

NOTE CHANGE OF MEETING DATE AND TIME



**Norwood Young America Planning Commission
Wednesday, January 18, 2017
Norwood Young America City Council Chambers, 310 Elm St. W.
6:00 p.m.**

AGENDA

- | | |
|--|--|
| Bill
Grundahl | 1. Call to Order
Pledge of Allegiance |
| Cassandra
Kemp | 2. Oath of Office – Cassandra Kemp, Charlie Storms and Craig Heher |
| JR
Hoernemann | 3. Adoption of Agenda |
| Mark
Lagergren | 4. Election of Officers |
| Charlie
Storms | 5. Approve Minutes – December 20, 2016 meeting |
| Craig
Heher
Council
Liaison | 6. Parks & Recreation and Economic Development Commissions Rep. Appointments
A. City Council Meetings Schedule |
| | 7. Public Hearings |
| | 8. New Business
A. Xtreme Electrical Site Plan
B. Pet Daycare/Boarding |
| | 9. Old Business
A. Planning Commission 2016 Annual Report/2017 Goals
B. Residential Lot Combinations
C. Rental Housing Code |
| | 10. Commissioner's Reports and December Building Permit Report |
| | 11. Adjourn |

UPCOMING EVENTS

January 23rd 7:00 p.m. – City Council Meeting – PC Rep – Mark Lagergren
February 13th 6:30 p.m. – City Council Meeting – PC Rep – Mark Lagergren
February 22nd 6:00 p.m. – Planning Commission Meeting
February 27th 7:00 p.m. – City Council Meeting – PC Rep – Mark Lagergren

*Norwood Young America
Planning Commission Minutes
December 20, 2016*

Present: Commissioners Bill Grundahl, Craig Heher, Cassandra Kemp, Mark Lagergren, JR Hoernemann, and Charlie Storms.

Absent: None.

Staff: City Administrator Steve Helget and Planning Consultant Cynthia Smith Strack.

1. Call to Order

The meeting was called to order by Heher at 7:00 pm. All present stood for the Pledge of Allegiance.

2. Adoption of Agenda

Chairperson Heher introduced the agenda.

Motion – Moved by Storms, seconded Grundahl with all in favor to approve the agenda as presented. Motion approved 6-0.

3. Approval of Minutes from the Regular Meeting November 15, 2016.

Heher introduced the minutes from the November 15, 2016 regular meeting.

Motion – Storms to approve November 15, 2016 regular meeting minutes. Second by Kemp. With all in favor the minutes were approved 6-0.

4. Public Hearing.

A. Public Hearing: Repeal and Replace Section 1260 of the City Code (Sign Standards).

Chairperson Heher introduced the agenda item.

Strack stated the Planning Commission has been considering updates to the sign code for the previous several months. The City Attorney's Office has drafted the language presented for hearing by the public. Highlights of proposed changes include:

Incorporation of definitions of commercial and non-commercial speech and a substitution clause noting non-commercial speech may be substituted at any time for commercial or non-commercial speech as provided for within the code without any additional approval.

Language pertaining to specific groups and/or organizations like churches, non-profits, and festivals has been removed so as not to connote favoritism.

The number of directional signs per lot is proposed to be expanded to four per street entry (currently two) as the number of signs per building wall in the C-2 District is proposed to be increased to two.

A requirement for a manufacturer's certificate for brightness and controls for illuminated signs was often difficult to secure for simple, internally lit signs. As such the requirement is proposed for elimination.

Signs on sports field fences will be allowed as they are not 'intended to be viewed offsite', a phrase incorporated in the definition for a sign.

Billboards are proposed to be disallowed; as such existing billboards will become legal non-conforming uses.

Dynamic signs are proposed to be allowed in the C-3 Downtown Districts provided they are wall or monument types but not pylon variety.

Grundahl inquired as to whether or not pylons will be allowed within the C-3 District. Strack explained the difference between pylon and monument signs.

Chairperson Heher confirmed there were no oral or written comments received from the public either for or against the redraft. Helget confirmed.

The hearing was opened at 7:04 p.m.

Motion – Grundahl to close the public hearing. Second by Lagergren. With all in favor the hearing was closed at 7:05 p.m.

B. Public Hearing: Amend City Code Section 600.04, Subd. 1: Storage Pods Declared a Nuisance.

Chairperson Heher introduced the agenda item and opened the hearing at 7:05 p.m.

Strack stated the Planning Commission has over the previous several months discussed storage containers and cargo containers as a means of storage. After reviewing sample ordinances from other communities the Commission called for a public hearing on declaring pods and cargo containers left on property more than 14 days to be a nuisance. The Commission proposes updating Section 600.04, Subd. 1 of the City Code to include language which makes any storage or intermodal cargo containers placed on a property outside of an enclosed building for more than fourteen consecutive days a nuisance.

Strack noted no public comment for or against the proposed Ordinance has been received.

Heher inquired about the necessity of a pod for storage of pod for personal items in the event of a fire or if remodeling is proposed. Strack noted the proposed language would apply and after 14 days the pod would need to be removed. Storms opined the Commission had discussed this scenario in the past. He noted the Commission also addressed contractors who move storage pods from job to job.

Kemp stated the language was acceptable to her as presented.

Lagergren favored the language as proposed and the 14-day limit. He noted there were conceivable circumstances that could arise and which could be dealt with them at that time.

Motion – Grundahl to close the public hearing. Second by Lagergren. With all in favor the hearing was closed at 7:10 p.m.

C. Public Hearing: Adult Uses.

Chairperson Heher introduced the agenda item and opened the public hearing at 7:10 p.m.

Strack noted the Planning Commission had called for a public hearing at the November regular meeting after reviewing draft updates related to where adult entertainment uses could be allowed. The Commission proposes an amendment to Chapter 12, Land Use, of the Code. The proposed update will no longer allow adult uses in the C-2 General Business District (Section 1230.09, Subd. 4(A)) or the B-I Business Industrial District (Section 1230.11, Subd. 4(A)). Adult uses are currently allowed in both those districts under CUP. The draft ordinance, if approved, would instead allow adult uses under CUP in the I-1 Light Industrial District under Section 1230.12, Subd. 4. Adult uses contemplated in the Light Industrial district will need to meet the CUP requirements of Section 1210.06, Subd. 3(B) including maintaining a minimum distance of 600 feet from any existing: public or private school or preschool, licensed daycare, residential zoning district or parcel used for residential purposes, public park adjacent to a residential district, church site, or civic site.

No oral or written comments for or against the proposed amendment have been received.

Motion – Kemp to close the public hearing. Second by Grundahl. With all in favor the hearing was closed at 7:15 p.m.

5. **Old Business.**

A. Repeal and Replace Section 1260 of the City Code (Sign Standards).

Chairperson Heher introduced the agenda item.

Lagergren requested Strack clarify her comment relating to preferential treatment of organizations.

Grundahl introduced a discussion about rocks as signs. The Commission noted a distinction between rocks used as monument type signs with engraving or carved messages within the rock or the rock as an integral part of the sign construction versus a temporary sign affixed to a rock in a temporary fashion.

Motion – Storms, Second Kemp to recommend the City Council approve an Ordinance repealing and replacing Section 1260 of the City Code related to signs. Motion carried 6-0.

B. Amend City Code Section 600.04, Subd. 1: Storage Pods Declared a Nuisance.

Chairperson Heher introduced the agenda item.

Lagergren confirmed existing pods are prohibited. The Commission confirmed that is the case as they are not allowed under current accessory structure standards. Lagergren inquired about those in industrial areas. Strack noted it is possible to conceive of a time and place when the Code may be applied differently. She noted the entire Code is applied to each situation. For example, if a business moves to town that exists to sell pods, it is conceivable they would want to display a pod. Also, if the Commission is asked to review a CUP or IUP for outdoor storage it is conceivable that rather than having exterior clusters of smaller items like tires or engine parts the City may wish to have them stored in a container. Therefore, the CUP or IUP could specifically allow a pod. All outdoor storage requires fencing, therefore, the view of the pod could be screened.

Hoernemann inquired as to whether or not storage in semi-trailers would be allowed. Strack noted if the trailer displayed current licenses and did not exceed any specific limit on the amount of semi-trailers allowed at any one site the use could likely occur. Strack noted licensed trailers were not pods or intermodal containers.

Grundahl inquired as to how dumpsters are they regulated. Helget noted they are usually required to be located on private property and not public property or right of way.

Motion – Grundahl, Second Hoernemann to recommend the City Council approve an Ordinance amending Section 600.04, Subd. 1. Motion carried 6-0.

C. Code Amendment: Adult Uses.

Chairperson Heher introduced the agenda item.

Motion – Lagergren, Second Storms to recommend the City Council approve an

Ordinance amending Chapter 12 of the City Code relating to adult uses. Motion carried 6-0.

D. Rental Housing Ordinance.

Chairperson Heher introduced the agenda item.

Strack noted that at the October meeting the Planning Commission reviewed the rental current code and sample language from the City of Starbuck. At the meeting the Commission requested input from the City Attorney's Office prior to moving ahead with any further discussion.

At the November meeting the PC accepted input provided by the City Attorney and, after significant discussion opted to schedule the item for additional discussion at the December meeting.

Strack stated that included in the meeting packet are a marked up copy of the rental code with just a few minor adjustments and sample language provided by the City Attorney in the event the Commission would like to include standards related to tenant registration, crime free multi housing, and enabling language making landowners responsible for tenant behavior.

Strack noted her observations from the initial meeting in October as follows:

Scope – The Code exempts rental of units to “direct family” members. Staff finds this potentially problematic and troubling.

Definitions – “Nuisance” overcrowding a room with occupants. Staff finds this problematic. Fire code occupancy regulated under fire code only; no specific definition of overcrowding identified.

Definitions – “Occupant” Staff finds this definition problematic in that there appears to be no limit on the amount of related persons living which constitute a “family” but there is an occupancy limit on the number of unrelated persons. This lends itself to a discussion of reasonable rationale for making such a distinction.

Section 350.04, Subd. 8 – aisle width standard is suspect if regulated under Building Code. The 2010 Code update appears to have removed all other references to items that are regulated by under Building Code.

The Commission reached consensus to strike references to ‘direct family’ in the “Scope” of the regulations and ‘nuisance’ related to overcrowding. Staff is to remove any reference to ‘aisle width’ from Section 350.04, Subd. 8.

Staff is to bring definitions of ‘occupant’ from other Codes to the January meeting.

The Commission discussed language pertaining to crime free housing initiative.

Strack inquired as to whether or not the City's CSO should have input on a crime free housing initiative and should be queried as to previous experience with and comment on the effectiveness of such programs. Strack opined such discussion could be importance since the CSO would likely be involved in program administration.

Staff was directed to bring information from the Sheriff's Office regarding crime free housing programs to the January meeting.

Kemp suggested managers of large rentals be contacted to gain information as to whether or not they have crime free language included in leases.

Strack noted the sample language provided by the City Attorney's Office did not have to be viewed as 'all-or-nothing' set of criteria but instead as an ala carte menu of potential standards.

Additional discussion regarding rental code will be conducted at future meetings.

6. New Business.

A. Lot Combinations.

Heher introduced the item for discussion.

Strack noted Staff has received an inquiry from an individual who owns two residential lots which abut, sharing a common lot line. The property owner is inquiring about the possibility to combine the lots.

