches and doubling the number of trees.
- H. Landscape plans and screening plantings shall be completed within one year from the date a building permit is issued.

**1330.06 Off-Street Parking**

**Subd. 1 General.**

- A. Standards. Off-street parking, loading, and service areas shall be improved with a durable and dustless surface, and shall be graded and drained so as to dispose of all surface water

accumulation within the parking area. Acceptable surfaces may include crushed rock and similar treatment for parking accessory to single family and duplex residential structures, all other uses shall utilize asphalt, concrete or substitute as approved by the Zoning Administrator. All surfacing shall be completed prior to occupancy of the structure, unless specific approval otherwise has been granted by the City. Parking areas for three (3) vehicles or fewer shall be exempt from the requirements of this paragraph.

- B. Dimensions. Each off-street parking space shall be a minimum of nine (9) feet wide by eighteen (18) feet deep. Access drives and aisles shall be a minimum of twenty-four (24) feet wide for two-way traffic, and eighteen (18) feet wide for one-way traffic. Parking space dimensions for angled parking shall be approved by the Zoning Administrator, based on acceptable planning standards.
- C. Compact Car Parking. Parking spaces for compact cars may be included within a parking lot plan approved by the Zoning Administrator provided the spaces comprise no more than forty (40) percent of the spaces for the entire use or project, and provided they shall be clearly identified on the site and their location shall be designed carefully into the overall site plan. The spaces shall be a minimum of eight (8) feet wide by sixteen (16) deep.
- D. Handicapped Parking. Parking for handicapped persons shall be provided in accordance with State and Federal regulations.
- E. Access. All off-street parking spaces shall have access from a private driveway and shall not access directly onto a public street.

**Subd. 2 Number of Off-street Parking Spaces.** The number of off-street parking spaces required for uses in the Residential, Non-Residential, and MX-1 and MX-2 Districts shall be as follows. Section 1350.18(D) prescribes the number of off street parking spaces required for uses in the MX-3 District.

- A. Single and Two-family Dwellings: Two (2) spaces per unit, at least one of which shall be enclosed.
- B. Residential Dwellings up to Eight (8) Units per structure: Two (2) spaces per unit, at least one each of which shall be enclosed, plus one half (0.5) space per unit of visitor parking, apart from individual garages or reserved resident spaces, within one hundred (100) feet of the entrance to each private unit entrance or to the building entrance if there is a common entrance. Visitor spaces may be further away if they have enclosed access to the building.
- C. Residential Dwelling with more than Eight (8) Units: One and one-half (1-½) spaces per unit for each efficiency or one bedroom unit, at least one each of which shall be enclosed, and two (2) spaces per unit for each unit with two or more bedrooms, at least one each of which shall be enclosed. In addition, there shall be one-half (½) space per unit of visitor parking, apart from individual garages or reserved resident spaces, within two hundred (200) feet of the entrance to each private unit entrance or to the building entrance if there is a common entrance. Visitor spaces may be further away if they have enclosed access to the building.
- D. Driveway Space: Driveway space immediately in front of a garage door, blocking normal access to the garage, may not be counted as part of the required parking space for any residential use.

- E. Retail Sales and Service Uses: One (1) space for each two hundred fifty (250) square feet of gross floor area.
- F. Hotel or Motel: One (1) space per unit, plus one (1) space per employee on the largest shift.
- G. Medical or Dental Clinic: Six (6) spaces per doctor or dentist.
- H. Vehicle or Equipment Service and Repair: Two (2) spaces plus three (3) spaces for each service stall
- I. Restaurants, Taverns, Clubs, and Similar Uses: One (1) space for each two and one half (2.5) seats, based on maximum design capacity.
- J. Offices, Other than Medical or Dental: One (1) space for each two hundred fifty (250) square feet of gross floor area.
- K. Churches, Theaters, Auditoriums, Funeral Homes, and Other Places of Assembly.: One (1) space for each three (3) seats or for each five (5) feet of pew or bleacher length, based on the maximum design capacity.
- L. Warehouse, Storage, Handling of Bulk Goods, Industrial Storage: One (1) space for each two (2) employees on the largest shift, or one (1) space for each two thousand (2,000) square feet of gross floor area, whichever shall be greater.
- M. Manufacturing, Light Industrial, Processing, and Fabrication: One (1) space per five hundred (500) square feet of gross floor area.
- N. Uses Not Specifically Mentioned: As shall be determined by the Zoning Administrator.

