



**CITY OF NEWPORT
PLANNING COMMISSION MEETING
NEWPORT CITY HALL
OCTOBER 10, 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 September 12, 2013

4. APPOINTMENTS WITH COMMISSION

- A. **Resolution No. P.C. 2013-10** – Recommending the Newport City Council Approve a Conditional Use Permit and Variance Requested by Kim Brown for Property Located at 1675 Kolff Road
- B. **Resolution No. P.C. 2013-11** – Recommending the Newport City Council Approve a Zoning Amendment to Section 1330 General District Regulations and Section 1350 Nonresidential Districts
- C. Discussion Regarding Outdoor Wood Burning Furnaces
- D. Discussion Regarding Accessory Structure Size in the RE District
- E. Discussion Regarding Rezoning at the Corner of 10th Street and 2nd Avenue

5. COMMISSION & STAFF REPORTS

6. NEW BUSINESS

7. ANNOUNCEMENTS

A. Upcoming Meetings and Events:

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

8. ADJOURNMENT



**City of Newport
Planning Commission Minutes
September 12, 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, Janice Anderson, Susan Lindoo, Anthony Mahmood

Commissioners absent –

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

3. APPROVAL OF PLANNING COMMISSION MINUTES

Planning Commission Minutes of August 8, 2013

Motion by Mahmood, seconded by Lindoo, to approve the August 8, 2013 minutes as presented. With 5 Ayes, 0 Nays, the motion carried.

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 7th Avenue

Sherri Buss, TKDA Planner, presented on this item as outlined in the September 12, 2013 Planning Commission Packet.

Vice-Chair Prestegaard – Does the zoning change between his old and new office? Why does he need a Conditional Use Permit?

Ms. Buss – No, it's in the same zone but he needs a Conditional Use Permit to park the trucks and vehicles.

Vice-Chair Prestegaard – Is the existing site grandfathered in?

Ms. Buss – I'm not sure if there is an existing Conditional Use on there or if it's grandfathered in, there have been vehicles stored there for a while.

Susan Lindoo – There was something about the zoning ordinance requiring that off-street parking areas be improved with a durable and dustless surface, is that already there?

Ms. Buss – Yes, it's all pretty much paved.

The public hearing opened at 6:07 p.m.

The public hearing closed at 6:08 p.m.

Motion by Lindoo, seconded by Prestegaard, to approve Resolution No. P.C. 2013-8 as presented recommending the City Council approve a Conditional Use Permit requested by J & J Temperature Control for property located at 100 7th Avenue. With 5 Ayes, 0 Nays, the motion carried.

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

Sherri Buss, TKDA Planner, presented on this item as outlined in the September 12, 2013 Planning Commission Packet. Staff is recommending that the Planning Commission recommend approval of a 24 foot side yard setback variance and a 30% lot coverage variance instead of the requested 10 foot side yard setback variance.

Vice-Chair Prestegaard – Do you want to say anything about the pictures?

Ms. Buss – You're looking at his property from 6th Avenue and can see the existing house.

Engineer Stewart – One thing that might be worth mentioning is that the pictures were taken from the school driveway.

Anthony Mahmood – So where is the driveway that he needs to take out?

Ms. Buss – It's right behind the house. He can put the garage there; the plan that he sent has the garage further north on the lot.

Janice Anderson – When I drove past there, I thought there was a garage on the east side of the house, is that on different property?

Ms. Buss – Yes.

The public hearing opened at 6:18 p.m.

Brian Domeier, 1040 10th Avenue – There is only one driveway in the rear.

Ms. Buss – There's one existing driveway and the plans that were submitted the garage was further back on the property, not on the same location as the driveway so that's why there were comments regarding the two driveways.

Mr. Domeier – I think my photos will show a better view. I think this is a classic use of a variance. There has never been a garage on the site, people parked on the City right-of-way for years and nobody said anything. The reason it doesn't have a garage is because the current setbacks would place it in the middle of the yard. That's the reason I'm asking for the variance. It doesn't affect the neighbors in any way. One thing I think people are confused about is that the ten feet would be from the tar but that's not the case, it would be from the property line. I have some photos of examples of what's going on around Newport year round. One of the arguments against the ten feet is that it may allow for people to park in the City right-of-way but people all over are doing it already. Without the variance, the garage would start in the middle of the yard and you end up with 24 feet of grassy area for a backyard, which is nothing. The front of the garage would come to the tree that's located in my yard. I parked a small car from that area and there's still plenty of space in the right-of-way. It's much better than what's going on all over. I think its very common sense and I read some notes about school safety. I stopped at the school today and talked with the janitor about whether or not mothers park in front of the driveway to drop off their kids and he said never. I've never seen anyone park there, they drive in the front and drop off their kids so that's a non-issue. It's not going to cause any safety issues. I think it'd be a great use of a variance.

Vice-Chair Prestegaard – Could someone answer how a car would overhang into the road?

Ms. Buss – It's the right-of-way. If you look at an aerial, part of the issue is that there is about 20 feet between the road and property line and that's City right-of-way. Part of the question is should he be able to park there.

Engineer Stewart – I understand that a lot of things go on in the City that are not permitted by Code. For instance, the property next to his has trucks parked in the right-of-way on their driveway. Why I got so concerned about this one here is that it's in the school zone. I did talk with the transportation for the school and asked them their opinion. They were concerned that there are trucks trying to turn out of the school parking lot and 6th Avenue gets so backed up that they can't get out of the parking lot. As we go to Mr. Domeier's property, you can see that there's not a lot of room for snow storage on the west side of 6th Avenue and that all of it needs to go on his side of the Avenue. When we put together the snow storage requirement it gets pretty tight for buses to come out. I just feel that this is not a good example of what we should be perpetrating in that people are parking there and making it more congest.

Chairperson Lund – The driveway is going to be there no matter what so you can't put snow there and if the driveway is there there might be a car in it no matter what so I don't quite follow.

Susan Lindoo – Is it that the car would be parked on City property?

Engineer Stewart – Yes.

Chairperson Lund – So what's to stop them from having two cars in the driveway without the variance?

Mr. Domeier – This photo is with the ten foot variance and there's plenty of room.

Chairperson Lund – So if we move the garage back with no variance then there would be room for two cars between the City right-of-way and garage.

Engineer Stewart – Yes and the Police could ticket that car if it got to be troublesome.

Chairperson Lund – How is that different if there's one car in the right-of-way?

Engineer Stewart – The one car with the variance is just has you see it in the photo, two cars without the variance is the same situation and the Police could write a ticket for that too. We also have to think of when and if the street is improved. In most cities, they do not grant variances which allow for a situation to become worse.

Chairperson Lund – Do we know how far the house is from the property line?

Ms. Buss – It's probably the minimum of 5 feet. The 30 feet setback is probably newer than most of the houses in the neighborhood and that is probably why cars park closer.

Chairperson Lund – So is there any argument for forcing the garage to be further from the street than the house?

Ms. Buss – It's the parking issue.

Chairperson Lund – But the Police can enforce the code no matter where the garage is.

Ms. Buss – Having the Police out there all the time is probably not a useful thing to do.

Mr. Domeier – This photo is with the variance and other ones that I showed are year round where they parked right next to the tar year round. It's either do the variance and do a good thing for Newport and save a backyard or not do the variance and go back to people parking around the edge because I won't build a garage. I talked with the janitor and he doesn't see any issue.

Engineer Stewart – When we did 7th Avenue the State required us to pass a resolution that states that cars cannot park in the City right-of-way and that was a condition of the grant funding.

Mr. Domeier – I would be fine with people parking in the driveway during the winter for school to pick up their kids. I don't want people parking in the driveway anyways, they'll be parking in the garage.

Engineer Stewart – That’s not the experience though, you build a garage and people tend to fill it with other stuff and park outside.

Anthony Mahmood – Is there room to have the garage next to the house and have the driveway turn?

Mr. Domeier – No. Again, if you’re going to deny this the whole City would have to change because there are a ton of people who are parking in the right-of-way.

Wade Glasgow, 821 7th Avenue – If you’re using the right-of-way as a reason to deny him then you need to drive around Newport and look around. I can’t get any closer to my house and I’m still illegal. I know the people before him tried doing the same thing and I didn’t have an issue with it but they were denied.

Chairperson Lund – If we denied the variance the garage would cast a shadow on your yard?

Mr. Glasgow – Yes and we all know what happens when you have 4 feet between a fence and garage, it becomes all weeds. As far as that thing goes with buses, that driveway sits in between two entrances and I don’t see why that would have an effect on the buses.

The public hearing closed at 6:37 p.m.

Vice-Chair Prestegaard – I do have questions. The school bus complication seemed like it talked about people parking in the street but also the City possibly needing to expand the street over time and there were a lot of things which I can’t imagine will happen at once. Can you help me separate those issues?

Engineer Stewart – That car in the photo is probably 16 feet long, if you have full truck that’ll add an extra 8 feet so it’ll be parked in the driveway, not the street. We’ll have an issue where there won’t be a clear site path down the boulevard all the way. It’s not a good policy to plan for people building new buildings that causes that situation to be continued. The building can be located so that the second car is not parking on the right-of-way.

Vice-Chair Prestegaard – So some of the assumptions we make are that a, people will park in the driveway and b, they will have long vehicles but I’m still not getting the buses turning.

Engineer Stewart – It gets to the point where it messes up the site line.

Vice-Chair Prestegaard – So it’s a visual problem?

Engineer Stewart – Yes.

Chairperson Lund – I have a hard time justifying that he needs to put it further than the house. Doing some math, if we deny the variance entirely, that’ll leave a maximum of 16 feet of yard but it’ll be less most likely. It would also be 10 feet further from the road than the house.

Ms. Buss – One thing about the house that’s different is that there’s nothing about the house that occupies the City’s right-of-way. I wouldn’t know a city engineer that would recommend a situation where private vehicles are making the right-of-way part of their space.

Chairperson Lund – It’s a driveway.

Ms. Buss – But it’s on City right-of-way.

Chairperson Lund – Every driveway is on right-of-way.

Ms. Buss – Yes but they typically leave enough room to not have to park on the right-of-way. In regards to the house, it's different because nothing about it occupies the right-of-way. I think you would get the same argument from any other city engineer to not create a situation where someone's personal property is going to occupy the city property.

Susan Lindoo – I have some problems with not following City Ordinances. Granted there are lots of lousy parking and that probably speaks to the fact that we are tolerant of error in the City and are not precise about that. I keep thinking about building our fence and thinking that we could build it more than six feet and my husband being really concerned about it. It feels to me that it's one thing to say that we have some legal non-conforming uses because the houses were built prior to the ordinances and we have to figure out how best to do it. I'm uncomfortable when we ask for the City Engineer's opinion and he goes by the City Ordinances and says this is what it is and we say "Yes but let's not do that." I'm personally uncomfortable doing that. I would love to come to some sort of compromise and say that you're suggesting 24 and he wants 10, let's do 18 feet. I see a lot of trucks and SUVs in the City and I do have concerns about someone sitting out there. We leave our cars out in the summer and lots of people do. And you do have the issue of buses. I really like the idea of leaving more green space so I'm torn that way but I'm also torn about not following the Engineer's opinion.

Janice Anderson – Was any consideration given towards an attached garage? Is that allowed? They would probably be able to come in from the north side.

Ms. Buss – It's hard to add that to a house later.

Chairperson Lund – Do you recall how wide your house is?

Ms. Buss – I tried to measure it and it was something like 24' x 40'.

Chairperson Lund – So by my best guess, if the house is 40' wide, it's about 20' from the property line.

Anthony Mahmood – Are there "No Parking" signs on that street?

Vice-Chair Prestegaard – No.

Anthony Mahmood – So people can park there and screw up the sight line all year round? So if he has a 24' garage, I don't see him getting a 25' truck because it won't fit in there and if there are two cars in the driveway, the cops could come by and give him a ticket and I doubt he's going to get tickets all the time so he's probably going to park on the street for one of the cars if there's two, which is perfectly legal. I'm not seeing a problem here.

Mr. Domeier – There's actually room for four vehicles, two of them would be in the garage.

Admin. Hill – If the street is improved, how much more

Engineer Stewart – The street is actually all the way up against the school right-of-way. The edge of the street right now is coincident with the property line for the school.

Chairperson Lund – It'll never look like 7th Avenue though.

Ms. Buss – How much wider would it be?

Engineer Stewart – Maybe four feet.