She opined there is a difference between combining lots for tax purposes and combining lots in a manner that removes an existing lot line. Combining a lot for tax purposes produces one tax identification number and perhaps one legal description. Combining lots for tax purposes doesn't remove an underlying lot line. As such typical setback requirements are most often considered to be retained and, unless vacated, easements for utility and drainage purposes centered on lot lines remain.

She further opined the only broadly accepted way to official remove a lot line and associated easements is to replat and vacate the easements if possible. Alternately, for local review purposes and to ensure the resulting lot meets applicable lot performance standards communities often allow for an administrative lot subdivision or combination process. That process typically involves filing of a certificate of survey, administrative review of the request, drafting of new legal description(s), and creation of new deed(s). The survey and newly created deeds are then filed with the County Recorder. Recording standards vary from county to county regarding certificates of survey.

Under current Section 1100.11 of the City Code Subdivision exceptions are made for simple lot divisions, division of two family dwellings, and boundary line adjustments. Rather than fully platting and administrative alternative is provided. The exceptions don't specifically address combinations of lots. As such the Commission could literally interpret lot combinations don't qualify as exceptions (and therefore allow review through an administrative process) or the Commission could infer from the similar nature of the exceptions lot combinations could be allowed under an administrative process.

Staff is requesting comment and direction from the Commission regarding whether or not combining lots requires platting. Strack noted pertinent language was included in the meeting packet for Commissioner review.

Helget reviewed the input from the other communities as follows:

Corcoran: Lot line adjustments and/or combinations are allowed administratively unless they require easement vacation, then they are approved by the Council. Minor subdivisions are separate and independent of lot line adjustments/combinations but only require a survey and not full plat. Minor subdivisions are approved by the Council.

Montevideo: Lot combinations are treated as minor subdivisions and allowed administratively. A survey and a deed must be recorded. Deed has to be stamped by the City prior to recording.

Breezy Point: Lot combinations are allowed as long as they are within the same subdivision. If they are within two different subdivisions the combination must be platted. County requires a lot consolidation form be completed to formalize the request. Easement vacation is required where applicable.

Waite Park: Property described by metes/bounds must be platted. Property that has been previously platted can be approved administratively (certificate and deed).

Cokato: Lot combinations are allowed with a survey and legal description developed. If the property is metes/bounds or more than two parcels it must be platted.

The Commission discussed lot combinations and requested Staff bring sample language updating Section 1100.11 to add lot combinations as opposed to requiring replatting to combine lots.

B. 2017 PC Goals.

Chairperson Heher introduced the business item. Helget requested a member of the Commission attend the January 23, 2017 meeting to provide an update on 2016 goals and recommended 2017 goals.

Strack noted the Planning Commission regularly sets goals for the new year at the December meeting. The Commission has a few goals carried over from this and several

points of discussion potentially of interest in 2017 have recently arisen. Following are sample goals as a starting point for conversation regarding activities in 2017:

Consider whether or not food trucks should be allowed in the City. If so, consider necessary operational conditions and applicable districts.

Staff have received numerous inquiries regarding auto repair shops in commercial and industrial districts. At this time automobile ‘service stations’ are allowed under CUP in the C-2 General Commercial District. Automobile “repair, major” is allowed as a permitted use in the B-I Business Industrial District, and auto repair as an accessory use is allowed in the C-3 Downtown District. At this time auto repair (either major or minor) is allowed as a principal use in the C-3, RC-1, or I-1 District. Discussion about where auto repair may fit in alternate zones and under what conditions could be examined in 2017.

Continued consideration of accessory dwelling units as allowed uses in certain residential districts as a means of addressing community of a lifetime and active aging issues. In 2016 we opted out of a recently enacted state law requiring “drop homes” be permitted as temporary health care dwellings.

Participate in the 2040 Comprehensive Plan update process.

Review of Chapter 11 of the City Code, subdivision regulations (suggested by City Administrator Helget).

Review of/familiarization with the zoning map.

Heher suggested the Commission discuss potential residency requirements for predatory level III sex offenders. He noted Watertown is reviewing such language.

7. Building Permit Report.

The building permit report was acknowledged a total of 16 new home permits have been issued in 2016.

8. Commissioner’s Reports

Kemp stated she attended the previous Council meeting. The Council discussed property use issues with a local property owner, approved the 2017 tax levy, and approved a minor amendment to a CUP for Loomis contractor shop along Railroad Street.

Administrator Helget provided an update on the property use issue noting: storage pods on property on Railroad Street were approved until next fall or when the property is sold, whichever happens first. Subject property on north side of town has a limit on the volume of exterior

storage as per an existing non-conforming use resolution. The Council and the property owner defined the area in terms of square footage used. Helget stated the former Waste Management site is reportedly the subject of a purchase agreement with the local individual. The business owner is proposing to relocate everything from existing locations to the Waste Management site. The Council instructed the potential property owner to prepare a letter to the City describing what he plans to do on the Waste Management site. The City will then review the letter and define the process needed to secure necessary land use approvals.

Helget reminded Commissioners he was seeking a volunteer to present an annual report to the Council. Grundahl volunteered to present a report at the January 23rd meeting. Strack will create the report.

Storms stated the EDC will discuss branding at a meeting next month close in on logos and such.

9. Adjourn

Motion – Grundahl, seconded by Storms with all in favor, the meeting was adjourned at 8:40 p.m.

Respectfully submitted,

Steve Helget
Zoning Administrator

2017 Planning Commission Representatives Schedule for City Council Meetings

<u>Month</u>	<u>Meeting Dates</u>	<u>Commissioner</u>
January	9th, 23rd	Mark Lagergren
February	13th, 27th	Mark Lagergren
March	13th, 27th	
April	10th, 24th	
May	8th, 22nd	JR Hoernemann
June	12th, 26th	JR Hoernemann
July	10th, 24th	Cassandra Kemp
August	14th, 28th	Bill Grundahl
September	11th, 25th	Bill Grundahl
October	9th, 23rd	Charlie Storms
November	13th, 27th	Charlie Storms
December	11th, 26th*	Cassandra Kemp

*Tuesday after Christmas

Note: Meeting dates are subject to change and do not include any special meetings or workshops.



To: Chairperson Heher
Members of the Planning Commission
Administrator Helget

From: Cynthia Smith Strack, Strack Consulting LLC

Date: January 18, 2017

Re: Todd Miller – Xtreme Electrical Site Plan

Todd Miller is proposing an additional structure at 211 Railroad Street. An existing 2,400 sf structure was constructed on the lot in 2011 pursuant to a CUP (Reso. 2011-15) and site plan (Reso. 2011-15) approved by the City Council. The CUP authorized a contractor operation, the site plan a structure completed in three phases. Phase one was completed as the 2,400 sf structure now existing. Phases two and three were not realized.

Miller now proposes a second, 6,400 s.f. free-standing structure for the lot. The proposed building would become the principal structure on the lot and would necessitate the approval of a new site plan. Miller proposes the building be sympathetic in material to the existing structure. The existing structure, however, doesn't meet exterior building requirements under Section 1245.02 of the Code. The lot is zoned C-3 Downtown District.

Staff finds three potential means of processing the request and is seeking input from the Planning Commission as to the preferred alternative. Potential alternatives appear to be:

1. Apply for a variance.
2. Follow process requirements for Loomis Homes. Site plan approval dependent office designed as part of the structure, permanent floor, wood siding, asphalt shingles.
3. Rezoning that area to RC-1 (Contractor operations are allowed under CUP in RC-1) and then amending 1245.02 to allow steel siding/roofing in RC-1 either as a right or under CUP. This would keep design requirements applicable to buildings in Downtowns.

In addition, the Commission is asked for interpretation of a phrase included in Section 1245.02 of the Code which specifies prohibited exterior materials in the Downtown District. Under Code, "prefabricated steel or sheet metal panels" are defined as prohibited materials. The question is whether the phrase is meant to be interpreted as "prefabricated steel panels" or "prefabricated steel". If it is meant to refer to prefabricated steel panels it could conceivably provide for horizontal steel lapping. If this is the interpretation, then horizontal steel siding could be allowed anywhere in the C-3 and RC-1 so it could be in both downtowns on all buildings.

ATTACHMENTS

- Concept sketch
- 2011 staff report, CUP, and site plan resolutions
- Section 1245.02 of the City Code

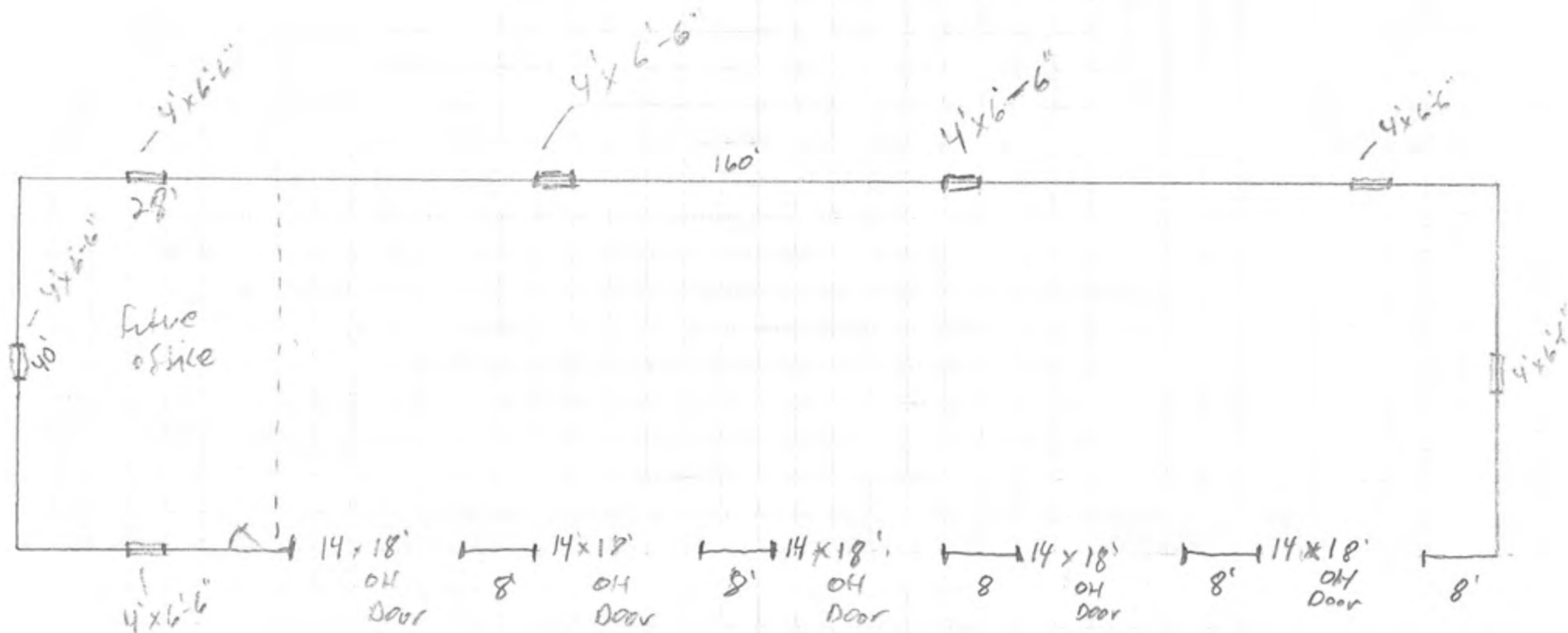
ACTION

This item is for discussion with direction sought by staff. A representative from Xtreme Electrical is to be present at the meeting.