**Subd. 3 Residential Districts.**

- A. No more than twenty-five (25) percent of the required yard area shall be surfaced or utilized for driveway space or vehicle storage.
- B. All parking spaces shall be on the same lot as the principal use for which they are intended.

**Subd. 4 Shared Parking in Non-residential Districts.** The standards for shared parking spaces for uses in all-non-residential districts are as follows:

- A. Required parking facilities serving two or more uses may be located on the same lot or in the same structure, provided that the total number of parking spaces furnished shall not be less than the sum of the separate requirements for each use.
- B. A shared parking plan for two or more uses involving fewer than the total number of parking spaces required in paragraph (1) above may be approved by Conditional Use Permit, if at least the following conditions shall be met:
  - 1) No more than fifty (50) percent of the required parking spaces for a given use may be shared with another use.

- 2) The applicant shall show that there is no substantial conflict between the principal operating hours of the uses, which will share parking spaces.
- 3) A properly drawn legal instrument covering access easements, cross parking arrangements, maintenance, or other pertinent issues, executed by the parties involved, and approved by the City Attorney, shall be filed with the City Clerk-Administrator.
- 4) Proof of available parking can be made available should a more intensive use be proposed for the site at a later time.

**Subd. 5 Location of Parking.** Unless otherwise provided, required parking for all uses shall be within four hundred (400) feet of the entrance to the use.

**Section 1350 - Non-residential Districts**

**1350.01 Scope.**

Except as otherwise provided, this division applies to all non-residential 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 suitable land for businesses and professional services to meet the needs of the community and provide employment opportunities and significant tax base;
- C. To promote a high quality of business and 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 Business Park/Office/Warehouse District.**

The Business Park/Office/Warehouse District is intended to provide locations for office, warehouse, and related uses in a business park setting. Some accessory commercial services may also be a part of this land use type to serve the large employment base.

**1350.04 Purpose of the Industrial Districts.**

The industrial districts shall be established to accomplish the general purpose of this Chapter and the Comprehensive Plan 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;
- 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 I-S Industrial Storage District.**

The specific intent of the I-S Industrial Storage District shall be to provide areas bordering City limits and 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 to foster a development pattern that encourages a mix of supportive residential and commercial uses, and supports a multi-modal transportation system that services all users. These districts will integrate places 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 Mixed Use District shall be to provide sites for small scale retail, commercial, office and service uses, and to support a mix of residential uses. District requirements and standards will create neighborhoods that are aesthetically pleasing, dense, safe, and walkable. This district is primarily intended to integrate residential uses with pedestrian-oriented commercial uses such as specialty retail stores, professional and financial services, offices, sit down restaurants, coffee shops, floral shops, etc. 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 will support commercial and entertainment uses and public transit services.

**1350.10 Specific intent of the MX-2 Commercial District.**

The specific intent of the MX-2 Commercial Mixed Use District shall be to provide areas that integrate diverse commercial and residential uses. Minimum lot sizes are larger than those in the Downtown District. Development is intended to be compatible with the scale of surrounding areas. Parking areas are restricted in this zone in order to limit the impact on the neighborhood and on areas that are visual gateways to the City.

**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.

**1350.12 Specific intent of the MX-4 General Mixed Use District**

The specific intent of the MX-General Mixed Use District is to provide for a mix of residential and commercial uses that provide for a long-term transition from the auto-oriented uses that exist in the district based on past frontage on Highway 61, to uses that are compatible with adjacent Mixed-Use Districts and development of the Downtown character of Hastings Avenue. The City anticipates that commercial uses will cluster on and near Hastings Avenue and the Glen Road interchange, and that over the long-term, residential uses may become more dense in this zone.