Chairperson Lund – One thing that's troubling for me is that we don't have a clear picture of what 10 feet or 24 feet means other than the picture with Google Satellite. For me, the more significant thing is where it relates to the road rather than the property line. John is telling us that the road might get four feet wider which I don't think will happen soon but we should keep it in mind. If we do grant a variance, I propose we grant it from the road so we can add some more precision. That might be easier for the applicant.

Engineer Stewart – I would suggest that you also think about the issue of four feet for widening and an extra six to eight feet for snow storage on the rest of the lot.

Janice Anderson – But the snow storage shouldn't affect the driveway.

Engineer Stewart – Right.

Susan Lindoo – Is the green between the road and red line the City right-of-way? Is it about 10 feet?

Engineer Stewart – It's actually about 15 to 18 feet.

Susan Lindoo – How much of that is City property?

Engineer Stewart – All of it so he'll use up more than 50% with his vehicles. If you were in a situation where you were looking at a new lot with new construction, you would not think about allowing that.

Anthony Mahmood – But this isn't new. The resident lives there and needs a garage and we have to consider that.

Chairperson Lund – So I see it where we either allow the variance and maintain the backyard or deny the variance and have no garage or no backyard. We'd all like it to have an extra 30 feet on that lot. It looks small on the plat map but it doesn't look small when you go out there. My suggestion would be that we allow the variance. From my best estimate, giving him an extra six feet would still force the garage to be further back from the street than the house and I don't see any reason where we can justify that. I think if it was something like 30 feet from the asphalt, it would be in line with the ten feet.

Janice Anderson – I think most of this is caused by change in zoning.

Vice-Chair Prestegaard – Can you describe that additional six feet in further terms? He asked for 10 feet, the suggestion is 24 feet.

Chairperson Lund – He asked for 10 feet, which is a 20 foot variance from the Code and City staff is recommending 24 feet, which is a six foot variance from the Code. My point is that we don't have any idea of what any of that means because we don't have a survey and don't know where the house is so I think the more significant thing is where is it compared to the street. The City right-of-way is as wide as 7th Avenue right?

Engineer Stewart - It's a 50 foot right-of-way, including the street.

Vice-Chair Prestegaard – So are you proposing full acceptance?

Chairperson Lund – I'm proposing 30 feet from the street or 10 feet from the property line, whichever is greater.

Ms. Buss – The north-south property line is 100 feet if that helps you scale. So your thought is requiring the garage be set back 30 feet from the existing pavement?

Chairperson Lund – And at least 10 feet from the property line. It's kind of a unique situation in that we have that much right-of-way and that they can't fit the garage without eliminating the backyard.

Vice-Chair Prestegaard – I would add that the car seems like a movable obstruction than the hedge.

Ms. Buss – I would add that the first day I went out there, there was a truck-trailer parked on the existing driveway that belonged to the renter. So maybe there's a need for a condition about the length of vehicles.

Chairperson Lund – That wouldn't fit if we put the garage in.

Ms. Buss – I just want you to think about the fact that there are all sorts of vehicles in the world. We can leave it to the Police or make a statement.

Janice Anderson – What’s the side yard setback?

Chairperson Lund – Five feet.

Janice Anderson – I would be willing to move Dan’s motion, the 30 feet from asphalt and no less than 10 feet from the property line.

Vice-Chair Prestegaard – Do we want to add a condition about vehicle length? That would put it in the Police Department’s hands and makes it a little more complex for enforcement.

Chairperson Lund – The Police already have the ability to force people to not park in the City right-of-way, so I don’t think we need to put that in the conditions.

Susan Lindoo – I would like to point out that they are not doing a good job of enforcing it because we’re looking at those two cars on the map.

Chairperson Lund – That’s a separate issue though.

Susan Lindoo – Not really. I’ve been on the Planning Commission when we gave a variance and asked the applicant “You won’t do this other thing that’s illegal will you?” and the person said “Of course not” and it came back to us several years later because they were doing the illegal thing that they said they wouldn’t do. I like the idea of saying that it shouldn’t be happening. We’re going against the City Ordinance because we feel there’s good reason to, because it screws up the guy’s backyard. So I think there’s a justification of why we’re doing it. We’re saying that we’re going to trust but verify. We would do this with a business. We did that with the Transit Station and have with almost everything we’ve seen. If we’re saying yes then I think it makes sense to add a condition for the vehicle length.

Vice-Chair Prestegaard – I think it’s reasonable to add as well. Dan was only refuting my point about complexity about enforcement. We can add the condition.

Ms. Buss – You’re proposing a condition that they shall not park on the City right-of-way?

Chairperson Lund – I think it was a vehicle length.

Vice-Chair Prestegaard – It was your suggestion, a vehicle length. It’s a given that the Police can ticket them if they do park on the right-of-way.

Chairperson Lund – There’s only going to be 10 to 15 feet of right-of-way and if they’re not in the garage then the vehicle could only be 10 feet.

Janice Anderson – That’s a small vehicle.

Engineer Stewart – This would be somewhat analogous to saying that cars could park within five feet of the curb line at Holiday on Hastings Avenue. You’re allowing parking here so if you had a commercial, why wouldn’t you allow parking in the same way? If you looked at the gas station and you were to say that you can park your cars within six or 12 feet from the curb on Hastings Avenue in the right-of-way. The way the Ordinance is written now is that they cannot park vehicles in the City right-of-way, it has to be on their property. You’re saying that it doesn’t matter for a residential property.

Chairperson Lund – No one has said that.

Vice-Chair Prestegaard – We make the assumption that someone might park outside of the garage. We make a second assumption that we might need the right-of-way, which may come true at some point. There's a driveway there right now and they won't get a ticket unless they are in the right-of-way so we're not going to change that rule or law.

Chairperson Lund – Do we have an ordinance about parking semi-trailers in residential areas?

Executive Analyst Helm – It can't be parked for more than 48 hours.

Susan Lindoo – John, are you saying that if we do the variance the way that Dan is suggesting that anyone that parked outside of the garage would automatically be in the right-of-way unless it was a smart car?

Vice-Chair Prestegaard – Almost certainly.

Ms. Buss – Yes, because there would only be 10 to 12 feet from the right-of-way.

Chairperson Lund – And in that case, the Police can ticket them.

Susan Lindoo – And they never do.

Anthony Mahmood – There aren't any signs prohibiting parking on the street so the sight line is already compromised. All we're saying is that there's a hardship right now and he needs to have his backyard. Let's pass it and let the Council take a look at it.

Vice-Chair Prestegaard – Dan's proposal?

Anthony Mahmood – Yes.

Janice Anderson – I'll obtain my motion without adding the condition for vehicle length.

Chairperson Lund – So the motion is to approve the variance with an added condition that the setback not only be 10 feet from the property line but also 30 feet from the current paved surface of the street.

Motion by Anderson, seconded by Prestegaard to approve Resolution No. P.C. 2013-9 as amended recommending that the City Council approve a Variance requested by Brian Domeier for property located at 615 8th Street. With 4 Ayes, 0 Nays, 1 Abstaining, the motion carried.

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

Sherry Buss, TKDA Planner, presented on this item as outlined in the September 12, 2013 Planning Commission Packet.

Vice-Chair Prestegaard – What is to the north of her property?

Ms. Buss – There is a City-owned right-of-way that is about 75 feet wide north of her property. If you thought about it as the 50 foot setback plus the 75 feet of the City right-of-way, it's 125 feet from the next property line.

Janice Anderson – There are two properties in view of the new structure.

Admin. Hill – There's a water main in that right-of-way.

Susan Lindoo – What is that odd little shape on the north side?

Janice Anderson – That's the roadway to the pump house.

Susan Lindoo – So that's also part of City property?

Ms. Buss – Yes.

Susan Lindoo – Can you explain what you mean when you're talking about site lines?

Janice Anderson – The two properties north of this property will be able to see the new building.

Vice-Chair Prestegaard – From the property line or their houses?

Janice Anderson – From their houses.

Ms. Buss – The Code says that accessory structures need to be compatible with the existing structure in terms of material and color. She is proposing to paint this the same color as the house and have the same type of roof as the house. Obviously, a pole barn is made of metal and the house is not metal. I don't know if we've permitted pole barns in the RE District before or if you guys have had discussions in the past before about whether that building material meets that Code requirement or not.

Susan Lindoo – I can remember two that we approved some time ago and I can't remember if we've updated the Code since then.

Vice-Chair Prestegaard – Pertaining to the sight lines, you were saying from their houses. Is that during the winter or summer, or does it not matter? It says buckthorn on the map and if I know anything about buckthorn, I can't see three feet from it.

Janice Anderson – From 1270, that visual would be all the time. From 1260, it would be more winter, but there is an elevation as well.

Vice-Chair Prestegaard – Can they see the house, existing structure or road?

Janice Anderson – They can't see the house because it's far enough back. They can see the pump house.

Vice-Chair Prestegaard – So should we have a shorter height?

Janice Anderson – I sit higher at my house than either of them and I can see the pump house. During the winter, I can see her house.

Vice-Chair Prestegaard – Would height make a difference?

Janice Anderson – No. Earlier, we talked about septic positions. If there is an office in the building, I would expect restroom facilities so would there be an additional septic system?

Ms. Buss – We would need to ask the applicant.

Kim Brown, 1675 Kolff Street – There are no restroom facilities in the building.

Susan Lindoo – The original drawing from August 20, shows the house and then shows two existing structures and then the revised drawing shows only one existing structure. Was the other one torn down?

Ms. Brown – There's a portable shed that is not attached to the ground.

Ms. Buss – Since it's not attached to the ground it's not considered a structure.

Susan Lindoo – There was something about the house being 19 feet and 25 feet. On page 4 you state “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).” What is the definition of building height in the Code because on the drawings it shows that it is 25 feet?

Ms. Buss – The definition of height is from the ground elevation to half way up the eaves, so the midpoint between the eave and peak of the roof.

Ms. Brown – The house is 29 feet.

Chairperson Lund – So the plan shows that it would be 25 feet to the peak but under our definition, the height would be less?

Ms. Buss – Yes because you don’t measure to the peak.

Chairperson Lund – So the house is taller than the pole barn?

Ms. Buss – Yes.

Janice Anderson – There’s been some concern addresses to me that this would become a business.

Ms. Buss – Businesses are not allowed however we do allow home occupations. A home occupation means that the person who lives in the house and potentially one employee, there’s a limit on the number of vehicles and activities so that this remains a single-family house. That’s why one of the conditions is that the building cannot be used for commercial use or a dwelling unit.

Susan Lindoo – I remember a situation where we did approve a pole barn and it was used as a business later and one of the neighbors said that we originally knew that it would be used as a business and I didn’t. I’m glad you have that in there, I was wondering if you could add that it can’t be used as commercial, manufacturing or industrial use. It would feel better to have that on the record now.

Ms. Buss – Yes, we can add that.

Janice Anderson – Well this might be considered agricultural use.

Ms. Buss – Yes, but agricultural use is allowed in the RE District. A commercial agricultural use is not allowed. She is not allowed to do riding lessons or anything like that.

The public hearing opened at 7:29 p.m.

Vice-Chair Prestegaard – It looked like initially it was facing the other direction, so it looks like an accommodation and that this is the best that you could have done in that area. My recollection is that behind the house, there’s a drop off and some sort of flat area, did you give consideration to that area?

Ms. Brown – No, that’s pasture for the horses.

Susan Lindoo – We’re all under DNR specifications to get rid of our buckthorn...

Ms. Brown – I don’t have the money to get rid of all of the buckthorn on my land.

Susan Lindoo – Buckthorn is a tree that normally doesn’t get above 30 or 40 feet so it does screen pretty well.

Janice Anderson – Buckthorn is pretty thick.

Susan Lindoo – So you couldn't see from the sight lines?

Janice Anderson – They still could, above the sight lines.

Anthony Mahmood – There was some concern from a letter that if you moved it 50 feet from your house, your neighbors would be happy. Could you do that?

Ms. Brown – I don't have neighbors. It wouldn't matter and then it would be too close to my house. It's not going to work.

Anthony Mahmood – Even if she did move it, you would still see it because of elevation?

Janice Anderson – Yes.

Ms. Brown – And the pump house is 20 feet higher than this structure.

Janice Anderson – I know, I can see it.

Bob Niebuhr, 1250 Kolff Court – My property is directly north of Kim's property. I have some concerns and questions. What's the intent of that size of a building?

Ms. Brown – What's the intent of my pole building, that's what you want to ask?