Xtreme Properties LLC

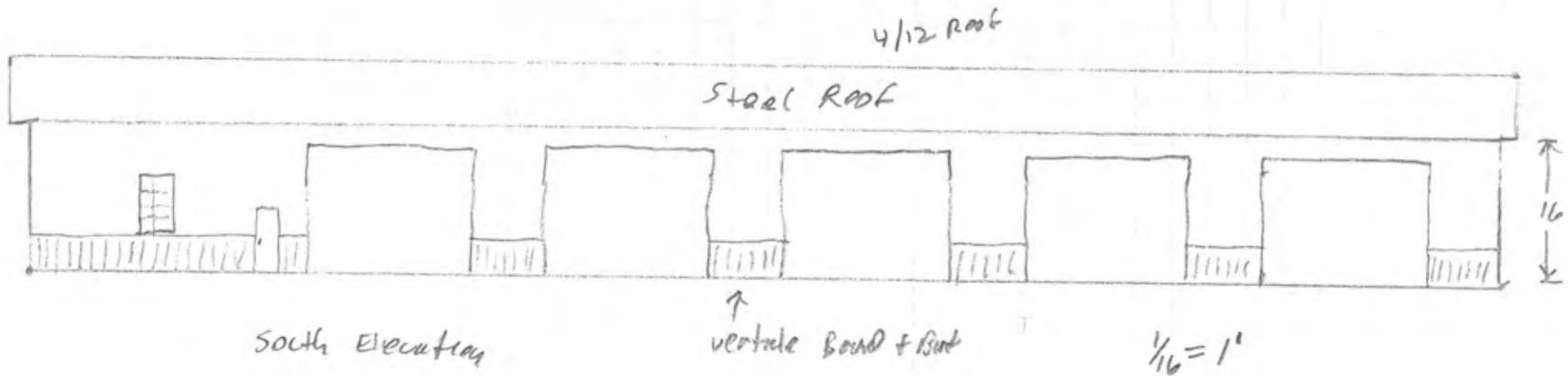
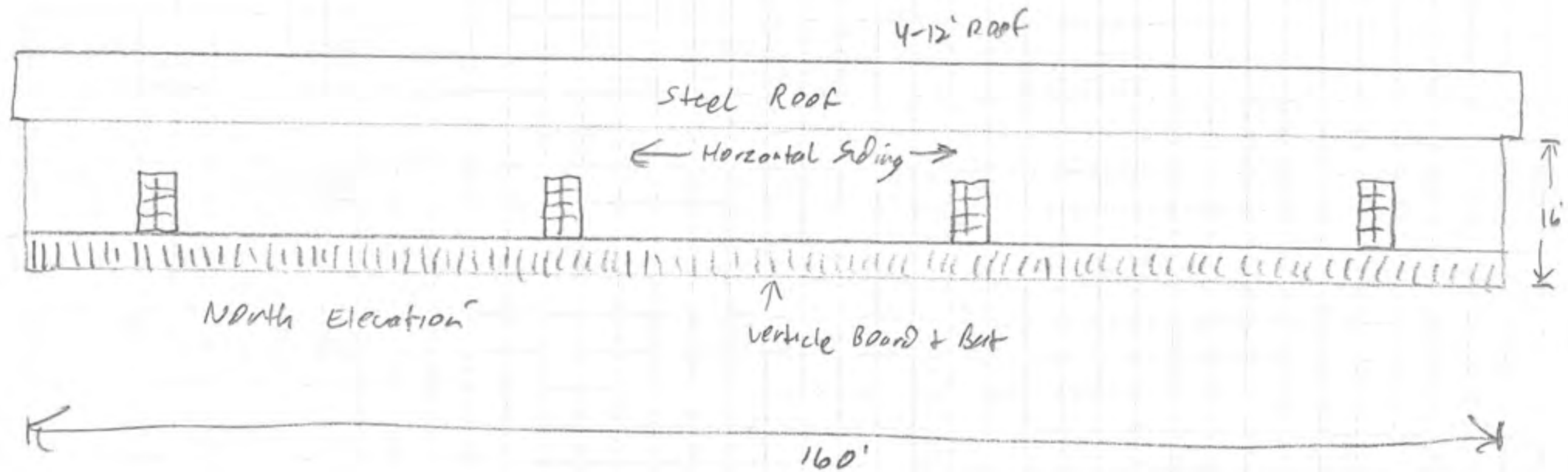
Phase II

6400 Sq ft

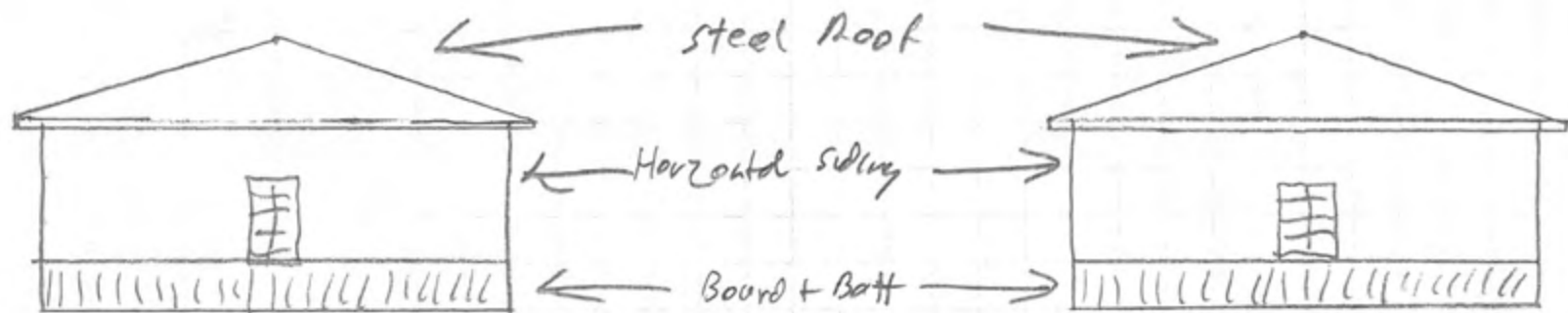


$$\frac{1}{16} = 1'$$

x-treme Properties LLC Phase II



Xtreme Properties LLC Phase II



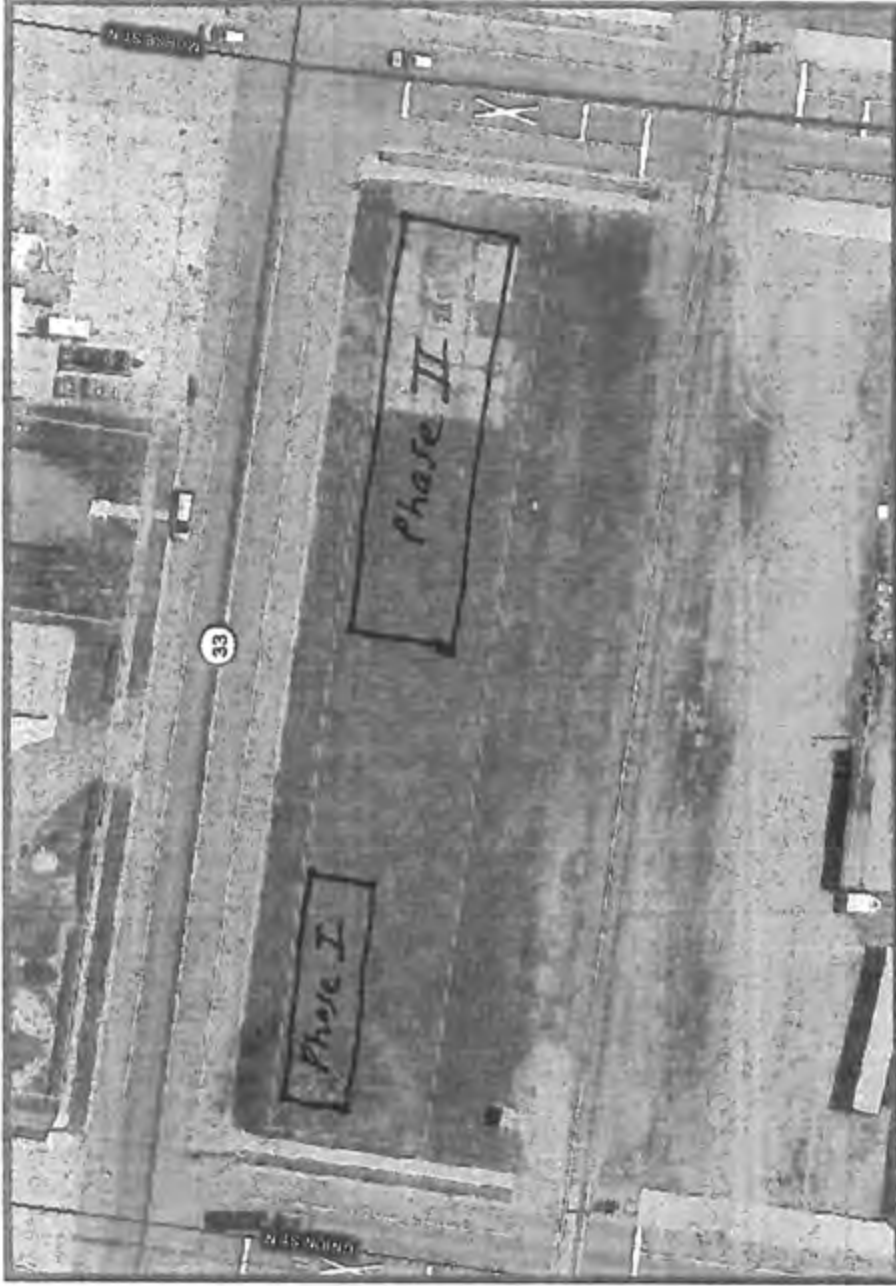
West elevation

East elevation

40'

$$\frac{1}{16} = 1'$$

Carver County, MN



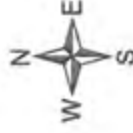
Property Information

Parcel ID: 589990010 AS400 Acres: 0.58
Taxpayer Name: XTREME PROPERTIES LLC
Homestead:
Taxpayer Address: 311 RAILROAD ST School District: 0108
Taxpayer City St. Zip: NYA, MN 55368-9774 Watershed District: CROW RIVER CWM
Property Address: Tax Exempt: N
Property City: NORWOOD YOUNG AMERICA Platname:
GIS Acres: 0.34

Disclaimer: This map was created using Carver County's Geographic Information Systems (GIS). It is a compilation of information and data from various City, County, State, and Federal offices. This map is not a surveyed or legally recorded map and is intended to be used as a reference. Carver County is not responsible for any inaccuracies contained herein.

Map Scale
1 inch = 58 feet

Map Date
3/2/2011



STAFF MEMO

City Council City of Norwood Young America

To: Honorable Mayor Diedrick and Members of the City Council

From: Chelsea Alger, Community Development Director

CC: Tom Simmons, City Administrator
Diane Frauendienst, City Clerk/Treasurer

Date: August 15, 2011

Agenda Items: **Resolution 2011-14- Approving a CUP for Contractor Operations at 211 Railroad St. W.**

Resolution 2011-15- Approving a site plan at 211 Railroad St. W.

Requested Action(s): Adopt Resolutions 2011-14 and 2011-15

BACKGROUND

Todd Miller, owner of Xtreme Electric/Xtreme Properties, has submitted an application for conditional use permit and site plan approval for contractor operations on the property located at 211 Railroad St. W. The property is approximately 0.34 acres and zoned C-3, Downtown District. Contractor Operations are a conditional use in the C-3 District.