**1350.13 Dimensional Requirements for lots and structures in non-residential districts**

- A. Non-residential district requirements

**City of Newport**

**Section 1350 Non-Residential Districts**

<b>Requirements</b>	<b>MX-1</b>	<b>MX-2</b>	<b>MX-3</b>	<b>MX-4</b>	<b>B-1</b>	<b>I-1</b>	<b>I-2</b>	<b>I-S</b>
Minimum lot area in square feet	2,400	4,000	None	2,400	15,000	30,000	30,000	30,000
Minimum lot depth in feet	80	100	None	80	150	200	200	200
Minimum lot width in feet	30	40	None	30	100	100	100	100
Maximum lot coverage by all buildings (%)	80%	50%	None	80%	30%	40%	50%	50%
<i>Structure setback standards***</i>								
Minimum front yard setback	0	10**	0	0	20	20	20	50
Minimum front yard if across collector or minor street from any residential district	10	10**	10	10	50	50	50	100
Minimum side yard	0	5	5	5	10	20	20	50
Minimum side yard if adjacent to any residential district	10	10	10	10	50	50	50	100
Minimum rear yard	20	20	20	20	20	20	20	50
Minimum rear yard if adjacent to any residential district	20	20	20	20	50	50	50	100
<i>Parking and driving aisle setback in feet</i>								
Minimum front yard	20	Not allowed	Not allowed	20	20	20	20	20
Minimum front yard if across collector or minor street from any R district	50	Not allowed	Not allowed	50	50	50	50	50
Minimum side yard	5	5	5	5	5	5	5	5
Minimum side yard if adjacent to any R district	5	5	5	30	30	30	30	30
Minimum rear yard	5	5	5	5	5	5	5	5
Minimum rear yard if adjacent to any R district	10	10	10	50	50	50	50	50
Maximum building height in feet*	40 3-sty	28 2-sty	See table B.,below	40	40	40	40	40
Maximum height of storage tank in IS district								55
Public utilities required, including sewer	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

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

\*\* See section 1300.09 Exceptions to Front Yard Setbacks

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

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

<i>Height and Setbacks</i>	<i>Residential Townhouse</i>	<i>Residential Apt., Condo, Cooperative</i>	<i>Mixed-Use Building</i>	<i>Commercial, Civic, not in mixed-use building</i>
<i>Height</i>	<i>3 stories or 35 feet, whichever is less</i>	<i>2 stories minimum, 4 stories maximum*</i>	<i>2 stories minimum, 4 stories maximum*</i>	<i>No minimum, 4 stories or 40 feet maximum</i>
<i>Setbacks</i>	<i>Front: Maximum of 15 feet Side: 10 feet Rear: 15 feet</i>	<i>Front: Maximum of 15 feet Side: 10 feet Rear: 15 feet</i>	<i>Front: Maximum of 15 feet Side: 10 feet Rear: none required</i>	<i>Front: Maximum of 8 feet Side: 10 feet Rear: None required</i>

\*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.

C. Densities in the MX-3 District

- 1) The maximum residential density in the MX-3 District shall be 50 units per acre.
- 2) The minimum residential density in the MX-3 District shall be 30 units per acre.
- 3) The minimum net FAR (Floor Area Ratio) for residential and non-residential uses shall be .5 FAR.

**1350.14 Uses in the Non-Residential Districts**

A. Mixed Use Districts Uses

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

Use	MX-1	MX-2	MX-3	MX-4
<b>Residential Uses</b>				
Single-family detached, one dwelling per lot	P	P	N	P
Single-family detached, more than one dwelling per lot	PUD	PUD	N	PUD
Two-family residences	P	P	N	P
Townhouse, rowhouse	P	P	P	P
Manufactured single-family dwelling	P	P	N	P
Mobile homes	N	N	N	N
Multi-Family, condos, apartments and cooperatives	P	P	P—less than 8 units; C—8 or	P