Mr. Niebuhr – Well, it doesn't seem to me to fit the intent of the environment to put a 9,000 sq ft building in a residential area. That concerns me and concerns the impact of the value on my property. I went to the back of my lot and there isn't that much buckthorn that I couldn't see the building. I walked the property line and there's not that much vegetation to block that view. I would be concerned in the winter when the leaves are gone that it would have an impact. Then, I noticed when I was back there that there were some areas that had been mowed on my property in an oval shape and I'm concerned that if it is intended for horses that they'll be wondering into my property. That's why I asked the intent.

Ms. Buss – The application says that the building will be used for a barn, hay storage and an office.

Mr. Niebuhr – Why do you need 9,000 sq ft for hay storage and an office? That's a lot of space. To me that doesn't seem reasonable.

Ms. Brown – Let me explain something to you. I don't just have normal horses. I have American Saddle Bred Show Horses. The intent is to bring them back to my house so I can work them myself in my own arena. That's why I need that size of a building. I also need enough room to put 1,100 bales of hay because I'm storing them up in Forest Lake right now. That's why I want this size of a building.

Mr. Niebuhr – So will the horses always be inside?

Ms. Brown – Yes, they're show horses.

Mr. Niebuhr – So you don't ride them?

Ms. Brown – I do, inside.

Vice-Chair Prestegaard – There's existing pasture in that bowl area.

Ms. Brown – Yes but the intent of this building is to bring my show horses home. I've got them in training right now.

Vice-Chair Prestegaard – There are other horses that use the pasture?

Ms. Brown – Yes, there are two that are up for sale right now.

Susan Lindoo – How many horses would you have at maximum?

Ms. Brown – It depends on how many sell. Right now I have three in training and two up for sale so I would say three.

Chairperson Lund – Renee can you refresh my recollection on how many horses are allowed?

Executive Analyst Helm – I am looking that up right now.

Mr. Niebuhr – It just seems to me that the size doesn't fit the environment. I know that it's agricultural but it doesn't fit with the size of the homes. It seems that it would be out of place and have some impact on property values among Kolff Court.

Executive Analyst Helm – There shall be at least four acres for the first animal and then 1 additional acre for each additional animal. She has about 8.75 acres so it would be five horses.

Janice Anderson – Did you say that the arena is in the pole barn?

Ms. Brown – Yes.

Jeff Robinson, 1270 Kolff Court – I submitted written comments on this letter (attached as part of the minutes) so I won't go through that again. Due to the ravine on Kolff Court, we are in the back right corner of the lot. Right now, as it sits, I can see the lights of the house on this property. There is a nice healthy border of trees, not buckthorn, in this area. As I see the proposed sight, I see roughly 50 feet of this tree barrier being taken down for the building. As I look at this proposal, the request is for preference not necessity. Given the size of the property, I feel that moving it closer to the house or in a different location could be done in a way that it would meet the setback requirements. The placement of this is between our house and her house. I wouldn't put it right behind my house. I'm very concerned about the size of the facility and visual. We built our house there as part of the Wild Ridge Estates 20 years ago to have a home in the woods and have enjoyed it. The more trees you could have between us and our facility would provide more screening. I would ask you to deny the variance; I think it's one of preference, not necessity.

Chairperson Lund – Are you only concerned about the variance to the north property line?

Mr. Robinson – Yes.

Chairperson Lund – Because they do need the variance for the property line to the pump house as well.

Mr. Robinson – It's all about the north variance for me. I don't know what is front or side because it's shaped irregular.

Ms. Buss – That's all a side setback, even though it has a funny shape.

Mr. Robinson – It's just the north that it would be a complete visual from our back window. I just want to impress the size of this facility and how much it is going to impact our sight line and property value.

Janice Anderson – Would you have a suggestion for screening?

Mr. Robinson – My suggestion is to try and move it. I don't see the slope issue between the proposed building and house. I think it can be moved closer to the house, it looked relatively flat.

Vice-Chair Prestegaard – It indicates 10 feet.

Ms. Buss – The only data we can get from the County is 10 feet contours.

Vice-Chair Prestegaard – There's an implied 10 foot drop. Does that mean 10 feet or more or up to 10 feet?

Chairperson Lund – From one line to the next is 10 feet but that doesn't represent any particular slope.

Susan Lindoo – Has anyone gone out to look at the slope?

Ms. Buss – No. I think that would be a question to think about. Do you want the applicant to bring in a survey that has the topography if that's the basis for the variance? We don't require that for residential in this district. If someone proposed a commercial building on a steep slope we would require that.

Chairperson Lund – There's nothing in our Code that relates to size.

Ms. Buss – The only thing that relates to size is that if someone wants more than 2,000 square feet for a building they need to have a larger setback. That's where the 100 feet came from and the maximum setback is 100 feet. If there wasn't a maximum of 100 feet, she would have needed a setback of like 170 feet. Per the Code, for every 40 sq ft beyond 2,000 sq ft, she would need an additional one foot setback. Her argument is that she should not need to make the 100 foot requirement because it pushes it onto steeper slopes and this is a regularly flat area.

Vice-Chair Prestegaard – We can't forget about this 70 feet of City-owned space.

Ms. Buss – That's up to you, it isn't part of her property but it is sort of like a setback and another barrier. It's likely to remain in City ownership.

Anthony Mahmood – Your main concern is being able to see the building?

Mr. Robinson – Yes.

Anthony Mahmood – Earlier you had said that from your house you could see the lights in her house already. So if that building was setback another 50 feet you would still be able to see it because her house is further back.

Mr. Robinson – I don't care about the light in her house, it's a light in the woods. This is an enormous structure that will be right there about three houses wide. It is partly in between this light and our house so it's going to be in front of me. There are tall trees there currently. Any additional setback would mean additional screening.

Chairperson Lund – Sherri, did you visit the site?

Ms. Buss – Just from the road.

Mr. Robinson – Our house was there before the City put the pump house in and that was necessary because the residents below had bad pressure. The Mayor and Planner did come out and meet with us because they needed to clear some trees. The pump house is a small building and the City did a good job and keeping as many trees as they could. That was necessary; I view this as something where I really think the setback requirements are there for good cause and to protect those who are adjacent. Yes, I'm not directly adjacent because of the right-of-way but as a practical standpoint, I am adjacent to what this is going to be.

Susan Lindoo – One thing that's difficult is that the request is based on slope considerations and we don't know what those are so I'm uncomfortable with this because we're in the dark about it.

Vice-Chair Prestegaard – I have similar feelings. Someone had asked earlier about it being closer to the house and you said that wasn't workable, could you say why?

Ms. Brown – Well I would have to pull out several trees and it would be right next to the garage that is there now.

Vice-Chair Prestegaard – I'm trying to get a sense of whether or not you're able to move it closer at all. Right now it looks like the proposed structure is 95 feet from the house and the garage is about 60 feet from it. I'm trying to get an idea of whether it's a slope issue or a proximity issue.

Ms. Brown – That's all flat right there.

Susan Lindoo – It feels like there's an argument that you don't want it too close to your house and the neighbors don't want it too close to their homes. We won't give a variance because you don't want it close to your house. We would give it based on slope because it's not possible to build in that spot. We've never done this but we could consider tabling it until we get a chance to get up there and look at it.

Ms. Buss – We could ask the applicant to provide a map that shows one or two foot contours between the proposed structure and house.

Chairperson Lund – You just said that it is flat between the structure and your house.

Ms. Brown – Yes.

Susan Lindoo – So it could be moved closer to your house?

Chairperson Lund – I think what we're hearing is that slope is not an issue.

Ms. Brown – It starts sloping down.

Ms. Buss – Between the proposed barn and house?

Ms. Brown – Yes.

Chairperson Lund – Are you saying now that there is a slope?

Ms. Brown – Behind the garage is all flat but if you go closer to the property line it starts to slope immediately.

Chairperson Lund – We're suggesting you go closer to the house in the flat area. I'm going to be honest, given the size of the structure; I'm not inclined to vote for the variance to put it closer to the property line given the neighbors' concerns.

Susan Lindoo – The one thing I would be worried about is if it started screwing up water erosion if it were built on a slope. That's why I would like to have more information on this and have someone who knows about water erosion look at it. I want to know where the water will go. I'm uncomfortable about a structure this size going up in a neighborhood when the Ordinance says that it should be 100 feet back. I remember creating that ordinance and talking about residential areas and that we don't want them to feel like industrial areas. I want more information.

Vice-Chair Prestegaard – I want more information as well and would be in favor of tabling it until we get more information. I'll also state that what would be interesting to me, because we do have the 70 feet of City property, if it would be possible to move the building 20 feet to the south but obviously we don't know what the impact of that would be.

Chairperson Lund – How do we define an accessory structure? Can they insulate it, heat it, put water in?

Ms. Buss – You can do that, you can't turn it into a dwelling unit, which means both a kitchen and full bath can't be put in there. A lot of people will put in some sort of shower or sink in an accessory structure. We would allow that but they can't put in both a kitchen and full bath.

Vice-Chair Prestegaard – I'm assuming there'll be water out there.

Ms. Buss – And that’s perfectly fine.

Susan Lindoo – If there were water, would there need to be a septic system?

Ms. Buss – That would be a question for the building inspector.

Vice-Chair Prestegaard – And there are animals there today.

Anthony Mahmood – It looks like the problem we have is that someone wants to build a structure on their property and some of the neighbors don’t want that big of a structure. Is there any way you guys can work together and come back to us with a solution?

Ms. Brown – I don’t see their house. Do you want us to plant trees on the City property?

Susan Lindoo – I think for me the question is why we need to do a variance. There could be good evidence but I don’t see it now.

Anthony Mahmood – Right now, it would be almost on top of the garage if we did the 100 feet.

Vice-Chair Prestegaard – It would be about 10 to 15 feet.

Susan Lindoo – But we don’t know that.

Chairperson Lund – Would you prefer that we table it for more evidence or vote on it as is. It’s fairly certain that we would deny it tonight with the information we have.

Ms. Brown – Since everyone has an issue with the size of this building, and everyone knows that I have like the largest parcel in town, what if I put five of the 2,000 sq ft structures up?

Ms. Buss – You can only have two accessory structures.

Desiree Bailey, 1800 Kolff Street – I’m not visually impacted by the building but I am concerned by the size of it. If she sold her property to someone else you can see the potential of them putting 10 horses, 20 vehicles in it. I could see some abuse of it and it would impact the neighborhood. My other concern is that what if my next door neighbor wants to put a large building up after she does? I’m concerned about everyone putting up a pole barn.

Susan Lindoo – I was surprised too that we don’t have a maximum square footage for buildings in the RE District.

Ms. Buss – Even if we had a maximum percentage, it wouldn’t be an issue with this property because it’s so large. We may want to think about that.

Chairperson Lund – The way that the ordinance was written is that the setback is dependent on the size of the building. We’re of course limited to comply with the Ordinance. We do also have an Ordinance for farm animals.

Ms. Bailey – But the cops aren’t going to be counting horses especially with it being so far back.

Ms. Buss – So do you want the contours from the applicant?

Chairperson Lund – The applicant already said that it’s flat between the proposed building and house. We understand that it’s steep to the north of the proposed building but there seems to be some confusion about the slope between the proposed building site and house. Could you explain?

Ms. Brown – You would have to see photos or come and see it yourself.

Chairperson Lund – Is it flat between the house and proposed site?

Ms. Brown – Yes. As soon as you start going north it drops off.

Vice-Chair Prestegaard – We're talking about the south.

Ms. Brown – To the south, it would buck right up to the garage.

Chairperson Lund – So you're biggest concern about moving south is interfering with the current structures?

Ms. Brown – Yes.

Vice-Chair Prestegaard – There appears to be 60 feet from the garage and proposal and 90 feet from the house and proposal. So what we want is something that might show the contours or a chance to take a look to get an understanding of the slope and secondly the distances between the garage and proposed site and distances in between.

Anthony Mahmood – Could you move it closer?

Ms. Brown – I could try.

Chairperson Lund – I don't think anyone minds but you would need the variance for the side lot line from the pump house as well to be 50 feet from there.

Ms. Buss – Everyone's concern is about the north property line so they're suggesting that you be closer to your house to meet that 100 feet setback and they are fine with you being 50 feet from the pump house lot line. Could you have your guy do another drawing to show how much closer you could get to the 100 feet?

The public hearing closed at 8:14 p.m.

Vice-Chair Prestegaard – I would move that we table it until the next meeting and request more information from the applicant to see how close we can come to compliance.