The project is proposed in three phases. Miller's long-term intent is to move the entire Xtreme Electric business to this location. Miller's current plans, however, are to construct only Phase One, 2,400 square feet of contractor storage space, which will allow him to serve an immediate need of secure space for Xtreme Electric trucks and equipment that do not fit into his current location. The second phase would be a two-story office area, followed by the third phase of 2,400 square feet in additional contractor/warehouse space. Constructing the building in phases will allow Miller and Xtreme Properties to expand the current business and branch out their additional business ventures over a period of time, as demand dictates. Therefore, there is no office component associated with the first phase of construction. Miller intends to continue operating out of his current office across the street and use this space as an extension of the current electrical business's storage and operational needs.

The Planning Commission report and all associated documents are attached to this memo, which provide detailed background on the request and ordinance requirements for approval to be met.

PLANNING COMMISSION COMMENT

A public hearing was conducted at the Planning Commission meeting on August 9th, at which time no comment was received either for or against the proposal. Miller provided façade material examples for the Commission's review. There was a minor concern regarding the necessity to access Morse St. from the property. There was some discussion regarding the narrowness of the lot and need for a one-way traffic pattern. Because of the 4-way stop at Morse St. there wasn't as much concern with traffic conflict in this arrangement. Staff also discussed the potential for an office access on the north (Railroad St.) side of the building. The Planning Commission felt the proposed access on the south side of the building was sufficient and the number of windows proposed on the north side characteristically identified the space as office. No other concerns were addressed by the Commission.

As of the date of this memo Staff has still not received any comment from either TC & W Railroad or Carver County Public Works. Should any comments be received before the meeting Staff will address them accordingly.

Planning Commission Recommendation

Adopt Resolution 2011-14, a Resolution Approving a Conditional Use Permit to Allow Contractor Operations Located at 211 Railroad St. W.

Adopt Resolution 2011-15, a Resolution Approving a Site Plan for Xtreme Properties, LLC on Property Located at 211 Railroad St. W.

ATTACHMENT(S):

1. Resolution 2011-14
2. Resolution 2011-15
3. Planning Commission Staff Report, dated August 9th
4. Building Elevations
5. Site Survey and Building layout

RESOLUTION NO. 2011-14

RESOLUTION APPROVING A CONDITIONAL USE PERMIT TO ALLOW CONTRACTOR OPERATIONS LOCATED AT 211 RAILROAD ST. W.

BE IT RESOLVED by the City Council of Norwood Young America, Carver County, Minnesota as follows:

WHEREAS, the City of Norwood Young America requires a conditional use permit for Contractor Operations in the C-3 (Downtown Business) Zoning District; and

WHEREAS, Todd Miller, representing Xtreme Properties, LLC, (the "Applicant") has applied for a conditional use permit to allow construction of electrical contractor operations (the "Use") at 211 Railroad St. W., in Norwood Young America (the "Property"); and

WHEREAS, the City of Norwood Young America Planning Commission held a public hearing to consider the Applicants' request for the conditional use permit during the regular meeting on August 9, 2011; and

WHEREAS, the City of Norwood Young America City Council at a regular meeting on August 15, 2011, considered the testimony of the public hearing, the application materials on file with the City, and the recommendation of the Planning Commission.

THEREFORE, BE IT RESOLVED, that the City Council of Norwood Young America, Carver County, Minnesota, hereby makes and adopts the following findings of fact:

1. The Applicant has requested a Conditional Use Permit for electrical contractor operation at 211 Railroad St. W. in the C-3 (Downtown) District.
2. Contractor Operations, defined in Section 1200.04 of the Zoning Ordinance as "an area and/or building devoted to use by a business that contracts to supply materials or work in the building trade field", may be permitted as conditional use in the C-3 District, subject to certain conditions listed below.
3. The proposed use appears to be consistent with the requirements for contractor operations in the C-3 District, subject to certain conditions listed below.
4. The use does not appear to have an undue adverse impact on the public health, safety or welfare, subject to certain conditions listed below.
5. The use does not appear to be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood as the Property will maintain high quality construction and will be utilized for activities similar in nature to that of surrounding uses.
6. Adequate utilities and road access appear to be provided to the Property.
7. The Property appears to have sufficient off-street parking for business vehicles associated with the Use.
8. There is no proposed outdoor storage of any kind associated with the Use.
9. The Office area is visible from the street facing side of the building, though access is from the Railroad side of the building, this is acceptable due to the traffic flow as a preferred location on the south side of the building.

10. The use appears to meet all of the performance criteria requirements of Section 1245.01 of the Zoning Ordinance, subject to certain conditions listed below.

THEREFORE, BE IT FURTHER RESOLVED, that the City Council of Norwood Young America, Carver County, Minnesota, hereby approves the Applicants' request for a conditional use permit to allow contractor operations, on the subject property, subject to the following conditions:

1. Approval of Resolution 2011-15, "A SITE PLAN FOR XTREME PROPERTIES, LLC ON PROPERTY LOCATED AT 211 RAILROAD ST. W.
2. The applicant shall meet the performance standards established in Section 1245.01 of the Zoning Ordinance.
3. All necessary building permits shall be obtained prior to construction of the Use on the Property.
4. Any on-site waste containers shall be screened from public view by a privacy fence, not to include slatted chain-link, or contained entirely within a building.
5. This approval shall expire one year after date of approval unless the Applicants have commenced operation of the Use on-site.
6. This permit is subject to all applicable codes, regulations and ordinances, and violation thereof shall be grounds for revocation.
7. The permit shall be subject to annual inspection and review by the City. The City may revoke the CUP upon violation of the conditional use permit standards in the Zoning Ordinance or violation of the conditions of this resolution, subject to the requirements of Section 1210.06, Subd. 5 "Revocation of Conditional Use Permits" of the Zoning Ordinance.
8. The conditional use permitted under this Resolution 2011-14 shall be revoked if the Use ceases for more than 12 consecutive months.
9. The Use permitted under this Resolution 2011-14 may change to a permitted use in the C-3 District without further action by the City Council; however the Use may not change to another conditional use without a new application and approval by the City Council.

Adopted by the City Council this 15th day of August, 2011.

Tina Diedrick
Mayor

ATTEST:

Diane Frauendienst
City Clerk/Treasurer

RESOLUTION 2011-15

A RESOLUTION APPROVING A SITE PLAN FOR XTREME PROPERTIES, LLC ON PROPERTY LOCATED AT 211 RAILROAD ST. W.

BE IT RESOLVED by the City Council of Norwood Young America, Carver County, Minnesota as follows:

WHEREAS, the City of Norwood Young America requires approval of a site plan pursuant to Section 1210.08 of the Norwood Young America City Code; and

WHEREAS, Xtreme Properties, LLC (Todd Miller), (the "Applicant") applied for approval of the site plan to construct a building and associated site improvements (the "Use") on property located at 211 Railroad St. W. (the "Property").

WHEREAS, the City of Norwood Young America Planning Commission considered the Applicant's request for site plan approval to locate the Use on the Property during their meeting on August 9, 2011; and

WHEREAS, the City of Norwood Young America City Council at a regularly meeting on August 15th, 2011, considered the application materials on file with the City, and the recommendation of the Planning Commission.

THEREFORE, BE IT RESOLVED, that the City Council of Norwood Young America, Carver County, Minnesota, hereby makes and adopts the following findings of fact:

1. The subject property is zoned C-3, Downtown Business District.
2. The Use, subject to certain conditions listed below, appears to be consistent with the intent of the Zoning Ordinance for properties with the C-3, Downtown Business District.
3. The Use, subject to certain conditions listed below, appears to be consistent with the goals and policies set forth in the City of Norwood Young America Comprehensive Plan for properties in the C-3, Downtown Business District.
4. The Use, subject to certain conditions listed below, appears to meet all of the performance criteria requirements as established in Section 1245.01 of the Zoning Ordinance.

THEREFORE, BE IT FURTHER RESOLVED, that the City Council of Norwood Young America, Carver County, Minnesota, hereby approves the Applicant's request for a site plan approval, subject to the following conditions:

1. Approval of the site plan is subject to the approval of Resolution 2011-14 "A Resolution approving the conditional use permit for contractor operations on the property located at 211 Railroad St. W."

2. The applicant shall comply with all conditions outlined in the City Staff Report dated August 9, 2011.
3. Review and approval of plans by Carver County and Twin Cities and Western Railroad.
4. Prior to installation of any signage, the applicant shall submit detailed plans for all signage with the required building permit application.
5. The applicant shall comply with the performance criteria established in Section 1245.01 of the Zoning Ordinance.
6. Any lighting improvements on the property shall meet the requirements of Section 1245.08 of the Zoning Ordinance
7. Building permits shall be required prior to any building construction or improvements on the property.
8. At the time water and sewer service shall be required the applicant shall obtain a separate connection permit and pay all required water and sewer fees.
9. This approval is subject to all applicable codes, regulations and ordinances, and violation thereof shall be grounds for revocation.
10. This approval shall expire one year after date of approval unless the Applicants have commenced construction of the Use on the Property.
11. Approval of this site plan does not approve any future expansion or associated improvements on-site, other than Phase Two and Three included within this approval. Any modifications not defined as "minor" pursuant to Section 1210.08, Subd. 4, shall require separate site plan approval.

Adopted by the City Council this 15th day of August, 2011.

Tina Diedrick
Mayor

ATTEST:

Diane Frauendienst
City Clerk/Treasurer

STAFF MEMO

Planning Commission City of Norwood Young America

To: Members of the Planning Commission

From: Chelsea Alger, Community Development Director

Date: August 9, 2011

Agenda Item: 4.0 A- CUP and Site Plan Review- Xtreme Properties- 211 Railroad St. W.

BACKGROUND

Todd Miller, owner of Xtreme Electric/Xtreme Properties, has submitted an application for conditional use permit and site plan approval for contractor operations on the property located at 211 Railroad St. W. The property is approximately 0.34 acres and zoned C-3, Downtown District. Contractor Operations are a conditional use in the C-3 District.

The project is proposed in three phases. Miller's long-term intent is to move the entire Xtreme Electric business to this location. Miller's current plans, however, are to construct only Phase One, 2,400 square feet of contractor storage space, which will allow him to serve an immediate need of secure space for Xtreme Electric trucks and equipment that do not fit into his current location. The second phase would be a two-story office area, followed by the third phase of 2,400 square feet in additional contractor/warehouse space. Constructing the building in phases will allow Miller and Xtreme Properties to expand the current business and branch out their additional business ventures over a period of time, as demand dictates. Therefore, there is no office component associated with the first phase of construction. Miller intends to continue operating out of his current office across the street and use this space as an extension of the current electrical business's storage and operational needs.

ZONING REGULATIONS

Use:

Xtreme Electric is an electrical contracting firm, which falls under the definition of "Contractor Operations" in the Zoning Ordinance. A "contractor operation" is defined as *an area and/or building devoted to use by a business that contracts to supply materials or work in the building trade field.*

Conditional Use Permit:

Contractor Operations are a conditional use in the C-3 District. As such, any use of property for this purpose is required to obtain a conditional use permit prior to construction or operation on site. There are a number of general standards that all conditional uses must meet, as well as standards specific to the contractor operation use. Those specific standards are:

1. No outdoor storage of any kind, including but not limited to materials, equipment or machinery shall be permitted
2. All business vehicles shall be accommodated by off-street parking
3. The office area shall be maintained at the front (street-facing) side of the building to the greatest extent possible.