Use	MX-1	MX-2	MX-3	MX-4
			more units	
Congregate housing for senior populations	P	P	P	P
Homes for handicapped or infirm including group homes or halfway houses but not containing more than 6 unrelated persons	P	P	P	P
Mixed-Use (dwelling unit above ground floor)	P	P	P	P
Live-work building	C	C	C	C
PUD	PUD	PUD	PUD	PUD
<b>Civic and Semi-Public Uses</b>				
Day care centers <u>in Single Family Homes with less than 14 children being attended to</u>	<u>P</u>	<u>P</u>	<u>N</u>	<u>P</u>
<u>Day care centers in Single Family Homes with more than 14 children being attended to</u>	<u>C</u>	<u>C</u>	<u>N</u>	<u>C</u>
Day care centers	C	C	C	C
Day care centers in a mixed-use building	P	P	P	P
Essential services/public utilities	P	P	P	P
Funeral Home	C	C	C	C
Hospitals	C	C	C	C
Military reserve, national guard centers	C	N	N	N
Park and public recreation facilities	P	P	P	P
Parking Garage (as a principal use)	C	N	C	N
Parking Lot, Surface (as a principal use)	C	N	N	N
Penal/correctional facilities	N	N	N	N
Place of worship and associated facilities, except schools	C	C	C	C
Public Facilities including government offices, emergency services facilities, public works facilities, schools, libraries, museums, post offices and other municipally owned or operated facilities	C	C	C—50,000 sq ft maximum	C
Schools – trade, college, vocational, and associated facilities	C	C	C—50,000 sq ft maximum	C
Schools for business, trade, dancing, music	C	C	C	C
Social and fraternal clubs and lodges, union halls	P	P	C—10,000 sq ft maximum	P
Transit stations and related parking facilities	C	C	C	C
<b>Commercial Uses</b>				
Administrative support services	P	P	P	P
Adult Uses	N	N	N	N
Animal boarding, grooming, veterinary clinics, retail sales	C	C	C—10,000 sq ft maximum	C
Artist studios	P	P	P	P
Auto body repair and major auto repair, towing services	C	N	N	N
Auto sales, rental	C	N	N	N
Automotive services, car specialty services (not including body repair or major repair)	C	C	C—Maximum 4 repair bays	C
Bakeries, delicatessens, coffee shops	P	P	P	P
Bakeries, wholesale	P	C	C	C

**City of Newport**

**Section 1350 Non-Residential Districts**

Use	MX-1	MX-2	MX-3	MX-4
Bed and Breakfast	P	P	N	P
Biotechnology	P	P	P	P
Building materials and services	C	N	N	N
Catalog and mail order	P	P	P	P
Conference Center, 50,000 square feet or less	C	C	C	C
Convenience stores	P	P	P	P
Data centers	C	C	C	C
Entertainment/amusement halls, bowling alley, indoor skating rink	P	P	C	C
Fabrication of apparel, leather products and other products from prepared products	P	C	P	C
Fabrication of office and computer equipment	P	P	P	P
Financial services	P	P	P	P
Fitness and recreation centers, in a mixed-use building	C	C	C	C
Gas, diesel or other motor fuel retail sales	C	C	N	C
Grocery and produce sales	C	C	C—50,000 sq ft maximum	C
Internet publishing and broadcasting	P	P	P	P
Medical, dental, or veterinary clinics and laboratories	C	C	C—10,000 sq ft maximum	C
Medical appliance assembly	P	P	P	P
Motion picture and sound recording industries	C	C	C	C
Offices – general, medical, professional, free-standing, or mixed-use building	P	P	P--to 10,000 sq ft; C—larger than 10,000 sq ft	P
Printing, publishing, bookbinding, blueprinting	C	C	C	C
Processing and packaging of drugs, pharmaceuticals, perfumes and cosmetics	C	C	P	C
Retail and service establishments, free-standing, or mixed-use building	P	P	P--to 10,000 sq ft; C—10,000 to 50,000 sq ft maximum	P
Rental of vehicles (with limited outside storage)	C	C	C	C
Research, development and testing laboratory	C	C	C	C
Restaurants, including open air or sidewalk cafes, freestanding or in mixed-use buildings—no liquor served	P	P	P	P
Restaurants, including open air or sidewalk cafes, freestanding or in mixed-use buildings—liquor served	C	C	C	C
Restaurants with drive-through service	C	C	C	C
Service businesses, such as beauty shops, barbershops, dry-cleaning, drop-off/pickup (no on-site processing) in mixed-use buildings	P	P	P	P
Small scale manufacturing and artisans	P	P	P—5,000 sq ft or less;	P