Ms. Buss – You want to request that the applicant provide a new plan that either meets the setback or comes as close as possible from the north property line.

Vice-Chair Prestegaard – To the extent that you can't move it closer, you need to provide the slope of the area.

Susan Lindoo – Could we go up and view it?

Ms. Buss – If she's willing to let you on the property.

Ms. Brown – Just let me know when.

Chairperson Lund – So in any case, she still needs the variance for the 50 feet from the pump house lot line.

Motion by Prestegaard, seconded by Mahmood, to table Resolution No. P.C. 2013-10 until October 10, 2013 and request that the applicant provide a new plan that either meets the setback from the north lot line or comes as close as possible and includes the slope of the area. With 5 Ayes, 0 Nays, the motion carried.

Chairperson Lund – We might want to consider a maximum building size in the RE District.

Susan Lindoo – I think it's appropriate to have again.

Ms. Buss – We haven't revisited the requirements for this District since we changed the lot size.

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

Executive Analyst Helm presented on this item as outlined in the September 12, 2013 Planning Commission Packet. The Planning Commission discussed two items in regards to this Resolution. The first item was regarding fences. The following items were requested in regards to fences:

- Add language allowing barbed wire fences in the industrial districts in Section 1330.05, Subdivision 15 and requiring it to be at least eight (8) feet in height
- Amend Item F in Section 1330.05, Subdivision 21 allowing electric fences instead of barbed wire fences in the RE Districts

The second item that was discussed was regarding day care services and centers. The Planning Commission requested that staff complete the following:

- Review the definition for “Day Care Services” and “Day Care Centers” in the State Statute to clarify which one to use for the uses tables
- Review the State Statutes to clarify whether it should be “14 or less” or “14 or more.”

The public hearing opened at 8:37 p.m.

The public hearing closed at 8:38 p.m.

Motion by Prestegaard, seconded by Mahmood, to table Resolution No. P.C. 2013-11 until October 10, 2013 and requesting the above information. With 5 Ayes, 0 Nays, the motion carried.

Ms. Buss – Just to clarify, the rationale for the Domeier one is that we want to preserve the yard space and minimize impervious surface?

Chairperson Lund – And he’s a long way from the street so it seems like we’re hitting him more with the rules than the practical effect.

Ms. Buss – I think the reason for the rule is that you used to not have more than a five foot setback and then someone changed the ordinance to 30 feet and I’m sure it’s for this reason, to keep vehicles and buildings out of the right-of-way.

Chairperson Lund – It would be different if there wasn’t a structure there already.

Ms. Buss – And that’s what you have to consider when you grant a variance but I think the reason for the wider setback on corners is partly about this issue. I’m sure it was a recommendation of the engineer to preserve visibility. The variance comes forward because it’s an opportunity for you to say that in this particular context, you don’t want to enforce that part of the Code.

Susan Lindoo – For me, it’s not an excuse to say that “Everybody breaks the law.”

Ms. Buss – That shouldn’t be the rationale.

Susan Lindoo – That didn’t go over too well with me.

Chairperson Lund – That didn’t come from the applicant though.

Susan Lindoo – Yes that was his rationale.

Chairperson Lund – He was confronting what the Engineer had said, that he can’t have his building that close because it would lead to a car in the right-of-way. The Police can enforce that Ordinance.

Anthony Mahmood – If we’re concerned about the sight lines then we should have “No Parking” signs on the corners.

Chairperson Lund – I understand your frustration with the lack of enforcement but a lot of people have real practical problems like this.

Susan Lindoo – I agree with that but saying that other people do it isn’t a good rationale. To me the bigger issue was that he wouldn’t have a backyard.

5. COMMISSION AND STAFF REPORTS

Executive Analyst Helm – Just an update on the street vacation from the August meeting, they did withdraw their request before it went to the City Council. The City Council did make note that it is the City’s position that there is a street there. There’s been no movement on the issue at all, including the license for the fence.

Councilman Ingemann – There’s a meat raffle for the Fire Department at Cloverleaf tomorrow.

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

Motion by Mahmood, seconded by Prestegaard, to adjourn the Planning Commission Meeting at 8:47 P.M. With 5 Ayes, 0 Nays, the motion carried.

Signed: _____
Dan Lund, Chairperson

Respectfully submitted,

Renee Helm
Executive Analyst

Newport Planning Commission

Dan Lund, Chairperson
Matt Prestegaard, Vice Chairperson
Janice Anderson, Commissioner
Susan Lindoo, Commissioner
Anthony Mahmood, Commissioner

**PLANNING COMMISSION RESOLUTION NO. P.C. 2013-10
A RESOLUTION RECOMMENDING THE NEWPORT CITY COULCIL
APPROVE A CONDITIONAL USE PERMIT AND VARIANCE REQUESTED BY
KIM BROWN, PO BOX 25407, WOODBURY, MN 55125, FOR PROPERTY
LOCATED AT 1675 KOLFF **STREET**, NEWPORT, MN 55055**

Written Comments filed on behalf of Jeffrey and Beverly Robinson,
1270 Kolff Court, Newport MN 55055

By way of introduction, we are Jeff and Bev Robinson. We purchased our current lot and built our house over 20 years ago as part of a planned development know as Wild Ridge Estates. The primary goal this development was to provide residence a place for a home in the woods. All lots in this planned development were wooded and approximately 2 acres in size with protective covenants intended to have new houses blend in with the surrounding wooded environment. Since building our home, we have enjoyed over 20 years of woods and wildlife as City Planners envisioned decades ago.

Our house is the closest in proximity to the Kim Brown proposed 156ft. x 60ft horse arena and barn. Currently, the house on this property is directly in-line with the back of our house. Also, a reasonable buffer of trees exists between these two dwellings. The construction of this large structure as planned would change all of that. The proposal places this structure in very close proximity to our house and would remove approximately 50 feet of the existing tree buffer.

As a result, we will clearly be looking at the full 156 ft barn/arena out of our back window.

Having reviewed the filed request for a Conditional Use Permit and Variance, I believe the request for the 100 ft side setback variance is one of preference and convenience rather than one of necessity. First, compliance with this requirement at the current planned site would simply place barn/arena 50ft closer to the house while at the same time retain an additional 50ft of wooded buffer. I do not believe slope to be an issue in this area of the lot. Second, given that the lot is roughly 10 acres in size, numerous other building sites are available that could be utilized and be in conformance with the existing side setback requirements.

Based on this, we respectfully request that the Planning Commission deny the setback variance portion of this proposal. In so doing, this Commission will continue to support the intent of planning decisions made in the past and provide a setting in which the large arena/barn structure can coexist with the rest of the neighborhood by upholding the existing setback requirements intended to protect the interests of others.

Sincerely,

Jeff & Bev Robinson

1270 Kolff Court

Newport, MN 55055



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

Memorandum

To:	Newport Planning Commission	Reference:	Kim L. Brown Conditional Use Permit and Variance Request--
Copies To:	Deb Hill, City Administrator		Revised Plan
	Renee Helm, Executive Analyst		
	Kim L. Brown, Applicant	Project No.:	15258.007
From:	Sherri Buss, RLA AICP, Planner	Routing:	
Date:	September 30, 2013		

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

MEETING DATE: October 10, 2013

LOCATION: 1675 Kolff Street

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

ZONING: Residential Estate (RE) and Bluffland Overlay District

120-DAY PERIOD: December 16, 2013

ITEMS REVIEWED: Application, sketch plan, building plan, aerial photo, revised plan submitted on September 18, 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 parcel is 8.76 acres in size. 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 originally proposed a 50-foot setback from the side lot line rather than the required 100-foot setback. Based on the Planning Commission discussion on September 12 and a site visit with City staff, the applicant submitted a revised plan (attached) that proposes an 80' setback from the side lot line.

Changes and additions to the September staff report based on the revised plan and site visit are underlined in this report.

Staff reviewed the proposed building site with the applicant at the property. Staff recommended a location for the pole building that is approximately 80 feet from the house in order to avoid an existing boulder retaining wall and large spruces to the south of the pole building (shown on the revised plan), while also avoiding impacts to the slopes and trees to the north that provide screening from neighboring properties. The proposed location would keep the building within the existing flat, gravel area of the site.

The revised location would place the pole building approximately 80 feet from the northern property boundary. The applicant is obtaining a survey to determine the actual distance to the boundary. The staff recommended the 80' setback for the following reasons:

- A 100' foot setback from the side property line could impact the existing retaining wall to the north of the house and the existing garage
- The 80' setback provides the same screening from neighboring properties as a 100' setback by preserving the existing vegetation to the north of the proposed structure.

This staff report analyzes the Conditional Use Permit request and the Variance request based on the revised plan.

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.

The Zoning Ordinance identifies additional conditions for a CUP for a large accessory structure in the RE Zoning District. Section 1340.04 of the zoning ordinance requires approval of a Conditional Use Permit for accessory structures that 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 to avoid the bluffs and steep slopes on the property. The proposed location will also preserve the existing woodlands that provide screening for the proposed building. The applicant is requesting a variance to permit a side setback of 80 feet rather than 100 feet in order to avoid disturbing the slopes, bluffs, and existing structures on the property. 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'; and 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) it would impact the existing buildings, retaining walls and slopes near the house. The applicant then proposed a 50' side setback, which was reviewed by the Planning Commission on September 12. Neighbors' comments at the public hearing indicated concerns that the pole building would be visible from their properties, and should avoid impacting slopes and vegetation that provides screening.

Based on Planning Commission comments and a discussion in the field with City staff, the applicant has revised the proposed site plan and is requesting a variance to allow the accessory structure to be located approximately 80 feet from the northern parcel boundary (side setback) on an existing flat location. The location would avoid impacts to the existing buildings, retaining walls, woodlands and steep slopes on the property.

The proposed setbacks for the revised building location include the following: Front: approximately 640'; Rear: approximately 200'; side: 80'. 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. (There is also a portable shed on the property, but this does not meet the definition of a structure.) 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 alternate drain field. 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 an 80' setback and existing vegetation are maintained on the north side of the property, the building will be buffered from existing and future development on adjacent properties. The adjacent property to the north is a City-owned property and is unlikely to be developed. The City-owned parcel is 75 feet wide, and provides additional separation from properties to the north. 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 places the structure closer to the roadway than the existing home, but the structure will be completely screened from view from the roadway by existing slopes and natural vegetation between the pole building and Kolff Street.
- 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 80 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 80-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 heard comments regarding potential impacts to adjacent properties at the public hearing on September 12. The Commission recommended that the building be set back farther from the side (northern) property boundary in order to preserve the vegetation and minimize views from neighboring properties. A field review by City staff concluded that if the 80-foot setback from the side property line is implemented and woodland areas are preserved, the new building should not be visible from 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 an 80' side yard setback. The applicant is requesting a variance because a location that would satisfy the ordinance requirement would impact existing buildings, retaining walls and slopes. The proposed location is an existing flat area. This location would avoid impacts to slopes, woodlands, existing buildings and retaining walls. The existing vegetation will effectively screen the building from the neighboring properties. The adjacent property along the northern boundary is a city-owned parcel that is unlikely to be developed, and provides 75 feet of additional separation and screening from properties to the north.

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

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

The 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 proposed 80' setback will preserve existing slopes and 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 "effective" setback from properties to the north will be approximately 150 feet. 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 and the roadway by existing woodlands and slopes. 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 80-foot setback will maintain a significant separation from the property to the north and preserve existing vegetative screening, prevent impacts to steep slopes, and provide for a reasonable separation between the existing house, retaining walls and 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 review the revised plan, 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 and retaining walls. 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 80-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 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 Planner also recommends that the Commission grant a variance to the required 100-foot side yard setback to allow a side setback of 80' 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 18, 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 shall not be used for commercial use or include a dwelling unit.
4. The parcel shall 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 slopes, trees and shrubs shall be maintained to the degree possible, particularly to the north and east of the pole structure within the 80-foot setback area and the setback from Kolff Street.
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.