The proposed site plan indicates that all of these conditions can be met. Though the main entrance to the office space is on the railroad side of the building, the narrow lot does not allow for much maneuverability on-site, and the drive line should be maintained on the south side due to the location of the overhead doors. Even though

4.0 A CUP/Site Plan- Xtreme Electric
March 15, 2011 Planning Commission

there is no formal office entrance on the north side there is still an office presence, which could be made more distinct if necessary by incorporating shakes from the eave to the brick around the middle four windows and/or incorporating a door from the parking area to the office space to allow for a Railroad St. entrance. This would also be consistent with downtown design standards outlined in the ordinance.

In regards to the general conditional use permit standards, they are as follows:

1. The use is consistent with goals, policies and objectives of the Comprehensive Plan.
2. The use is consistent with the intent of this Ordinance.
3. The use does not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements.
4. The use does not have an undue adverse impact on the public health, safety or welfare.
5. The use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the neighborhood.
6. The use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.
7. Adequate utilities, access roads, drainage and necessary facilities have been or will be provided.
8. Adequate measures have been or will be taken to provide for vehicular and pedestrian safety and convenience to, from and within the site.
9. The use meets all of the performance criteria requirements as established in Section 1245.01 of this chapter.
10. The use shall, in all other respects, conform to the applicable regulations of the district in which it is located.

In reviewing the proposal, Staff does not see any concerns in regards to the applicant meeting these standards.

Site Plan Review:

Design Standards:

The City incorporated design standards into the commercial districts when the Zoning Ordinance was revised in 2008. Permitted building materials include: brick, natural stone, wood (consisting of horizontal lap siding with painted surface), precast concrete units/block treated with textured material, and transparent glass. Accent materials (consisting of up to 20% of the building façade) may include: metal, glass block, and spandrel glass. Other materials may be permitted as approved by the planning commission. Miller is proposing steel siding as a main building material, with rock-cut block and vinyl shakes as an accent material. The street-facing (Railroad St) side of the building would have four, 6' x 1 1/3' foot windows on each of the Phase One and Three segments, with office façade and 12 large windows spanning two stories in Phase Two. Vinyl shakes would accent each of the roof peaks and the majority of the south-side office façade.

Although steel siding is not one of the materials listed in the ordinance, Miller presented the concept to the Planning Commission in March, indicating he would prefer to use siding as his main material and feels the integrity and longevity of steel versus wood siding makes it a better choice for the long-term maintenance needs of the building. The Planning Commission reviewed the sample materials provided by Miller and determined use of the steel siding would be acceptable. Colors will be earth-tone neutral, similar to the current building at 311 Railroad St. W.

Design standards also indicate that the front door should face the primary street, which would be Railroad St. the office entrance was discussed above in the CUP heading, including possibilities for incorporating a Railroad St. entrance into the building if the Planning Commission would prefer to entertain that option. Currently the office entrance is proposed on the south side of the building, which staff would concur entrance on this side is necessary as well, due to the location of the drive lane and overhead doors.

Building Setbacks:

There are no setback requirements for buildings constructed in the C-3 Downtown District, unless adjacent to a residential district, which this property is not. Therefore, the proposed structure meets all setback criteria for the C-3 District

Parking:

Parking requirements for the entire building are as follows:

Type of Use	Total Square Feet	Parking Requirement	Spaces Required
Office	2,040 sq. ft.	4.5 spaces per 1,000 sq. ft.	9
Sales Display Area	2,040 sq. ft.	1 space per 500 sq. ft.	4
Warehouse/	4,800 sq. ft.	1 space per 2,000 sq. ft. or 1 space per employee on major shift	2
	8,880 sq. ft		15

Miller is proposing a total of 16 off-street spaces in a parking area located on the east side of the building. Access to the north 8 spots would be directly off of Railroad St and require installation of surmountable curb. Since Railroad St. also functions as CR 33 in this area, Carver County Public Works will need to review this concept. As of the date of this memo Staff has not received comments back from Carver County. In the event this would not be permissible it is likely the number of spaces could be reduced as rearranged. Since parking is also available within the building as well, lost spaces could be picked up in there. The drive lane is proposed as one-way, entering from Union and exiting onto Morse St.

Landscaping:

Landscape requirements include six over-story trees, combined with various shrubs. Miller is proposing two each of Autumn Blaze Maple, Amber Maple and Flowering Crab Apple, along with a variety of shrubbery around the building. Some of the landscape improvements are proposed within the Railroad St. right-of-way. Staff will verify the amount of space for snow storage required along that strip and, if necessary, work with the applicant to rearrange or reduce some of the plantings.

Lighting:

No lighting plan was submitted for review. Any lighting of the property proposed shall meet the requirements of Section 1245.08- Lighting, of the Zoning Ordinance.

Signage:

Signage shall require a separate permit and is subject to Section 1260- Signs, of the Zoning Ordinance.

Performance Standards:

The use shall be required to meet all performance standards set forth in Section 1245.01 of the Zoning Ordinance. In particular, garbage/refuse area shall be kept in an enclosed building or otherwise hidden from public view by a privacy fenced area.

ADDITIONAL DEPARTMENT/AGENCY COMMENTS:

Public Works:

Public Works had no concerns other than continued use of the boulevard for snow storage. Again, Staff will need to go over the landscape plan with the Public Works Director in more detail to determine whether or not utilization of that space is desired.

Public Utilities:

Public Utilities indicated no concerns with the project, however pointed out that water and sewer are not stubbed to the property but would need to be accessed from the mains in the street. A separate permit and associated water and sewer trunk and hook-up and water meter fees shall be required at that time.

Fire Department:

The Fire Chief indicated no concerns with the project.

TC & W Railroad:

As of the date of this memo no comments had been received from the Railroad. Any comments received will be incorporated into the final approval.

Carver County Public Works:

As of the date of this memo no comments had been received from Carver County Public Works. Any comments received will be incorporated into the final approval.

Public Comment:

Notice was sent to all property owners within 350 feet of the proposed project. As of the date of this memo no comments have been received from any property owners.

RECOMMENDATION

A motion to forward the attached Resolutions, entitled:

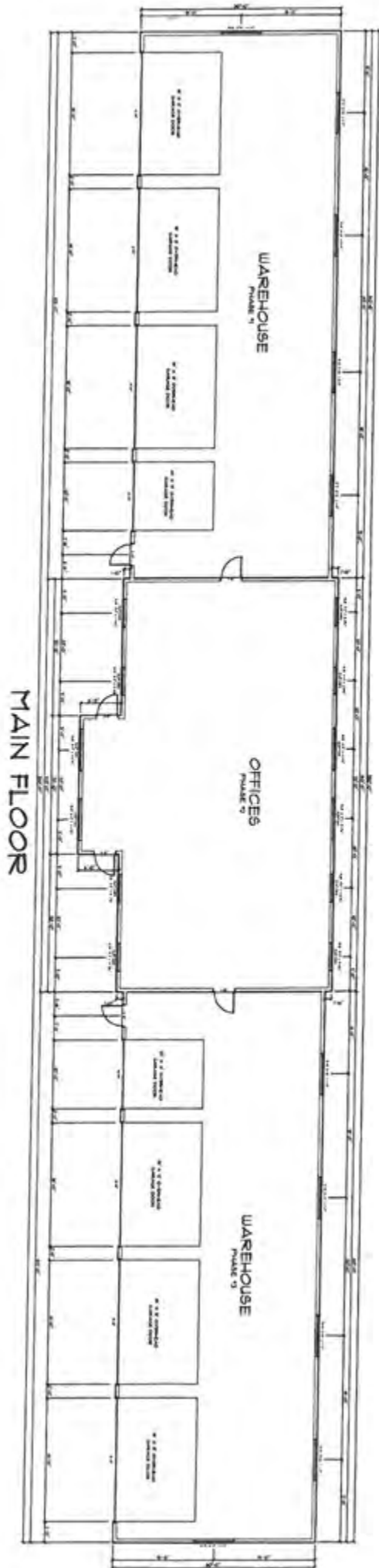
"A Resolution Approving a Site Plan for Xtreme Properties, LLC Located at 211 Railroad St. W."

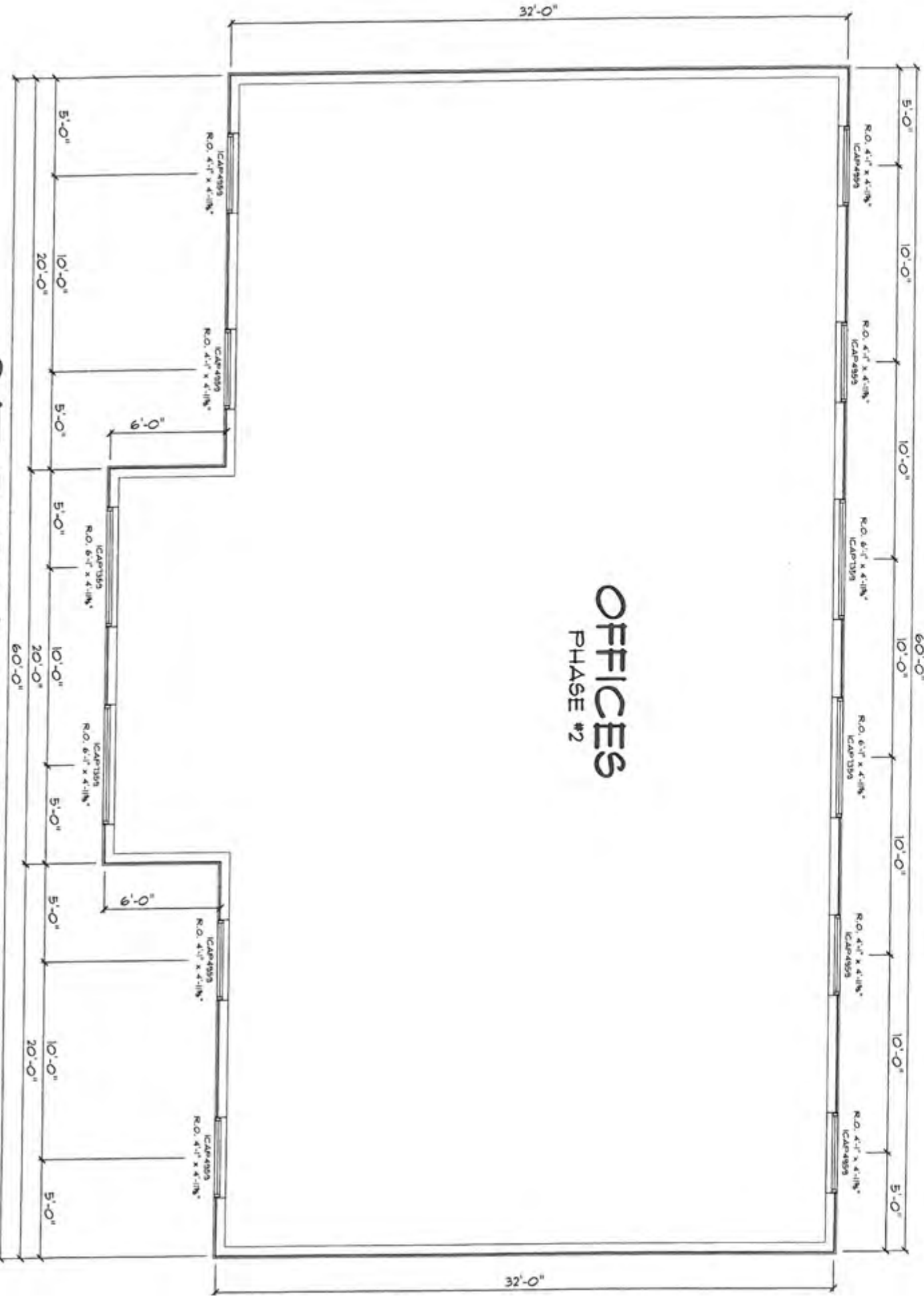
"A Resolution Approving a Conditional Use Permit to Allow Contractor Operations Located at 211 Railroad St. W.:"

to the City Council for approval.