Use	MX-1	MX-2	MX-3	MX-4
			C—5,000 to 10,000 sq ft	
Theaters (with structured parking)	P	P	P	P
Theaters	C	C	C	C
Towing services (no outside storage of vehicles)	P	C	P	C
Warehousing as a primary use	N	N	N	N
<b>Accessory Uses</b>				
Drive up facilities	C	C	C	C
Gazebo, arbor, play equipment in public or private open space area	P	P	P	P
Outdoor sales, in conjunction with permitted use	C	C	N	C
Renewable energy system	P	P	P	P
Parking lot, as an accessory use	C	C	C	C
Swimming Pool	P	P	P	P

B. Business and Industrial District Uses

P=Permitted Use; C=Permitted with a Conditional Use Permit; N=Not Permitted

Use	B-1	I-1	I-2	I-S
<b>Civic and Public Uses</b>				
Airports	N	C	C	N
Cemetery and/or crematorium	C	N	N	N
Day care centers	C	C	C	C
Day care centers in a mixed-use building	P	C	C	C
Essential services/public utilities	P	P	P	P
Funeral Home	p	N	N	N
Hospitals	C	N	N	N
Medical Clinics	P	N	N	N
Military reserve, national guard centers	C	N	N	N
Park and public recreation facilities	P	P	P	P
Parking Garage (as a principal use)	P	N	N	N
Parking Lot, Surface (as a principal use)	P	P	P	P
Penal/correctional facilities	N	C	C	N
Place of worship and associated facilities, except schools	P	N	N	N
Post Office	P	N	N	N
Public Facilities including government offices, emergency services facilities, public works facilities, schools, libraries, museums, and other municipally owned or operated facilities	C	C	C	C
Sanitary landfill	N	C	C	N
Schools-trade, college, vocational, and associated facilities	p	C	N	N
Schools for business, trade, dancing, music	C	C	N	N
Social, Fraternal clubs and lodges, union halls	P	N	N	N
Transit stations and related parking facilities	C	N	N	N
<b>Commercial Uses</b>				
Adult uses (bookstore, theater, nightclub, nude or partially nude dancing)	N	N	C	C

Use	B-1	I-1	I-2	I-S
Auto painting and body work	N	C	N	N
Auto storage	N	C	P	C
Commercial greenhouse operations	C	P	N	N
Convenience stores	P	N	N	N
Gas, diesel or other motor fuel retail sales	P	N	N	N
Hotels, motels	P	N	N	N
Restaurant, traditional or liquor served; bar and grill	P	N	N	N
Salvage yards (auto or scrap iron)	N	N	P	N
Storage, mini-storage, cold-storage	N	N	N	P
Veterinary clinic, animal hospital	C	P	N	N
Wholesale sales	P	N	N	N
<b>Warehouse and Industrial Uses</b>				
Manufacturing	C	P	P	N
Retail sale, installation and remanufacturing of vehicle parts and accessories	N	P	N	N
Storage and distribution of bulk petroleum products, oil and gasoline	N	N	N	C
Storage, mini-storage, cold storage	N	N	N	P
Warehousing	C	P	P	N

**1350.15 Administrative Procedure for Re-Zoning in the Non-residential Districts**

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

**1350.16 Administrative Procedure for Site Plan Review in the Non-residential Districts and Additional Procedures for Development in the MX-3 District**

A. *Site Plan Review.* 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. The Zoning Administrator may require review by the Planning Commission and City Council. Such site plan shall include the following:

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

B. *MX-3 District.* Additional Administrative Procedures for Development in the MX-3 District

- 1) *Preliminary Review.* It is strongly recommended that anyone planning to develop or redevelop property in an MX-3 District 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.
- 2) *Station Area Plan Procedure.* No new development or redevelopment 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.
- 3) The findings necessary for approval of the Station Area Plan include, but are not limited to, the following:
- a. The Station Area Plan is consistent with the intent of the MX-3 District.
  - b. The Station Area Plan reflects development that:
    - i. Is not detrimental to the public health, safety, or general welfare
    - ii. Is not hazardous, detrimental, or disturbing to surrounding land uses, or that creates pollution, vibration, general unsightliness, electrical interference, or other nuisances
    - iii. Does not create traffic congestion, unsafe access, or parking needs that will cause inconvenience to adjoining properties
    - iv. Is served adequately by essential public services such as streets, police, fire protection, utilities, and parks
    - v. 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
    - vi. Causes minimal adverse environmental effects
    - vii. Each phase or stage of the Station Area Plan can exist as an independent unit.
- 4) *Administrative Approval.* To offer some degree of flexibility, the City Administrator has the authority to administratively alter 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 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:

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

**1350.17 Performance Standards for Non-residential Districts**

- A. The Performance Standards included in Item 1330.05 of this Ordinance shall apply in the Non-residential districts, except as modified in this Section.
- B. All public rights-of-way within the MX, Business, and Industrial Districts shall be considered collector streets or arterials as defined in the City thoroughfare plan.
- C. MX District Parking standards.
  - 1) Parking requirements in the MX Districts shall be governed by Section 1330.06 except for the following: Surface Parking Lots in the MX-2 and MX-3 Districts 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. The required front setback for surface parking lots in the MX-1 and MX-4 district shall include a planted boulevard that meets the landscaping requirements of the ordinance.
  - 2) In the MX-1 District, parking requirements shall be 1 space for every 350 square feet of office or retail gross floor area. On-street parking spaces that are adjacent to the parcel that the parking is being calculated for may be included in the calculation. The maximum number of off-street parking spaces permitted shall not exceed 1 space per 250 square feet of office or retail uses, except in the case of restaurants which shall be allowed one space per 200 square feet if shared parking facilities are not available.
  - 3) Parking standards for the MX-3 District are included in Section 1350.17.
  - 4) Additional reductions in parking requirements in the MX-1 and MX-2 Districts shall be permitted with demonstrations of proof of parking or a parking management strategy acceptable to the Zoning Administrator.
- D. Building Standards. 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.
  - 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

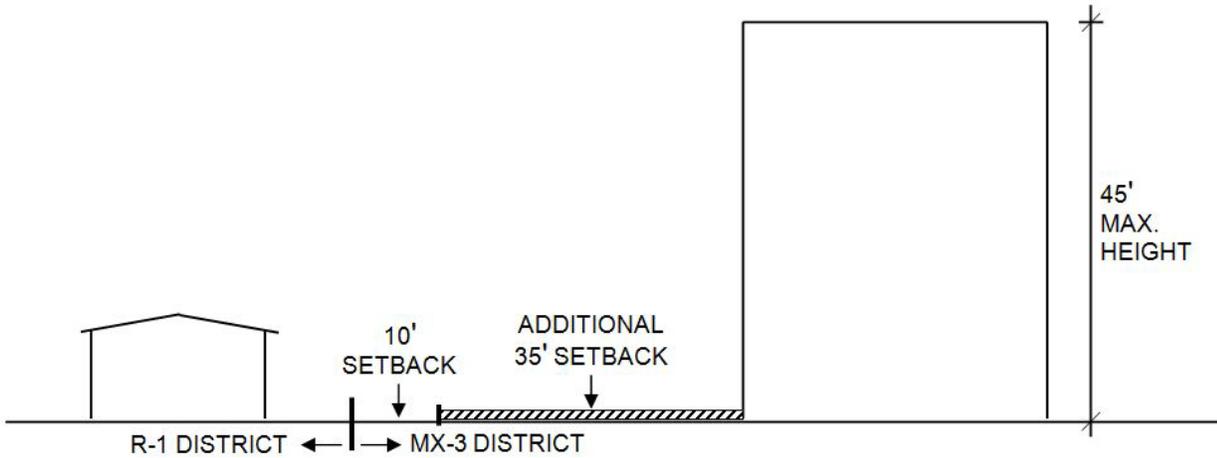
constructed of non-textured cinder block, sheet aluminum, steel, corrugated block, corrugated aluminum or steel or similar products.