CONTRACTOR:
TODD FRANCIS
952.220.2137

Project Title
POLE BARN ADDITION
1675 KOLFF ST.
NEWPORT, MN
651.238.0866
KIM BROWN / OWNER

Issue Date : 8/27/2013

Drawn By:
E. THORNE
612.802.1252

ALL DIMENTIONS AND
CONDITIONS TO BE
VERIFIED BY OTHERS

Revisions :

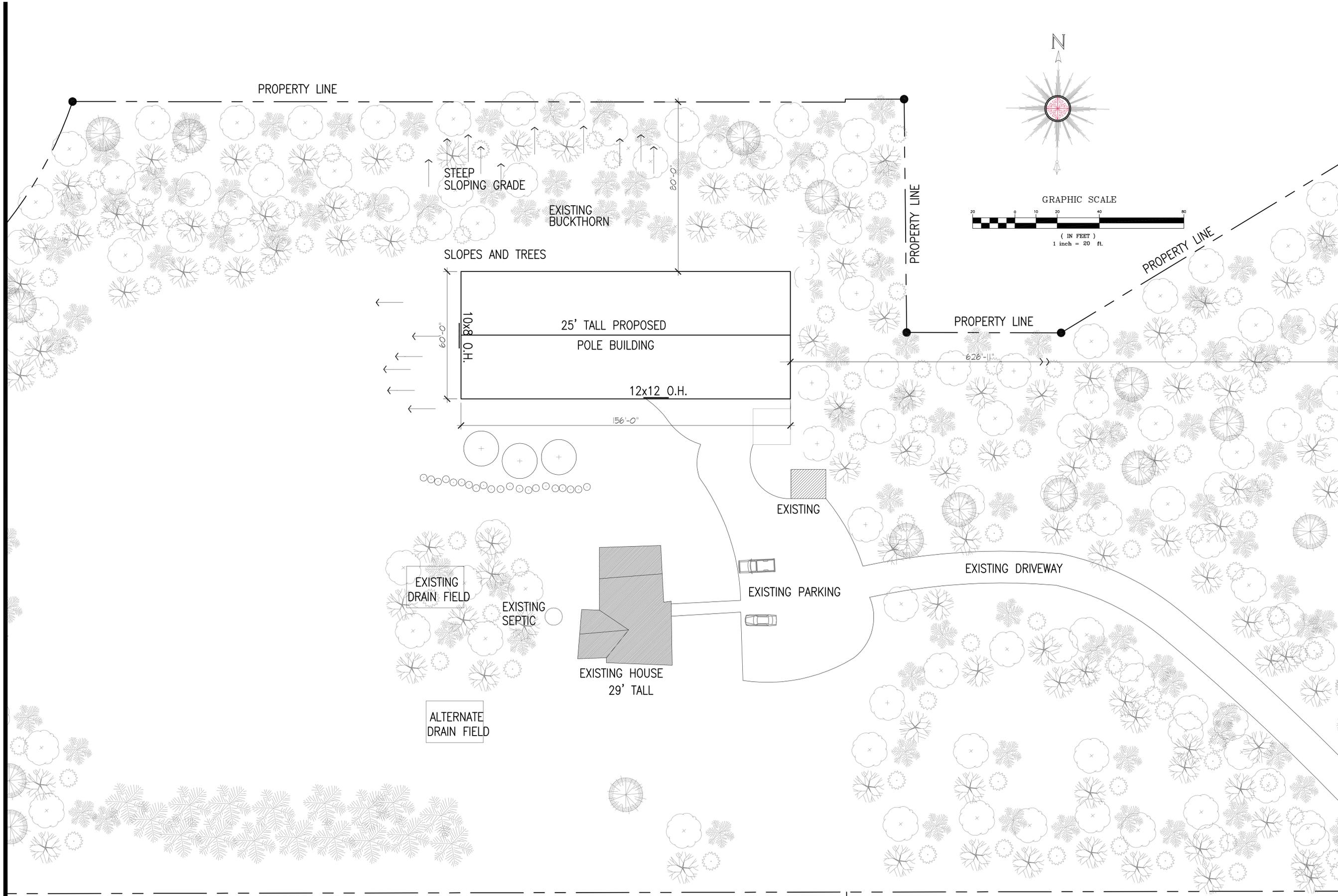
Item	Date
BID SET	8/27/13
REVISED CITY REVIEW	9/4/13
REVISED CITY REVIEW	9/4/13B
REVISED CITY REVIEW	9/5/13
SITE VISIT SHERRI	9/18/13

Sheet Title :
**PROPOSED
SITE
PLAN**

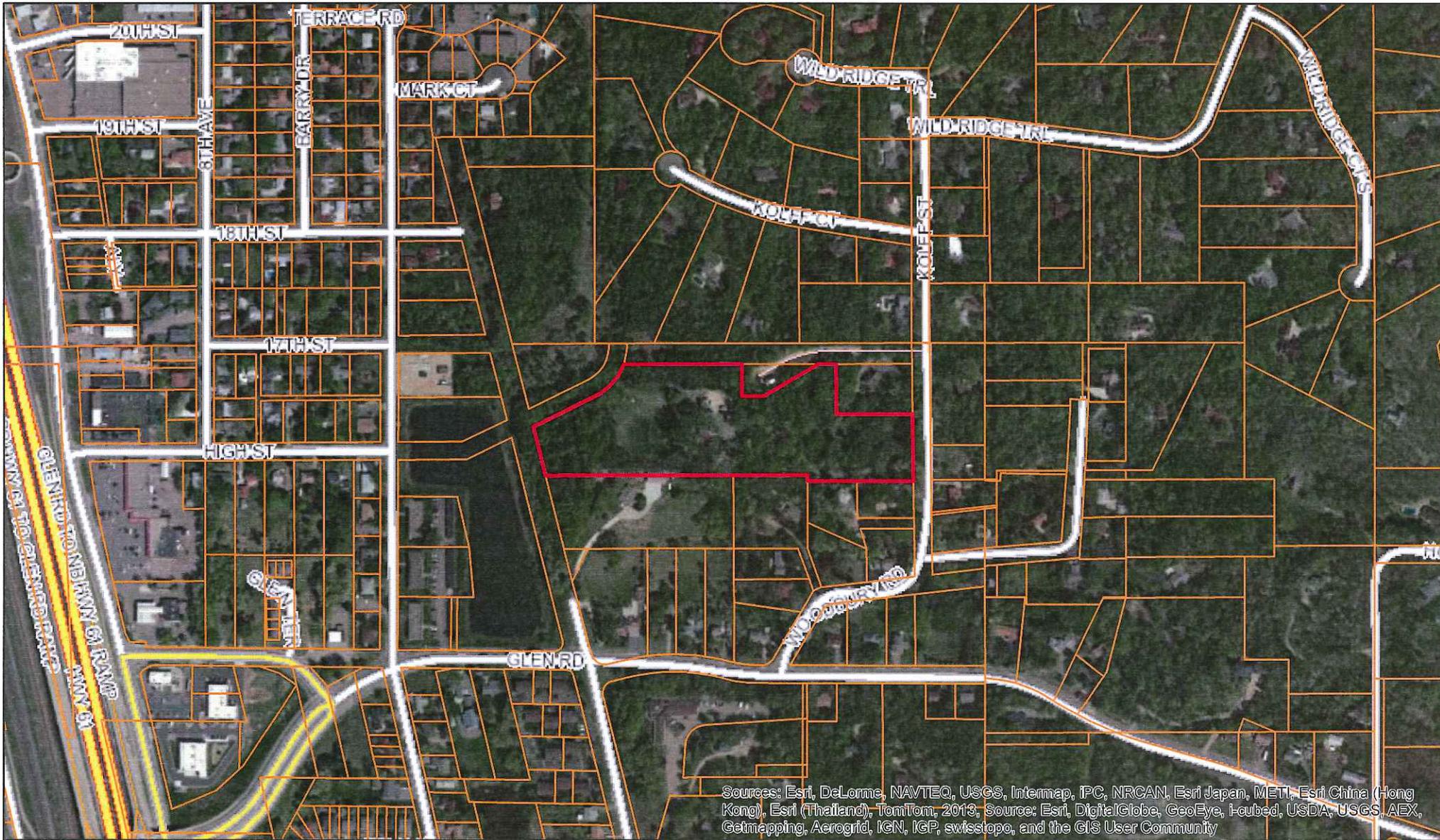
Sheet Number :

AS1

©2013



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



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

Created on 8/16/2013

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

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

City of NEWPORT Planning Request Application

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

Application Date: 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

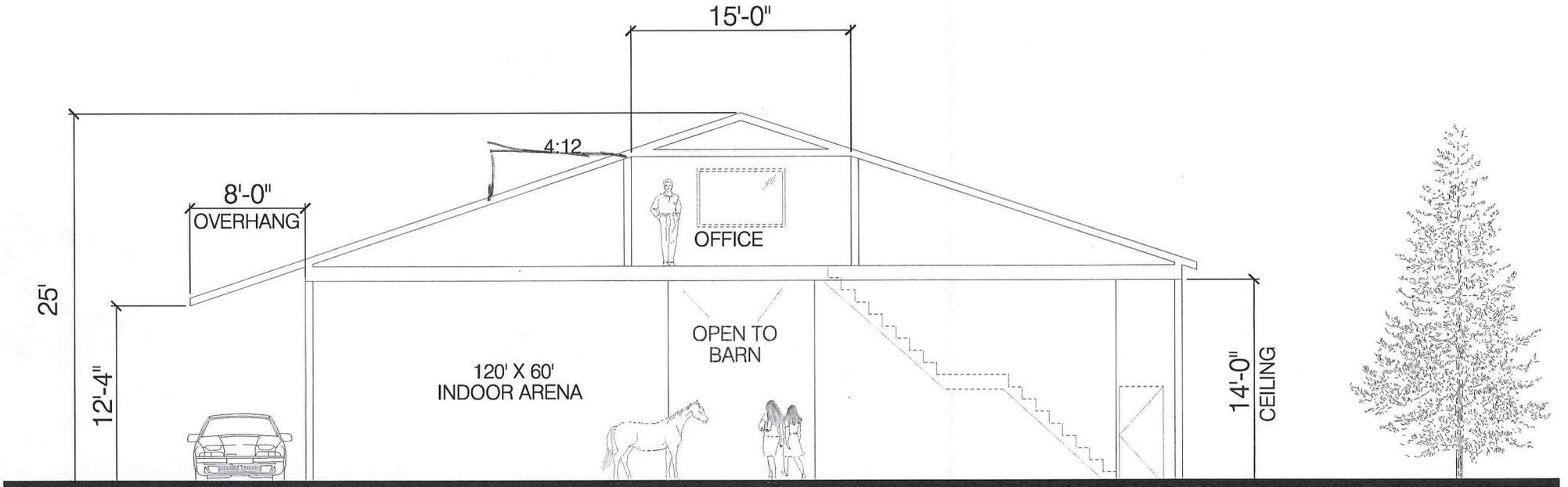
Publication of Notice Date: 08/28/13

Public Hearing Date: September 12, 2013

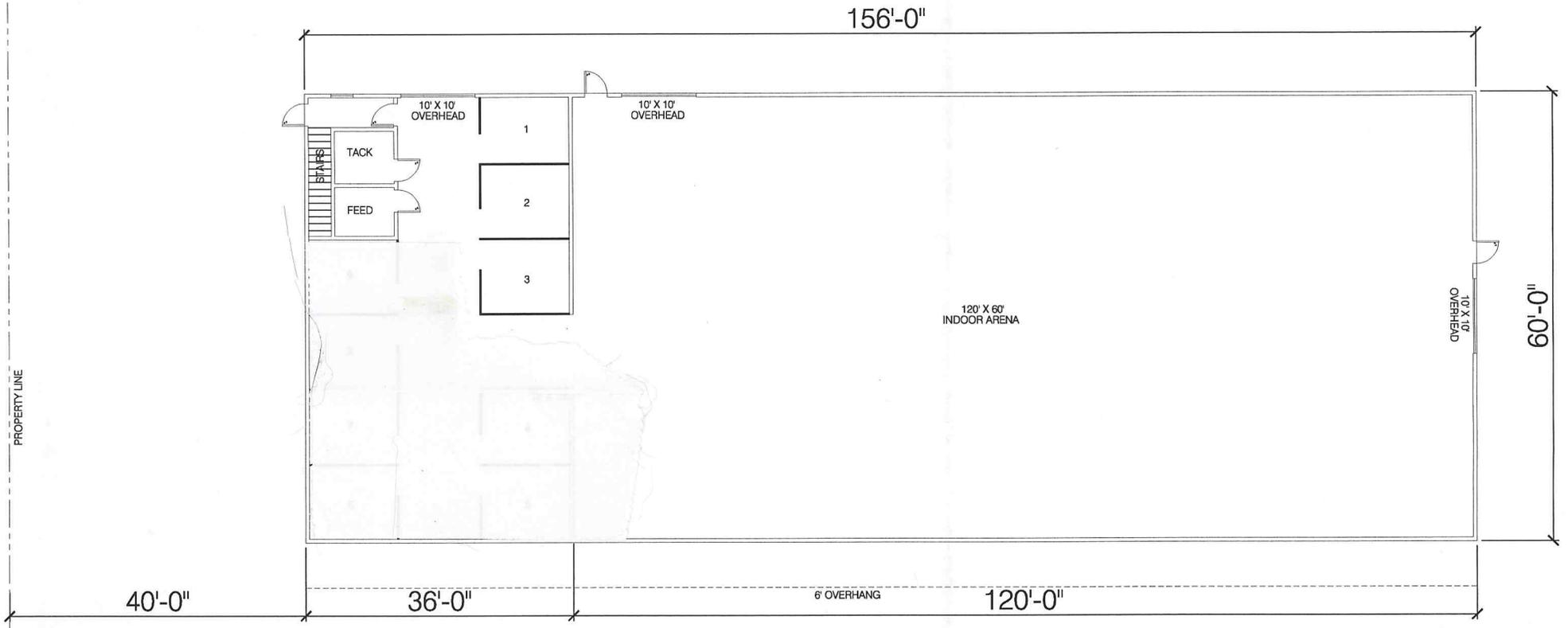
P.C. Resolution #: _____

Council Action Date: _____

Council Resolution #: _____



**KIMS BARN 8/8/13
 BUILDING SECTION**



KIMS BARN 8/8/13
 FLOOR PLAN PRELIMINARY

**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 80 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 and retaining walls. 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 80-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 80' 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 18, 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 shall not be used for commercial use or include a dwelling unit.
4. The parcel shall 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 slopes, trees and shrubs shall be maintained to the degree possible, particularly to the north and east of the pole structure within the 80-foot setback area and the setback from Kolff Road.
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 10th day of October, 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: October 1, 2013