Attachments:

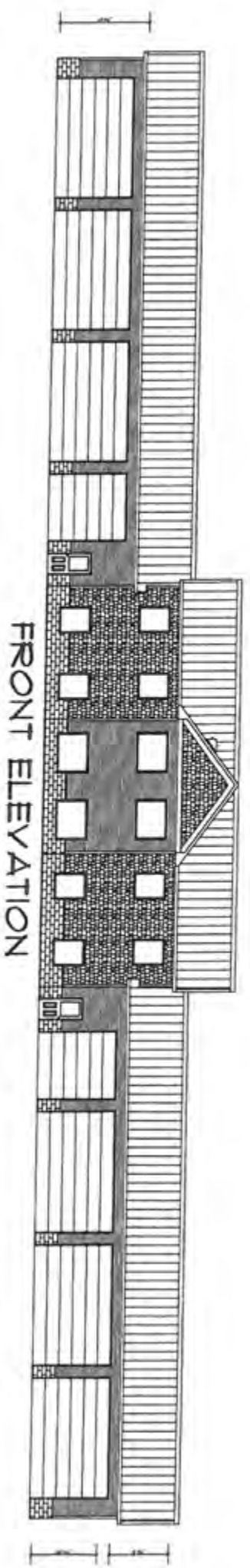
1. Resolution- Site Plan Approval
2. Resolution- CUP Approval
3. Site Plan
4. Building Plans



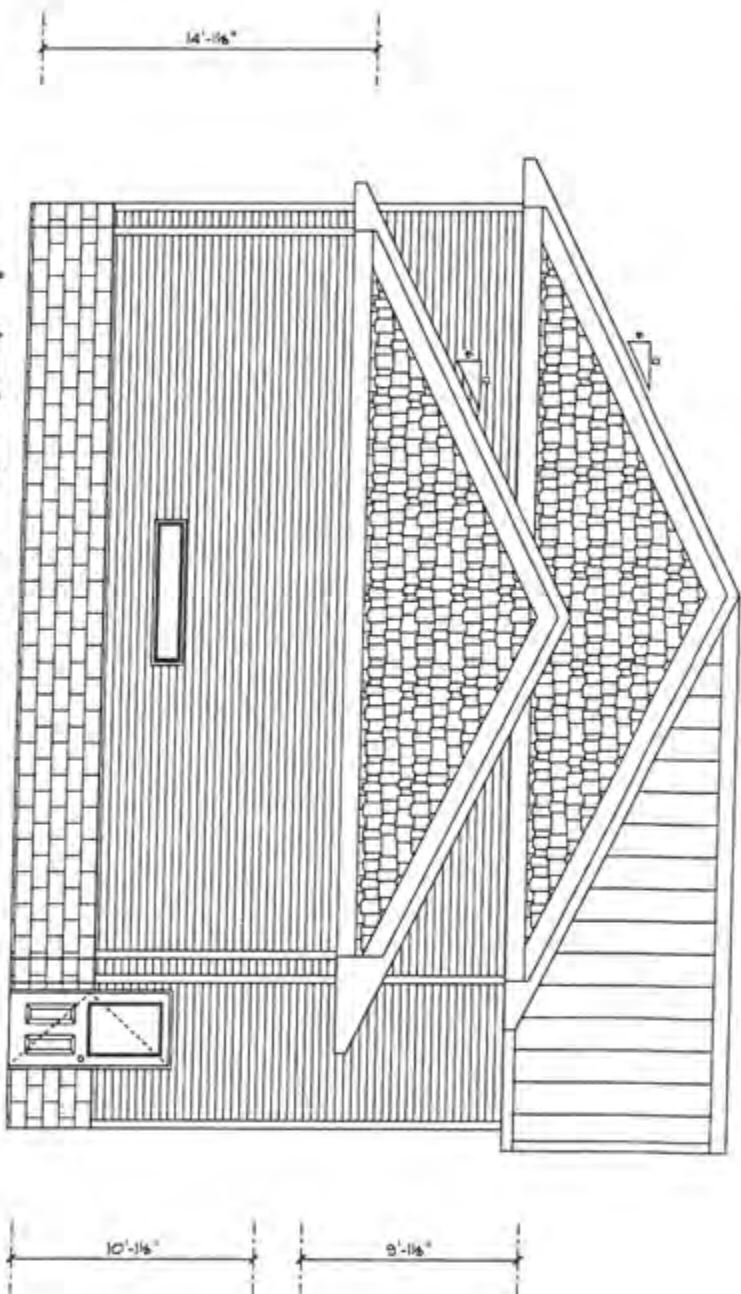


OFFICES
PHASE #2

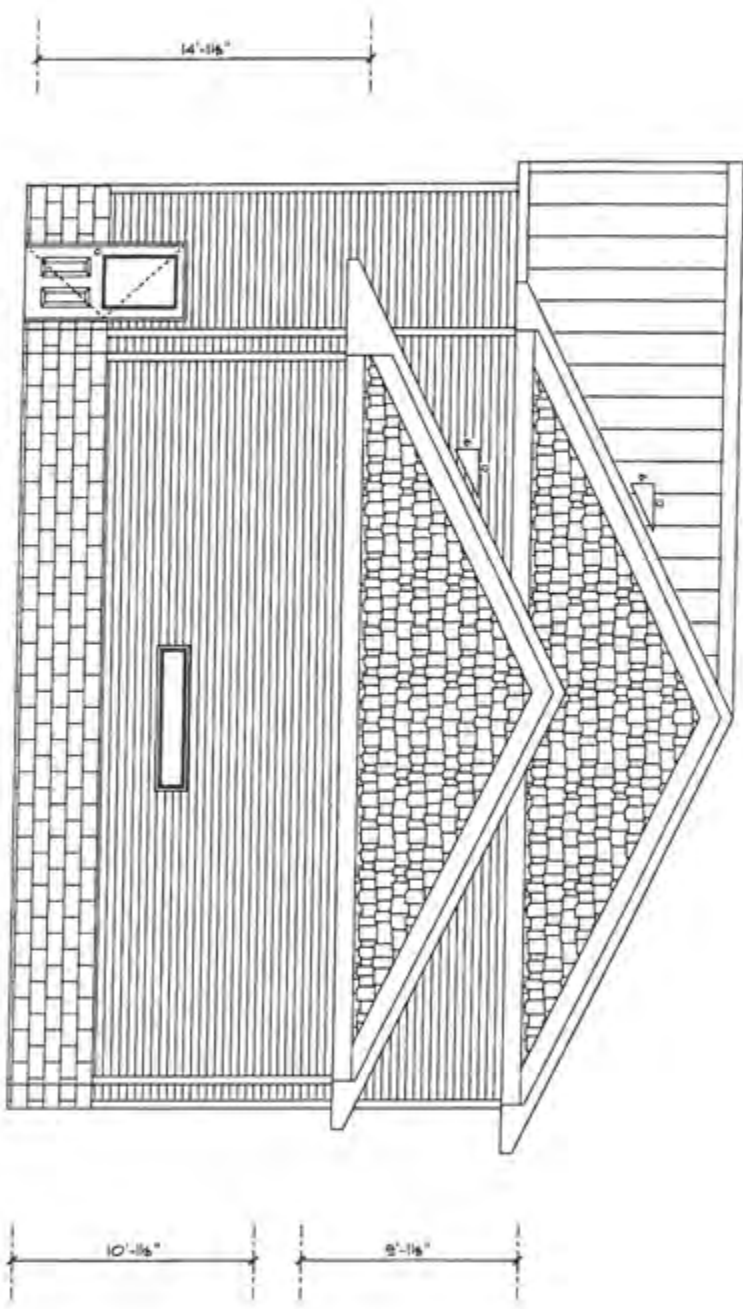
SECOND FLOOR



LEFT ELEVATION



RIGHT ELEVATION



DRAWING FOR: XTREME PROPERTIES, LLC

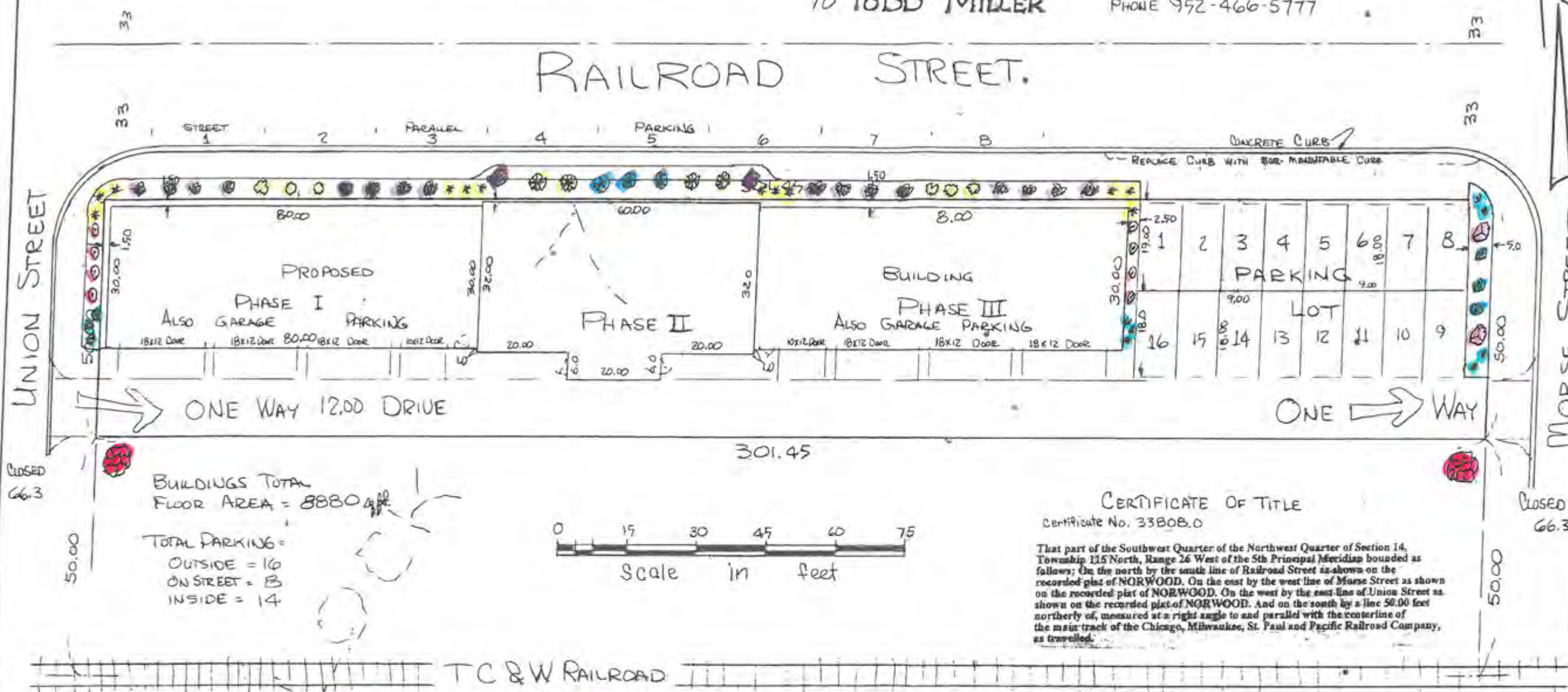
% TODD MILLER

PHONE 952-466-5777

RAILROAD STREET.