- 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. Exterior metal surface finishes shall be warranted by the manufacturer for twenty years against blistering, peeling, cracking, flaking, checking, or chipping, and shall not compose more than 50% of the building elevation facing a public roadway.
- 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. Metal roof materials may be used upon approval by the Zoning Administrator.
- 6) Accessory tanks, exterior equipment, stacks, pipes, towers and the like are exempt from these requirements.
- 7) Other exterior building materials may be approved by Conditional Use Permit if it is determined that:
  - a. The materials are similar to or better than the permitted materials listed above;
  - b. The materials are high-quality, long-lasting, attractive, reasonably maintenance-free; and
  - c. The materials are integrated harmoniously into the building design and consistent with neighboring uses.
- E. Exterior Storage: No materials, product, or equipment shall be stored outside of an enclosed building except for daily display (during store hours) of merchandise.
- F. All refuse and recycling containers must be stored inside of the principle structure or a fully enclosed accessory structure.
- G. 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.
- H. 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.

**1350.18 Additional Performance Standards for the MX-3 District**

- A. Height and Setback Standards
  - 1) General setback standards for the MX-3 District are indicated on the table in Section 1350.13.
  - 2) Additional setback and building height standards for the MX-3 District include the following:
    - a. 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.

- b. 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.
- c. 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.
- d. 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.
- e. 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.
- f. 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.



- B. Open Storage Prohibited. Outside storage shall be prohibited in the MX-3 District.
- C. Open Space Requirement. Developers will be expected to work with the city to provide a minimum of ten percent (10%) of residential project sites and five feet (5') of commercial and mixed use project sites 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.
  - 1) All required open space shall be accessible to users of the building and shall be improved with seating, plantings, and amenities. Open space for commercial and mixed-use sites shall be visible from the street or pedestrian areas.
  - 2) 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.

D. Parking Requirements. For purposes of this section, a new use within 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.’

	<b>PARKING MINIMUM</b>	<b>PARKING MAXIMUM</b>
Residential	1.5 parking spaces per dwelling unit, plus 10% for guest parking	2.5 spaces per dwelling unit, plus 10% for guest parking
Commercial, Retail, Service	1 space per 400 SF	1 space per 200 SF
Office	1 space per 400 SF	1 space per 300 SF
Restaurant	1 space per 200 SF	1 space per 75 SF
Hotel	.75 per room, plus 10% guest and staff parking	1.5 spaces per room, plus 10% guest and staff parking
Clinic	1 space per 300 SF	1 space per 100 SF
Community Center	1 space per 400 SF	1 space per 200 SF
Theater	1 space per 6 seats plus 5% for staff	1 space per 3 seats plus 10% for staff

- 1) 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.
- 2) Parking maximums may be exceeded under the following circumstances, if one or more of the following is provided:
  - a. If structured or underground parking is provided on site, parking may be exceeded by 25%.
  - b. If a shared parking agreement is executed, parking may be exceeded by 20%.
  - c. 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%.
  - d. If driveways and access points are shared by at least two adjacent properties, parking may be exceeded by 10%.
  - e. If a provision is made for combining or interconnecting adjacent parking lots and pedestrian access points, parking may be exceeded by 10%.
  - f. In no case shall the cumulative increase in parking exceed 25%.
  - g. 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.
- 3) 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.

- 4) 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.
- 5) 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.
- 6) Shared parking shall be permitted and encouraged.
- 7) Bicycle parking shall be provided as a component of all parking facilities at a ratio of one bicycle space per 20 automobile spaces, or a minimum of two bicycle parking spaces, whichever is greater. Bicycle parking must be provided within view of each business front entrance. Adjoining businesses may share common bicycle parking areas.
- 8) 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.
- 9) Structured parking shall meet the following additional requirements:
  - a. 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.
  - b. 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.
  - c. 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.
  - d. 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. Loading Standards

- 1) 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:

Non-residential uses with gross floor area:	
Less than 50,000 square feet	None required

50,000-150,000 feet	One (1) space
Each additional 100,000 square feet	One (1) space

Existing buildings are exempt from these standards.

- 2) 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. Additional MX-3 District Design Standards

- 1) 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. A pedestrian sidewalk system shall meet the following standards:

- i. 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.
- ii. 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.