SUBJECT: Ordinance Amendments

BACKGROUND

At the September 12, 2013 Planning Commission meeting, the members discussed Resolution No. P.C. 2013-11 recommending zoning amendments to Sections 1330 and 1350. The amendments were in regards to allowable materials for fences and where day cares are permitted within Newport. The Planning Commission tabled the Resolution and requested the following information:

- Fences:
 - Add language allowing barbed wire fences in the industrial districts in Section 1330.05, Subdivision 15 and requiring it to be at least eight (8) feet in height
 - Amend Item F in Section 1330.05, Subdivision 21 allowing electric fences instead of barbed wire fences in the RE Districts
- Day Cares:
 - Review the definition for “Day Care Services” and “Day Care Centers” in the State Statute to clarify which one to use for the uses tables
 - Review the State Statutes to clarify whether it should be “14 or fewer” or “14 or more.”

DISCUSSION

Attached for your review is an amended Resolution No. P.C. 2013-11. The language for barbed wire fences in the industrial districts has been added to Section 1330.05, Subdivision 15, Items C and D. City staff measured the fence around Newport Terminal along Cedar Lane and it is eight (8) feet in height. Item F in Section 1330.05, Subdivision 21 has been amended to replace barbed wire fences with electric fences.

City staff reviewed State Statute 462.357 in regards to the information requested above and found that day cares are referred to as “Day Care Facilities.” As such, each section in the uses tables referring to day cares has been changed to “Day Care Facilities.” Furthermore, the Statute lists “14 or fewer” in Subdivision 7. The sections of the uses tables have been amended to reflect this.

RECOMMENDATION

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

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		
Residential															
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	MX-4 – General Mixed Use		
Multi-family (eight or more units per building)				C	P										Includes townhomes
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 (A) for allowed uses in the Mixed Use Districts.
Planned residential developments	PUD	PUD	PUD	PUD	PUD										
Manufactured Single-Family Dwelling	P	P	P	P	P										
Mobile Homes	C														
Public and Semi-Public Services															
Airport	C														
Cemetery															
Churches, synagogues, temples and associated facilities except schools	C	P	P	P	P										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 (A) for allowed uses in the Mixed Use 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					
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.										
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/a musement 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.			
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, MX-3, and MX-4 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. Except in the I-S, I-1, and I-2 districts, barbed wire may not be used for fences.
- D. Barbed wire fences in the I-S, I-1, and I-2 districts shall be at least eight (8) feet in height.
- E. 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.
- F. 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
- G. A fence may be no more than twelve (12) feet in height.
- H. A fence shall not visually screen or interfere with streets, sidewalks, or vehicular traffic.
- I. In the I-S district, a fence at least six (6) feet in height shall be required around all storage tanks.
- J. No fence shall be constructed on public rights-of-way.

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

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

Section 1350 – Non-residential Districts

1350.14 Uses in the Non-Residential Districts

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

Use	MX-1	MX-2	MX-3	MX-4
PUD	PUD	PUD	PUD	PUD
Civic and Semi-Public Uses				
Day Care Facilities in Single Family Homes with 14 or fewer children being attended to	P	P	N	P
Day Care Facilities in Single Family Homes with more than 14 children being attended to	C	C	N	C
Day Care Facilities	C	C	C	C
Day Care Facilities in a mixed-use building	P	P	P	P
Essential services/public utilities	P	P	P	P
Funeral Home	C	C	C	C
Hospitals	C	C	C	C
Military reserve, national guard centers	C	N	N	N
Park and public recreation facilities	P	P	P	P
Parking Garage (as a principal use)	C	N	C	N
Parking Lot, Surface (as a principal use)	C	N	N	N
Penal/correctional facilities	N	N	N	N
Place of worship and associated facilities, except schools	C	C	C	C
Public Facilities including government offices, emergency services facilities, public works facilities, schools, libraries, museums, post offices and other municipally owned or operated facilities	C	C	C—50,000 sq ft maximum	C
Schools – trade, college, vocational, and associated facilities	C	C	C—50,000 sq ft maximum	C
Schools for business, trade, dancing, music	C	C	C	C
Social and fraternal clubs and lodges, union halls	P	P	C—10,000 sq ft maximum	P
Transit stations and related parking facilities	C	C	C	C
Commercial Uses				
Administrative support services	P	P	P	P
Adult Uses	N	N	N	N
Animal boarding, grooming, veterinary clinics, retail sales	C	C	C—10,000 sq ft maximum	C
Artist studios	P	P	P	P
Auto body repair and major auto repair, towing services	C	N	N	N
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	P	P	C	C

Use	MX-1	MX-2	MX-3	MX-4
skating rink				
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; 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
Accessory Uses				
Drive up facilities	C	C	C	C
Gazebo, arbor, play equipment in public or private	P	P	P	P

Use	MX-1	MX-2	MX-3	MX-4
open space area				
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

Adopted this 10th day of October 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	
Residential													
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												
Public and Semi-Public Services													
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 Facilities in Single Family Homes with 14 or fewer 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
Nursery School/Day Care services <u>Facilities in Single Family Homes with more than 14 children being attended to</u>	C	C	C	P	P								
<u>Nursery School/Day Care Facilities 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		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
Public 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																			
Commercial																			
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
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													
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.

Please see Section 1350.14 (A) for allowed uses in the Mixed Use 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.																
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.								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														
Industrial														
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,~~ and MX-4 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. Except in the I-S, I-1, and I-2 districts, barbed wire may not be used for fences.

D. Barbed wire fences in the I-S, I-1, and I-2 districts shall be at least eight (8) feet in height.

~~E.~~ E. 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.

~~F.~~ F. 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

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

~~H.~~ H. A fence shall not visually screen or interfere with streets, sidewalks, or vehicular traffic.

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

~~J.~~ J. 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,~~ and MX-4 districts.

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

- 4) Wrought iron or aluminum designed to simulate wrought iron
- 5) Coated or non-coated chain link

6) Split rail

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

- J. Except in the RE District, welded wire may not 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

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Requirements	MX-1	MX-2	MX-3	MX-4	B-1	I-1	I-2	I-S
Minimum lot area in square feet	2,400	4,000	None	2,400	15,000	30,000	30,000	30,000
Minimum lot depth in feet	80	100	None	80	150	200	200	200
Minimum lot width in feet	30	40	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
Residential Uses				
Single-family detached, one dwelling per lot	P	P	N	P
Single-family detached, more than one dwelling per lot	PUD	PUD	N	PUD
Two-family residences	P	P	N	P
Townhouse, rowhouse	P	P	P	P
Manufactured single-family dwelling	P	P	N	P
Mobile homes	N	N	N	N
Multi-Family, condos, apartments and cooperatives	P	P	P—less than 8 units; C—8 or	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
Civic and Semi-Public Uses				
Day care—Care centers <u>Facilities in Single Family Homes with 14 or fewer children being attended to</u>	<u>P</u>	<u>P</u>	<u>N</u>	<u>P</u>
<u>Day Care Facilities 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—Care centers <u>Facilities</u>	C	C	C	C
Day care—Care centers—Facilities in a mixed-use building	P	P	P	P
Essential services/public utilities	P	P	P	P
Funeral Home	C	C	C	C
Hospitals	C	C	C	C
Military reserve, national guard centers	C	N	N	N
Park and public recreation facilities	P	P	P	P
Parking Garage (as a principal use)	C	N	C	N
Parking Lot, Surface (as a principal use)	C	N	N	N
Penal/correctional facilities	N	N	N	N
Place of worship and associated facilities, except schools	C	C	C	C
Public Facilities including government offices, emergency services facilities, public works facilities, schools, libraries, museums, post offices and other municipally owned or operated facilities	C	C	C—50,000 sq ft maximum	C
Schools – trade, college, vocational, and associated facilities	C	C	C—50,000 sq ft maximum	C
Schools for business, trade, dancing, music	C	C	C	C
Social and fraternal clubs and lodges, union halls	P	P	C—10,000 sq ft maximum	P
Transit stations and related parking facilities	C	C	C	C
Commercial Uses				
Administrative support services	P	P	P	P
Adult Uses	N	N	N	N
Animal boarding, grooming, veterinary clinics, retail sales	C	C	C—10,000 sq ft maximum	C
Artist studios	P	P	P	P
Auto body repair and major auto repair, towing services	C	N	N	N
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

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Use	MX-1	MX-2	MX-3	MX-4
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 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	P

Use	MX-1	MX-2	MX-3	MX-4
			ft or less; 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
Accessory Uses				
Drive up facilities	C	C	C	C
Gazebo, arbor, play equipment in public or private open space area	P	P	P	P
Outdoor sales, in conjunction with permitted use	C	C	N	C
Renewable energy system	P	P	P	P
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
Civic and Public Uses				
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
Commercial Uses				
Adult uses (bookstore, theater, nightclub, nude or	N	N	C	C

Use	B-1	I-1	I-2	I-S
partially nude dancing)				
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
Warehouse and Industrial Uses				
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

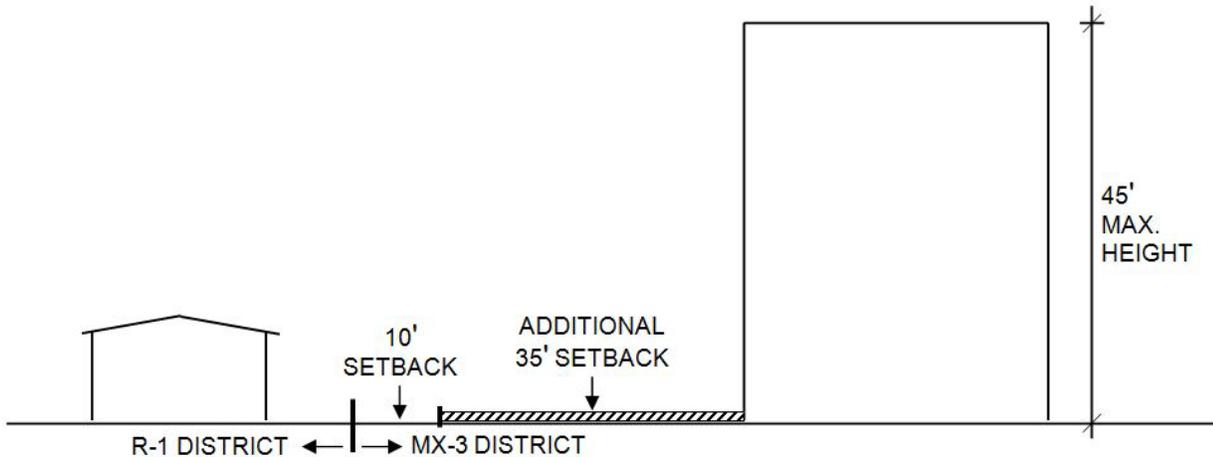
- A. The Performance Standards included in Item 1330.05 of this Ordinance shall apply in the Non-residential districts, except as modified in this Section.
- B. All public rights-of-way within the MX, Business, and Industrial Districts shall be considered collector streets or arterials as defined in 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.’