UNION STREET

MORSE STREET



CLOSED 66.3

CLOSED 66.3

CERTIFICATE OF TITLE

Certificate No. 33808.0

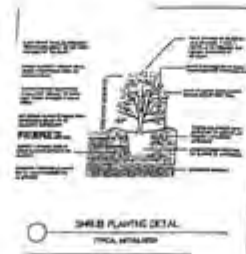
That part of the Southwest Quarter of the Northwest Quarter of Section 14, Township 115 North, Range 26 West of the 5th Principal Meridian bounded as follows: On the north by the south line of Railroad Street as shown on the recorded plat of NORWOOD. On the east by the west line of Morse Street as shown on the recorded plat of NORWOOD. On the west by the east line of Union Street as shown on the recorded plat of NORWOOD. And on the south by a line 50.00 feet northerly of, measured at a right angle to and parallel with the centerline of the main track of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, as travelled.

T C & W RAILROAD



- * 12 Feather REED GRASS
- 2 AUTUMN Blaze maple
- 10 Stella Dre cre Daylily
- 8 Ivory Hello Dogwood
- 2 Autumn maple
- 2 Flowering crab apple
- 6 JAPA Red Wenge
- 16 JAPANESE white Spirea
- 6 - Little Prince Spirea
- 4 - Barberries

LANDSCAPE BULBS



Bearings are assumed

Subject to easements of record if any

⊙ Denotes set or found iron pipe monuments

⊕ Denotes set wood hub and tack

TBL Denotes existing elevation

⊖ Denotes proposed finish grade elevation

→ Denotes direction of surface drainage

— Proposed garage floor elevation

— Proposed top of block elevation

— Proposed lowest floor elevation

NOTE: LANDSCAPING AND CHANGE DRAWING
NOTE: MINIMUM GRADE FOR DRAINAGE TO RUN ON GRASS IS 2.0%

I hereby certify that this is a true and correct representation of a survey of the boundaries of the above described property in Carver County, Minnesota as on file and of record in the Office of the County Recorder in and for said County, also showing the proposed location of a house as staked thereon.

That I am a duly Registered Land Surveyor under the laws of the State of Minnesota.

Dated: JULY 30, 2011

Allen B. Hastings

Allen B. Hastings
Minnesota Registration No. 17008
635 Barnes Lake Drive
Norwood Young America,
Minnesota 56397
Phone 952 466 4027

NOTE: NO TITLE OPINION FURNISHED TO DATE

Subd. 7 Radioactivity, Electrical, Toxic or Noxious Disturbance. No activity shall emit dangerous radioactivity at any point, or electrical disturbances adversely affecting the operation of any equipment at any point other than that of the creator of such disturbance, nor any concentration of toxic or noxious matter across the property line which exceeds applicable regulations of the Minnesota Pollution Control Agency.

1245.02 Architectural Standards and Guidelines in the Residential Neighborhood Commercial and Downtown Districts.

Subd. 1. Purpose and Intent. It is the intent of the City to promote and encourage high standards of creative, traditionally based, architectural design in the Residential Neighborhood Commercial and Downtown Districts. New development within the Districts shall comply with the following design standards and guidelines. The restoration, remodeling and/or expansion of existing buildings shall, to the maximum extent possible, bring exterior facades back to the appearance they had when they were originally constructed, or maintain a similar architectural style to the original construction, or comply to the extent possible with these design standards and guidelines.

Subd. 2. Standards and Guidelines.

- A. *Setbacks.* Property owners shall construct new development or significant redevelopment to the property line for front facades. For corner buildings, this applies to each façade that fronts a public street.
- B. *Building width.* Buildings more than 45 feet in width are encouraged to be divided into smaller increments through the articulation of facades.
- C. *Building height.* Building height shall be at least 24 feet and shall not exceed four stories or 45 feet. Buildings less than two stories shall be designed so that the main floor frontage is visually distinct from the upper portion of the building. The addition of windows in the upper portion is encouraged.
- D. *Ground level.* The ground level of multistory structures shall be visually distinct from the upper stories. This distinction can be achieved a number of ways including an intermediate cornice line, awning, arcade or portico, change in building materials or detailing or a change in window shape or treatment. All ground-level equipment shall be screened using fencing or vegetation. Windows and doors shall comprise at least 50 percent of the length and at least 30 percent of the area of the ground-level façade facing a public street. Reflective glass is not permitted.
- E. *Roof design.* Flat or pitched roofs, or combinations of these, may be used. Pitched roofs should have a minimum roof pitch of one foot rise to four feet of run. Flat roofs shall be defined with an ornamental parapet or cornice.
- F. *Building materials.* Buildings shall be constructed of high-quality materials. The following list is allowed for primary materials:
 - 1. Brick
 - 2. Natural Stone
 - 3. Wood consisting of horizontal lap siding with a painted surface.
 - 4. Precast concrete units and concrete block, provided that surfaces are molded, serrated or treated with a textured material.
 - 5. Transparent glass

Accent materials shall not consist of more than 20 percent of the building's face, and include the following:

1. Metal
2. Glass block
3. Spandrel glass
4. Other materials as approved by the planning commission.

The following materials are prohibited:

1. Plain or painted concrete block
 2. Tip-up concrete panels
 3. Prefabricated steel or sheet metal panels
 4. Aluminum, vinyl, fiberglass, asphalt or fiberboard siding.
 5. Pole buildings
- G. *Building colors.* Building colors shall consist of subtle, neutral or muted colors with low reflectance. Recommended colors include browns, grays, tans, beiges, and dark or muted green, blues and reds. No more than two principal colors shall be used on a façade. Bright, white or primary colors shall be used only as accents.
- H. *Building lighting.* Buildings shall be lit with external lighting consistent with the style, materials and details of the building.
- I. *Vacant buildings.* Vacant buildings in the downtowns shall be kept up so that the visual appearance does not deteriorate and the building does not become hazardous. Windows shall be maintained as if the building were occupied and shall not be boarded up.
- J. *Signs.* Signs in the Residential Neighborhood Commercial and Downtown District are regulated in Section 1260. Signs should be architecturally compatible with the style, compositions, materials, colors and details of the building.

1245.03 Architectural Standards and Guidelines for Commercial and Business Industrial.

Subd. 1 Purpose and Intent. The City of Norwood Young America recognizes that the visual character of the City is an important attribute of its quality of life. The City intends that all commercial, and business-industrial development within the City should strive towards the highest level of quality in both design and construction. The architectural standards and design guidelines have been established to guide the quality, character and compatibility of new development and redevelopment within the City.

Subd. 2 Applicability. The provisions of this Section shall apply to all new construction of commercial, business industrial, office/institutional and multifamily development. Within each zoning district, the standards shall be in addition to the underlying requirements. The following activities are exempt from design review unless staff determines that the project creates a significant change in the design characteristics of the development:

- A. Internal alteration to buildings that do not result in a change to the building height, roof line or footprint.
- B. Replacement or repair of existing materials
- C. The standards shall apply only to the building or site elements being developed or altered.

Subd. 3 Building Material and Detail.



To: Chairperson Heher
Members of the Planning Commission
Administrator Helget

From: Cynthia Smith Strack, Strack Consulting LLC

Date: January 18, 2017

Re: Pet Daycare/Boarding

The City has received an inquiry regarding allowing pet daycare in the C-3 Downtown District. At this time pet daycare is not specifically allowed in any zoning classification, however, veterinary clinics and animal hospitals are allowed in the C-2 General Commercial District.

Input from the Commission as to whether or not pet boarding is suitable within the C-3 District (315 Elm St West) is kindly requested.

In the event the Commission finds pet boarding acceptable in the C-3 District potential parameters for operating such a use are also requested. For example, does the Commission wish to allow such a use as a permitted or conditional use; is the use to be limited to only pet daycare vs. overnight boarding of pets; ventilation and sanitary conditions; and health restrictions for boarded animals.

Attached please find background information regarding the Minnesota Pet and Companion Animal Welfare Act.

ACTION

This item is for discussion with direction sought by staff. An individual interested in establishing a dog 'daycare' may be present at the meeting.

RELEVANT LINKS:

Town of Grant v. Johnson,
No. C2-93-243 (Minn. Ct.
App. June 29, 1993)
(unpublished decision).
[Minn. Stat. § 347.51, subd. 8.](#)

Section VII-B, *Police dogs
and service animals.*

Corn v. Sheppard, 229 N.W.
869 (Minn. 1930). [Soucek v.
Banham](#), 524 N.W.2d 478
(Minn. Ct. App. 1994).
[Minn. Stat. § 609.52.](#)

[U.S. Const. amend. V. U.S.
Const. amend. XIV. Minn.
Const. art. 1, § 7.](#)

[Mathews v. Eldridge](#), 424
U.S. 319, 96 S. Ct. 893
(1976).

[Mathews v. Eldridge](#), 424
U.S. 319, 96 S. Ct. 893
(1976). [Sawh v. City of Lino
Lakes](#), 823 N.W.2d 627
(Minn. 2012).

The city will want to consider how it will enforce an animal regulation ordinance. The city should make sure it has the people, resources, interest, and capability to enforce such an ordinance. The city should also consider the unique aspects of animal regulations, such as catching or seizing animals, impounding animals, destroying animals, and other issues that arise when dealing with animals.

B. Making distinctions between animals

The city may make distinctions between different types of animals in its animal control ordinance as long as there is a reasonable basis for the distinction. However, some types of distinctions are prohibited by law. For example, state law prohibits regulating dangerous dogs based solely on the breed of the dog.

There may be many distinctions that have a reasonable basis. Some common distinctions are:

- Farm animals from pet animals.
- Police dogs from other dogs.
- Service animals from other animals.
- Zoo ownership of wild or exotic animals from private ownership of the same animals.

II. Owner rights and responsibilities

A. Rights

In general, the law treats animals as personal property. Therefore, animal owners have the same rights with regard to their animals as with other personal property.

1. Due process rights

Both the federal and state constitutions provide that no person may be deprived of their property without due process of law. The two basic requirements of due process are: 1) notice to interested parties and 2) an opportunity to be heard by a person or group who has the authority to make a decision on the matter. The opportunity to be heard must be at a meaningful time and in a meaningful manner. Since animals are treated as property, due process considerations apply in situations where the city is dealing with animals.

Due process is a flexible concept and should be tailored to the particular situation. Statutes sometimes provide particular notice and hearing requirements that must be followed.

RELEVANT LINKS:

[U.S. Const. amend. IV.
Camara v. Municipal Court,
387 U.S. 523, 87 S. Ct. 1727
\(1967\).](#)

[Camara v. Municipal Court,
387 U.S. 523, 87 S. Ct. 1727
\(1967\). LMC Information
Packet, *Administrative
Searches and Seizures*.](#)

Even if the law is silent on notice or hearing requirements, or the requirements provided are minimal, that does not mean that due process does not apply. Rather, that means that the city, with the help of the city attorney, should determine how the city will satisfy these requirements. Whenever possible, it is a good idea to spell out the process that will be followed in the applicable city ordinance.