2) Street Design

a. Street walls

- i. No blank walls are permitted to face public streets, walkways, or public open spaces.
- ii. 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 of the first floor street level frontage.
- iii. 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.
- iv. Expanses of blank walls shall not exceed twenty (20) continuous feet in length. A blank wall is a façade that does not contain clear glass windows or doors or sufficient ornamentation, decoration or articulation.
- v. No reflective surfaces shall be permitted on street level exterior facades.

b. Corner building placement

- i. At intersections, buildings shall have front and side facades aligned at or near the front property line.

- c. Top of buildings
  - i. All rooftop mechanical equipment on buildings shall be screened from above or below (based on the type of mechanical equipment utilized) by integrating it into the building and roof design to the maximum extent feasible. Such equipment shall be screened with parapets or other materials similar to and compatible with exterior materials and architectural treatment on the structure being served. Horizontal or vertical slats of wood material shall not be utilized for this purpose. Solar and wind energy equipment is exempt from this provision if screening would interfere with system operations.
- d. Building entrances and orientation.
  - i. 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.
  - ii. At least one or more operable pedestrian entrances per building shall be provided, unless in a case where all the three circumstances below exist, only two (2) entrances shall be required:
    - A. 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.
    - B. 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.
    - C. 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.
- e. Canopies
  - i. Canopies, awnings, cornices and similar architectural accents are permitted on exterior building walls. Such features shall be constructed of rigid or flexible material design 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.
- f. Exterior Materials
  - i. 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.
  - ii. 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, and wooden exteriors.
  - iii. 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.

- iv. Sustainability Standards. The City encourages the use of sustainable building materials and construction techniques through programs such as U.S. Green Building Council's LEED (leadership in Energy and Environmental Design) program, Minnesota Sustainable Building Guidelines, and similar programs.
- v. 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:
  - A. The proposed design or material is consistent with the purposes of this section.
  - B. 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.
  - C. The proposed design or material would be in harmony with the character of adjacent buildings and the surrounding district.
- g. Screening Standards
  - i. 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.
  - ii. 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.
  - iii. The composition of the screening material and the placement on the lot shall be left up to the discretion of the 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.
  - iv. 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 to six feet 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.
  - v. 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').
  - vi. 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 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.
- h. Buffer Standards
  - i. 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.

- ii. In no instance shall a chain link, wood, vinyl, or barbed wire fence be permitted.
  
- i. Exterior Lighting Standards
  - i. 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:
    - A. Poles and fixtures shall be architecturally compatible with structures and lighting on-site and on adjacent properties.
    - B. Security lighting shall be adequate for visibility, but not overly bright.
    - C. 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.
    - D. 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.
    - E. Poles in parking lots shall have a maximum height of 24 feet (24’) measured from finished grade.
    - F. 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.
    - G. “Wall paks” shall be permitted only in loading and service areas and shall be down-lit and shielded from view.
    - H. 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.
    - I. Lighting should highlight entrances, art, terraces, and special landscape features.
    - J. 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.
    - K. All primary walkways, steps, or ramps along pedestrian routes shall be illuminated.
  - ii. Light Intensity
    - A. 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.

- B. 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.
- C. 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

j. Signs, banners, flags and pennants

- i. Where signs, banners, flags, and pennants for identification or decoration are provided, they shall conform to the following:
  - A. Wall signs shall have a maximum of 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.
  - B. 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.
  - C. Marquee signs are permitted.
  - D. Ground mounted or monument signs are permitted as follows:
    - 1. Signs shall not exceed ten feet (10') in height and forty (40) square feet in area.
    - 2. Signs shall be located behind the right-of way and out of any sight distance triangle.
    - 3. Signs shall be setback five feet (5') from any property line.
    - 4. No freestanding pole signs shall be permitted.
    - 5. No off-premise signs shall be permitted.
  - E. Signs shall also conform to Section 1380.02 and 1380.03 of this code.

k. Landscaping Standards

- i. 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, Section 1330.05, Subd. 14:

- ii. Landscaping shall support the purpose and intent of the District, and be consistent with the Station Area Plan or adopted master plans for the District.

G. Design Manual

- 1) All design guidelines included in the City's Red Rock Transit District Design Guidelines shall apply. The Design guidelines have been adopted as part of the City's Comprehensive Plan.