	PARKING MINIMUM	PARKING MAXIMUM
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.



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Memorandum

To:	<u>Newport Planning Commission</u>	Reference:	<u>Outdoor Wood Burning Furnaces/Boilers Regulation</u>
Copies To:	<u>Deb Hill, City Administrator</u> <u>Renee Helm, Executive Analyst</u>		
From:	<u>Sherri Buss, RLA AICP, Planner</u>	Project No.:	<u>15252.000</u>
Date:	<u>October 2, 2013</u>	Routing:	

City staff requested that the Planner provide information about wood-burning furnaces and boilers, and how they are regulated in by other communities and the State of Minnesota. This memo provides some background information for the Planning Commission to consider and discuss at the meeting on October 10.

Background

In recent years, homeowners looking for an economic alternative to conventional heating systems have turned to “outdoor” furnaces as an option. An outdoor furnace is a self-contained unit designed to provide heat to a building or structure, but located outside of that building or structure. They frequently use wood as a fuel, but may also use corn cobs or other materials.

Neighbors frequently have objections to these systems, related to their environmental impacts, such as uncontrolled smoke and offensive odors. Local governments have adopted ordinances to prohibit these devices or permit them with regulations to reduce the nuisances they can create. Regulations include permit requirements, setback restrictions, stack location and height, limits on months of operations, and restrictions on the types of fuel that may be used.

A variety of terms are used to name and define outdoor wood burning systems in regulations and ordinances.

Cottage Grove defines an “outdoor wood burner system” as follows: “Any equipment, device, appliance, or apparatus, or any part thereof, which is installed, affixed or situated outdoors for the primary purpose of combustion of fuel to produce heat or energy used as a component of heating system providing heat for any interior space or water source. An outdoor wood burner may also be referred to as an outdoor wood boiler or wood-fired hydronic heater. An outdoor wood burner does not include a fire pit or wood-fired barbecue.”

Other communities have adopted a definition provided by the Minnesota Pollution Control Agency (MPCA) for Outdoor Wood-burning Furnace/Boilers (Hydronic Heaters): “A fuel-burning device that is designed for outdoor installation or installation in structure not normally occupied

by humans to heat building space and/or water via the distribution, typically through pipes, of a fluid heated in the device, typically water or a water/antifreeze mixture.”

The U.S. Environmental Protection Agency (EPA) calls outdoor wood boilers or furnaces “hydronic heaters.”

Concerns about Outdoor Wood-Burning Systems

Governments regulate the use of outdoor wood-burning systems to protect residents from the potential health impacts resulting from the production of excessive smoke by some of the outdoor wood-burning systems. The fuel source can also create odors and pollution—some system owners have burned garbage or treated wood, though this is not permitted under state rules. Residents with asthma and other respiratory diseases are particularly concerned about the impacts of smoke created by these systems.

Minnesota has adopted air pollution emission standards for a variety of stationary pollutant sources, including wood-burning systems. The standards require the owners or operators of the indirect heating equipment to install a stack of such a height that pollutant concentrations at ground level do not exceed any applicable ambient air quality standards. They must also meet visible emission restrictions.

The EPA is developing “white tag” standards for wood-burning systems, but EPA has not adopted final rules regulating these systems. The MPCA recommends that until the EPA standards are in effect, any new outdoor wood-burning furnaces/boilers must meet EPA Phase 2 “white tag” program standards. The MPCA encourages communities to require that systems meet the “white tag” standards in local ordinances. The MPCA provides a long list of furnaces/boilers that meet the standards—these units are readily available.

Local Ordinances

Based on the concerns related to air quality and potential impacts on neighboring properties, many communities in Minnesota have adopted ordinances that regulate the use of outdoor wood-burning systems.

Some communities ban the use of all outdoor-wood-burning systems as a nuisance, including:

- Woodbury
- Inver Grove Heights
- North St. Paul
- Savage
- Stillwater

Some communities allow installation of the units, but only in districts with large lot sizes, such as agricultural, rural residential, and industrial districts, including:

- Cottage Grove
- Forest Lake
- Lakeville
- St. Michael
- Stillwater Township



Communities that permit the use of outdoor wood-burning systems often require a minimum lot size and significant setbacks from neighboring properties. Examples include the following:

Cottage Grove:	Allowed in Agricultural and Rural Residential Zoning Districts only Minimum lot size 3 acres Minimum setback of 100 feet from all property lines May not be located in front yards
Eagan:	Minimum of 300 feet from all property lines
Forest Lake:	Allowed in conservancy, agriculture, rural residential and industrial zoning districts Must be located at least 300 feet from residential or other principal buildings on adjacent properties
Lakeville	Minimum 10 acre lot size
Shorewood	Minimum lot size 3 acres Minimum setback 200 feet from all property lines
Stillwater Township	Agricultural District only Minimum lot size five acres Minimum 50 feet from property lines and 300 feet from the nearest building on another property

Other elements frequently included in local ordinances include the following:

- Most communities require building or HVAC permits for an outdoor wood-burning system; some also require additional zoning permits
- Ordinances include requirements to meet state and federal standards, particularly the EPA 'white tag' standards
- Systems must comply with "nuisance" regulations
- Ordinances include minimum stack or chimney heights
- Ordinances may specify types of fuels permitted and/or not permitted

Attachments and Discussion

The Planner has attached two sample ordinances for Planning Commission review (Cottage Grove and Stillwater Township), and some supplemental information on outdoor wood-burning systems from the MPCA.

The Planning Commission should discuss the information provided, and consider whether

- The City should permit outdoor wood-burning systems.
- The City should develop regulations to prohibit or permit outdoor wood-burning systems.



COTTAGE GROVE

Chapter 8 OUTDOOR WOOD BURNERS

4-8-1: PURPOSE:

This chapter is intended to ensure that outdoor wood burner systems are utilized in a manner that does not create a public nuisance and is not detrimental to the health, safety and general welfare of the residents of the city. (Ord. 867, 10-7-2009)

4-8-2: APPLICABILITY:

This chapter applies to all outdoor burning and open burning within the city, but does not apply to:

- A. Grilling or cooking food using charcoal, wood, propane or natural gas in cooking or grilling appliances.
- B. Burning for the purpose of generating heat in a stove, furnace, fireplace or other heating device within a building used for human or animal habitation.
- C. The use of propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating construction or maintenance activities.
- D. Wood fires in fireplaces, stoves, heaters or furnaces, safely designed, constructed and installed for such purposes and complying with all applicable laws and ordinances. (Ord. 867, 10-7-2009)

4-8-3: DEFINITIONS:

For purposes of this section, the following words shall have the definitions indicated unless the context clearly calls for or indicates a different meaning:

CLEAN WOOD: Natural dry wood which has not been painted, varnished or coated with a similar material, has not been pressure treated with preservatives and does not contain resins or glues as in plywood or other composite wood products and other environmental protection agency approved fuels.

CONSTRUCTION AND DEMOLITION WASTE: Building waste materials, including, but not limited to, waste shingles, insulation, lumber, treated wood, painted wood, wiring, plastics, packaging, and rubble that results from construction, remodeling, repair, and demolition operations on a structure.

OUTDOOR WOOD BURNER SYSTEM: Any equipment, device, appliance, or apparatus, or any part thereof, which is installed, affixed or situated outdoors for the primary purpose of combustion of fuel to produce heat or energy used as a component of heating system providing heat for any interior space or water source. An outdoor wood burner may also be referred to as an outdoor wood boiler or wood fired hydronic heater. An outdoor wood burner does not include a fire pit or wood fired barbecue.

PATIO WOOD BURNING UNIT: A patio warmer or other portable wood burning device used for outdoor recreation and/or heating. (Ord. 867, 10-7-2009)

4-8-4: MATERIALS THAT MAY NOT BE BURNED:

The following materials may not be burned:

- A. Rubbish or garbage including, but not limited to, food wastes, food wraps, packaging, animal carcasses, paint or painted materials, furniture, newspaper and paper products, corrugated cardboard, container board, composite shingles, construction or demolition debris or other household, hazardous or business wastes.

- B. Waste oil or other oily wastes.

- C. Asphalt and products containing asphalt.

- D. Treated or painted wood including, but not limited to, plywood, composite wood products or other wood products that are painted, varnished or treated with preservatives.

- E. Any plastic material including, but not limited to, nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers.
- F. Rubber including tires and synthetic rubberlike products. (Ord. 867, 10-7-2009)

4-8-5: AREA OF OPERATION:

An outdoor wood burner system may be installed and used only in accordance with the following provisions:

- A. The outdoor wood burner must be installed and used on parcels of land that are a minimum of three (3) acres in size and zoned AG-1, agricultural preservation; AG-2, agricultural; or R-1, rural residential.
- B. The outdoor wood burner must be located at least one hundred feet (100') from any property line.
- C. The outdoor wood burner must comply with all applicable laws including, but not limited to, ordinances that prohibit creating a human health hazard or a public nuisance.
- D. The outdoor wood burner must not be located in any required front yard.
- E. The outdoor wood burner must be equipped with properly functioning spark arresters.
- F. The outdoor wood burner must be located on the property in compliance with manufacturer's recommendations and listing requirements for clearance to combustible materials.
- G. The outdoor wood burner must be laboratory tested and listed to appropriate safety standards such as Underwriters Laboratories, American National Standards Institute, or Canadian Standards Association.

H. The outdoor wood burner must be EPA outdoor wood qualified at the phase 2 emissions level or latest established phase for U.S. environmental protection agency's voluntary program. (Ord. 867, 10-7-2009)

4-8-6: BUILDING PERMIT REQUIRED:

A building permit must be obtained to assure that the outdoor wood burner system meets all building and fire codes and manufacturer's specifications for installation. (Ord. 867, 10-7-2009)

4-8-7: APPLICATION FOR BUILDING PERMIT:

An application for an outdoor wood burner permit must be made to the building inspections division upon forms furnished by the city and must include the following data:

A. Name, address, and phone number of applicant and property owner;

B. Legal description of the property;

C. A sketch of the dimensions of the property, including location of buildings and the wood burner relative to the lot lines and distances from residences on adjacent properties; and

D. Manufacturer's specifications for installation.

All permits applied for under this section shall include an application fee that is determined from time to time by the city. (Ord. 867, 10-7-2009)

4-8-8: EXISTING NONCONFORMING OUTDOOR WOOD BURNERS:

The lawful use of a nonconforming outdoor wood burner existing prior to the adoption hereof

may continue to exist; however, the use of a nonconforming outdoor wood burner must not be a public nuisance or cause a human health hazard. (Ord. 867, 10-7-2009)

ORDINANCE 150

**STILLWATER TOWNSHIP
WASHINGTON COUNTY, MINNESOTA**

**AN ORDINANCE CONCERNING OUTDOOR WOOD-BURNING
FURNACES/BOILERS**

THE BOARD OF SUPERVISORS OF THE TOWN OF STILLWATER ORDAINS:

SECTION 1. Stillwater Township Ordinance No. 150 is hereby added to read in its entirety as follows:

2.15 Outdoor Wood-burning Furnaces/Boilers (Hydronic Heaters)

- (1) Purpose and Intent - The purpose of this section is to establish regulations for outdoor wood-burning furnaces/boilers to protect residents from potential health impacts resulting from the production of excessive smoke.
- (2) Required Permit – The installation of a wood-burning furnace/boiler requires an HVAC Permit from the Township.
- (3) Other Requirements – Until U.S. Environmental Protection Agency (EPA) standards take effect, any new outdoor wood-burning furnaces/boilers must meet EPA Phase 2 “white tag” program standards.
- (4) Performance Standards – Outdoor wood-burning furnaces/boilers must comply with the following standards:
 1. The parcel on which an outdoor wood-burning furnace/boiler is proposed to be located must be at least five (5) acres in size.
 2. The outdoor wood-burning furnace/boiler shall only be allowed in the Agricultural (A-4) Zoning District.
 3. The outdoor wood-burning furnace/boiler shall not be used to burn refuse.
 4. The outdoor wood-burning furnace/boiler shall be located at least fifty (50) feet from the property lines.
 5. The outdoor wood-burning furnace/boiler shall be located at least three hundred (300) feet from the nearest building which is not on the same property as the outdoor wood-burning furnace/boiler.

Stillwater Township Zoning Ordinance, Chapter 1, Definitions

New definitions to be added:

(169) Outdoor Wood-burning Furnace/Boiler (Hydronic Heater):

A fuel-burning device that is designed for outdoor installation or installation in structures not normally occupied by humans to heat building space and/or water via the distribution, typically through pipes, of a fluid heated in the device, typically water or a water/antifreeze mixture.

SECTION 2. This Ordinance shall be effective immediately upon its passage and publication.

ADOPTED by the Board of Supervisors of Stillwater Township this ____ day of _____.

STILLWATER TOWNSHIP

BY: _____
Its Chairperson

ATTEST:

Kathy Schmoeckel, Township Clerk

BREATHE EASIER WITH CLEANER OUTDOOR WOOD-FIRED HEATERS

Introducing EPA Phase 2 Qualified Hydronic Heaters

70% CLEANER

PHASE 1 - GOOD

90% CLEANER

PHASE 2 - BETTER



PHASE 1 QUALIFIED

U.S. Environmental Protection Agency
2008 Hydronic Heater Program

Phase 1 Qualified models are cleaner and pollute less than those models that have not met this emissions level. Exposure to smoke has been associated with respiratory illness and other health problems. Models that have lower smoke emissions may reduce your risk.

For more information go to www.epa.gov/woodheaters

**HYDRONIC HEATERS
SMOKE EMISSIONS RANGE**

Lower Emissions Higher Emissions
0 2.0

Better Worse



0.402 0.6 EPA PHASE I EMISSIONS LEVEL
THIS MODEL

Heaters with lower emissions produce less smoke when installed and operated properly.

MANUFACTURER:	XXX
MODEL NO.:	XXXX
8-HOUR HEAT OUTPUT RATING:	73,067 BTU/HR
8-HOUR AVERAGE EFFICIENCY:	60%
EMISSIONS:	19.07 GRAMS/HR (average) 0.402 LBS/MILLION BTU HEAT INPUT 0.77 LBS/MILLION BTU HEAT OUTPUT 0.323 GRAMS/HR / 10,000 BTU HEAT OUTPUT

* EPA has determined based on testing by an accredited independent laboratory that this model qualifies at the Phase 1 emissions level for U.S. EPA's Voluntary Program.

The U.S. Environmental Protection Agency (EPA) has updated its voluntary program to rate hydronic heaters. Models with the white tag meet EPA's Phase 2 emissions level. These heaters meet stricter guidelines and pollute less. Heaters with the white tag have been tested by an EPA-accredited laboratory and are 90% cleaner than unqualified models. (Orange tag models are 70% cleaner than unqualified models.)

Prolonged exposure to smoke has been linked to heart and lung problems. By purchasing units with the white tag, you may be reducing your risk from exposure to smoke.


This scale represents the smoke emissions range for hydronic heaters, and the orange arrow indicates the performance level of this particular model. Models with lower emissions produce less smoke and are less harmful to you and the environment.


For more information about health and environmental effects from hydronic heaters go to www.epa.gov/woodheaters.



PHASE 2 QUALIFIED

U.S. Environmental Protection Agency
2008 Hydronic Heater Program

Phase 2 Qualified models are cleaner and pollute less than those models that have not met this emission level. Exposure to smoke has been associated with respiratory illness and other health problems. Models that have lower smoke emissions may reduce your risk.

For more information go to www.epa.gov/woodheaters

**HYDRONIC HEATERS
SMOKE EMISSIONS RANGE**

Lower Emissions Higher Emissions
0 2.0

Better Worse



0.26 0.32 EPA PHASE 2 EMISSIONS LEVEL
THIS MODEL

Heaters with lower emissions produce less smoke when installed and operated properly.

MANUFACTURER:	XXXX
MODEL NUMBER:	XXXXX
8-HOUR OUTPUT RATING	112,000 BTU/HR
8-HOUR AVERAGE EFFICIENCY	70%
EMISSIONS:	6.1 GRAMS/HR (average) 17.4 GRAMS/HR (maximum test run) 0.17 LBS/MILLION BTU INPUT 0.26 LBS/MILLION BTU OUTPUT 0.09 GRAMS/HR/10,000 BTU OUTPUT

EPA has determined, based on testing by an accredited independent laboratory, that this model qualifies at the Phase 2 emissions level for U.S. EPA's Voluntary Program.



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

Memorandum

To:	Newport Planning Commission	Reference:	Accessory Structures in RE District—Comparison with other communities
Copies To:	Deb Hill, City Administrator Renee Helm, Executive Analyst	Project No.:	15252.000
From:	Sherri Buss, RLA AICP, Planner	Routing:	
Date:	October 2, 2013		

During the discussion of Kim Brown's CUP and Variance application at the September meeting, Planning Commission members asked some questions about the zoning code provisions for accessory structures in the RE District, and how those compare to other communities in the area. Members suggested that there may be a need to review this section of the ordinance.

This memo includes information about zoning code standards in other cities in Washington County for areas with large lots, similar to the RE District in Newport. The Commission may review this info and discuss whether the City should review the standards for accessory structures in the RE District.

Newport's zoning ordinance currently includes no maximum size for accessory structures in the RE District. Accessory structures that are greater than 2,000 square feet in area require a conditional use permit, and have additional setback requirements, but if they can meet setback requirements, there is no maximum area standard. All of the communities reviewed below have limits on accessory structure size. Typical maximums in areas with larger lots are between 2,000 and 3,500 square feet.

Cottage Grove

- The Agriculture and large-lot Residential districts in Cottage Grove allow up to 2 accessory structures, with a total maximum area of 2500 square feet.
- Property owners can have slightly larger structures if they obtain a CUP. In the sewered area, a property could have up to 3,000 total square feet of accessory structures, and in the unsewered area, up to 3,500 total square feet of accessory structures if a CUP is approved. The CUP would include conditions for screening and wider setbacks, and would require that the structure be changed or moved to meet ordinance standards if the property is subdivided.
- Properties that meet the agriculture definition can have an unlimited number of accessory structures with a total of 300 square feet per acre (i.e., a 10 acre parcel could

have a total of 3,000 square feet of accessory structures if it meets the agriculture definition).

City of Forest Lake

- The following are the maximum areas of detached accessory structures permitted based on lot size:
 - Lots between from 2.5 to 5 acres: 2,500 square feet (2 structures)
 - Lots greater than 5 acres to 10 acres: 3,000 square feet (2 structures)
 - Lots greater than 10 acres to 20 acres: 3,500 square feet (2 structures)
 - Lots greater than 20 acres, no limit provided they are agricultural structures

City of Woodbury

- The following are the maximum areas of detached accessory structures permitted based on lot size (properties are allowed one garage, attached or detached in addition to the number and size of structures for each district):
 - Urban Reserve, lots less than 5 acres in size: 1,000 square feet (1 structure)
 - Urban Reserve, lots 5 acres or larger: 2,000 square feet (2 structures)
 - Rural Estate: 1,000 square feet (1 structure)

City of Hugo

- The following are the maximum areas of detached accessory structures permitted based on lot size:
 - Lots between 1.5 and 2.99 acres in size: 1,500 square feet (2 structures)
 - Lots between 3 and 4.99 acres in size: 2,000 square feet (2 structures)
 - Lots between 5 and 9.99 acres in size: 3,500 square feet (2 structures)
 - Lots 10 acres and larger in size: 5,000 square feet (3 structures)





MEMO

TO: Planning Commission
FROM: Deb Hill, City Administrator
DATE: October 3, 2013
SUBJECT: Possible Rezoning of Parcels 35.028.22.44.0025, 35.028.22.44.0027

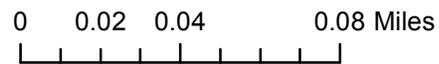
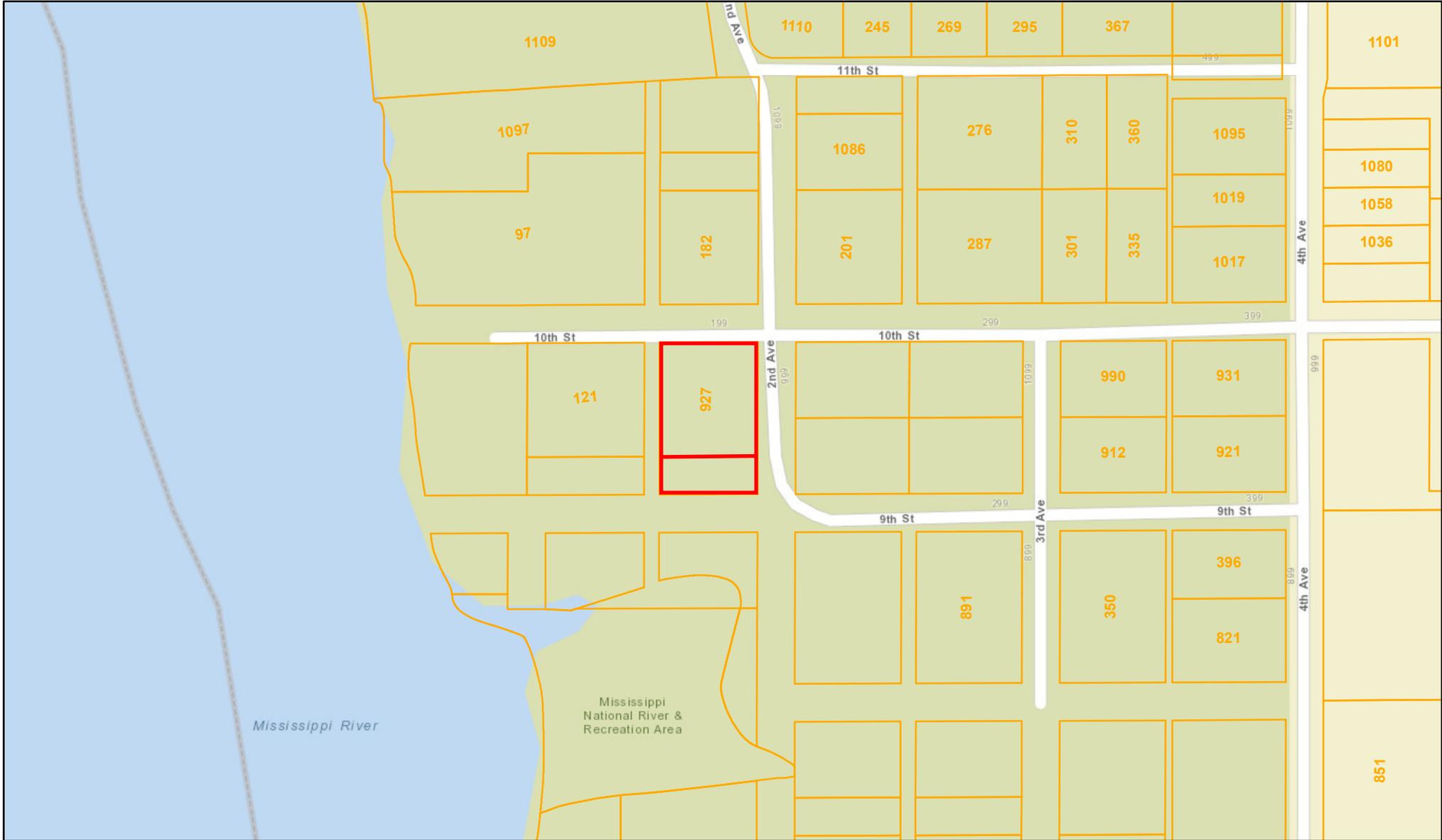
Background:

The City of Newport has been looking to purchase land parcels near and around the mill pond for several years – they have been referred to as the ‘Johnson Properties’. Two of the parcels are on the corner of 10th Street and 2nd Avenue, behind the Marko house. Currently it has a house that has been condemned and a garage that is in poor shape – each need to be taken down. It is zoned R1A, River Residential and is adjacent to R1. Only one home can be built on this site with the current zoning. Both parcels combined are 130’ x 200’.

The lots are not within the Shoreland Overlay Zone, and do not need to comply with the minimum size requirement for the Shoreland District.

Discussion:

For future planning on the possible acquirement of these parcels, if they were to be rezoned to R1, two buildable lots would possible with each having 13,000 square feet. The City could then maximize its’ investment and possibly have one more home site in town. Staff would like to have some initial feedback from the Planning Commission to discuss the potential to rezone the lots to R1.



**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.