2. Lawfully entering onto private property

The procedures covered in this memo often involve private property. Private property rights are constitutionally protected, so it is important that the city take appropriate steps to ensure these rights are respected. Whenever this memo mentions entering private property for investigative, enforcement, or other reasons, the principles outlined in this section will apply.

Generally, in order to lawfully enter private property for investigative, enforcement, or other purposes, the city must either obtain voluntary consent from the owner or an administrative search warrant.

Seeking consent is the simplest way to gain access to property. Consent must be voluntarily given by a person who has the authority to consent, such as the owner or occupant of the property. It is important that the person giving consent is aware of the purpose and scope of the inspection or investigation before consenting. It is preferable to obtain the consent in writing.

If the city does not or cannot obtain the owner's consent to enter the property, the city may obtain an administrative search warrant. An administrative search warrant is issued by a judge and allows designated people to enter the property for certain purposes specified in the warrant. An administrative search warrant removes the need for consent. In order to obtain an administrative search warrant, the city must demonstrate to the judge "probable cause," which shows its request to enter private property is justified.

While some state laws and ordinances say that searches or inspections may be conducted at any time, it is still preferable to obtain consent or a search warrant.

In some situations, it may be possible to lawfully enter private property without consent or a warrant, such as when an emergency exists. The city attorney will be able to provide specific legal advice on how best to lawfully enter private property.

RELEVANT LINKS:

[Minn. Stat. § 412.221, subd. 21.](#)

[Minn. Stat. ch. 343.](#)

Section V-G, *Dangerous dogs*.

[Minn. Stat. § 347.22.](#)

[Minn. Stat. §§ 347.01-.03.](#)

[Minn. Stat. § 346.39.](#)

Section IX-A, *Animal cruelty provisions*.

B. Responsibilities

Animal owners also have responsibilities for their animal. Some common responsibilities are to:

- Obtain the appropriate license, if any, from the city and satisfy all requirements related to obtaining and maintaining the license.
- Treat their animal humanely.
- Maintain control of their animal and comply with applicable nuisance ordinances, such as not allowing the animal to run at large, not allowing their animal to be excessively noisy, etc.

It is also the responsibility of the animal owner to comply with all state laws and city ordinances that apply to their animal. In addition, animal owners are generally responsible for the actions of their animal, including damage caused by the animal.

For instance, the owner of a dog is generally responsible for injury or damage that occurs when the dog bites another person or animal. If a dog, without provocation, attacks or injures any person who is acting peaceably in any place where the person may lawfully be, the owner of the dog is liable for damages to the person so attacked or injured for the full amount of the injury sustained. The term “owner” includes any person harboring or keeping a dog, but the owner must be primarily liable.

There are also state laws that protect the owners of animals, including domestic animals and livestock, from dog attacks on their animals. The owner or keeper of a dog that kills, wounds, or worries a domestic animal will be held liable to the owner of the animal that was damaged.

III. City responsibilities

Cities are responsible for enforcing ordinances, properly caring for animals in their custody, and following the applicable laws and ordinances. Oftentimes, these responsibilities are most obvious when the city has captured, seized, or otherwise has an animal in its custody or care.

A. Minnesota Pet and Companion Animal Welfare Act—cats and dogs

The Minnesota Pet and Companion Animal Welfare Act (Animal Welfare Act) sets minimum care standards of cats and dogs for veterinarians, animal boarding facilities, and commercial animal facilities. It is not clear what constitutes an animal boarding facility, so it is not clear whether these laws apply to city facilities. A conservative approach for cities is to follow the minimum care standards outlined below in facilities where animals are boarded.



To: Members of the Planning Commission
Administrator Helget

From: Cynthia Smith Strack, Planning Consultant

Date: January 23, 2017

Re: Planning Commission 2016 Annual Report/2017 Goals

BACKGROUND

City Administrator Helget has requested the Planning Commission prepare and present an annual report to the City Council at the January 23rd regular Council meeting.

For consideration and acceptance, please find attached please find a summary of the Commission's activities in 2016 and proposed goals for 2017.

Please note Commissioner Grundahl and Planning Consultant Strack are scheduled to attend the Council meeting on January 23rd.

ACTION

Receive report. Consider accepting the 2016 annual report to the City Council.

ATTACHMENT

- 2016 PC Annual Report

NYA PLANNING COMMISSION 2016 REPORT TO CITY COUNCIL

OVERVIEW

The Norwood Young America Planning Commission is the designated planning agency for the City. The Commission advises the City Council on matters pertaining to planning, land use, and property subdivision. The Commission operates in planning, legislative, and regulatory capacities.

In its planning capacity, the Commission is responsible for making recommendations to the Council regarding the overall development and redevelopment of the City.

In its legislative capacity the Commission develops and recommends adjustments to the City Code relating to land use and the subdivision of property.

In its regulatory capacity the Commission applies existing code to proposed applications for land use and subdivision and makes recommendations to the Council thereon.

The Commission met thirteen times in 2016. The Commission held eleven regular meetings: February 16th, March 15th, April 19th, May 17th, June 21st, July 19th, August 16th, September 20th, October 18th, November 15th, and December 20th and two work sessions: March 8th and November 1st.

The Commission has six representatives and one vacancy. Current membership is as follows: Bill Grundahl (Vice Chair), Craig Heher (Chair), Cassandra Kemp, Mark Lagergren, JR Hoernemann, and Charlie Storms.

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SUMMARY OF MEETING ACTIVITIES

February 16th:

- The Commission met with representatives proposing a handicap access ramp in the right of way at 224 Elm Street West.
- The Commission discussed solar energy systems and the potential to create enabling language for such uses.
- The Commission reviewed a preliminary site plan for the expansion of the Vickerman Companies structure in the Industrial Park.
- The Commission discussed potential uses of the former YA Corporation building and scheduled a work session for March 8th.
- The Commission discussed proposed changes to one hour parking limits adjacent to the school on Morse Street.
- The Commission received an overview of the Comprehensive Plan.

March 8th:

The Commission held a work session with members of the City Council and representatives from Faxon Road Investments, the owner of the former YA Corp building. The purpose of the work session was to define potential acceptable uses of the property.

March 15th:

- The Commission met with representatives for Vickerman Companies and discussed a site plan for the expansion of a warehouse at 675 Tacoma Boulevard. The Commission recommended conditional approval of the site plan to the City Council.
- The Commission discussed its approach to the crafting of solar energy system code language. The City Council previously provided direction for the Commission to draft language allowing accessory SES but not SES as a principal use of property.
- The Commission received results of a survey of boards, committees, commissions, and the Council related to accessory dwelling units.
- The Commission received information on a Highway 212 Corridor Feasibility Study and appointed representatives to attend review meetings.

April 19th:

- The Commission reviewed sample language pertaining to light and heavy industrial uses of property.
- The Commission reviewed sample language pertaining to solar energy systems as accessory uses of property.
- The Commission adjourned the regular session and met in work session with representatives proposing occupation of a legal non-conforming storage use at 309 1st Avenue Northeast.

May 17th:

- The Commission held a public hearing on a request for a lot width variance to enable an administrative subdivision of property currently owned by Central Schools. The Commission recommended conditional approval of the variance and administrative subdivision to the City Council.
- The Commission discussed met with industry experts to gain information and background on solar energy systems.
- The Commission reviewed language pertaining to light and heavy industrial uses.

June 21st:

- The Commission held a public hearing on a code amendment to add specific definitions for light and heavy industry. The Commission recommended the Council approve the code amendment.
- The Commission held a public hearing on a code amendment to conditional uses in the C-3 Downtown District. The proposed amendment would allow auto storage, auto sales, and auto display under a CUP in the district. The code amendment as proposed also allowed accessory auto repair/service provided the principal use is storage, sale, or display of autos. The Commission recommended the Council approve the code amendment.
- The Commission held a public hearing on a CUP requested by Waconia Dodge and relating to the properties at 115 East Main Street and 15 2nd Avenue SE for auto storage with accessory repair/service. The Commission recommended conditional approval of the CUP.
- The Commission discussed a bill signed into law by Governor Dayton relating to temporary ‘drop homes’ or temporary family health care dwelling units. The law contains a provision allowing cities to opt out of the required standards. The law requires cities permit a variety of temporary dwellings including storage pods, RVs, campers, conversions of outbuildings, etc. The Commission recommends the City opt out of the law in favor of crafting independent language more suitable for the City of NYA.

July 19th:

- The Commission held a public hearing on an Ordinance opting out of a temporary family health care dwelling unit law. The Commission recommended Council approval of the Ordinance.
- The Commission discussed a proposed code amendment allowing accessory solar energy systems providing specific performance standards were achieved.
- The Commission held initial discussion regarding its goal to update sign ordinance language and their desired approach thereto.

August 16th:

- The Commission held a public hearing on a code amendment pertaining to accessory solar energy systems. The Commission recommended the Council approve the amendment.
- The Commission discussed a redraft of the sign ordinance as created by the City Attorney's Office.
- The Commission, at the request of Administrator Helget, discussed storage pods. The Commission will continue discussion at the next meeting.
- The Commission, at the request of Administrator Helget, agreed to review the rental code.

September 20th:

- The Commission discussed comments from the City Council pertaining to recommended code language for accessory solar energy systems. The Commission made a few minor adjustments and returned the item to the Council with a recommendation for approval.
- The Commission reviewed sample ordinance language and input from other communities relating to regulation of storage pods. The Commission ultimately decided to pursue regulation of pods under nuisance standards.
- The Commission reviewed a sample sign code amendment and set a work session with the City Attorney's Office for the beginning of November.
- The Commission discussed its approach to a rental code update and reviewed suggestions from staff relating to the existing code.

October 18th:

- The Commission held a public hearing on a CUP request to allow storage of personal autos at 127 Elm Street West. The Commission recommended conditional approval of the use permit to the Council.
- The Commission held a public hearing on a request for a contractor shop at 117 Railroad Street West. The Commission recommended the Council approve the permit based on several conditions.
- The Commission reviewed input from the City Attorney's Office related to the rental code.
- The Commission reviewed sample nuisance code language relating to storage pods.

November 1st:

The Commission met in work session with a representative from the City Attorney's Office regarding repeal/replacement of the existing sign code.

November 15th:

- The Commission met with representatives proposing a handicap access ramp in the right of way at 224 Elm Street West.
- The Commission discussed a sign code update and called for a public hearing on the matter.
- The Commission reviewed proposed language pertaining to storage pods as nuisances and called for a hearing on the matter.
- The Commission reviewed sample language pertaining to where adult uses could be located. The Commission called for a public hearing on proposed standards.
- The Commission discussed a rental code update.

December 20th:

- The Commission held a public hearing on repeal/replacement of the sign code. The Commission recommended approval of the code update to the Council.
- The Commission held a public hearing on a proposed nuisance code amendment classifying storage pods as a nuisance if they were existing on site for more than 14 days. The Commission recommended the Council approve the nuisance code update.
- The Commission held a public hearing on a code amendment relating to adult uses. Under the proposed Ordinance adult uses will no longer be allowed in the C-2 or B-I Districts but will be allowed under CUP in the Light Industrial District. Specific CUP standards apply. The Commission recommended the Council approve the proposed language.
- The Commission discussed a rental code update and requested additional information be provided and research be conducted.
- The Commission discussed lot combinations as a simple administrative process or requiring a replat. The Commission directed staff to create language for consideration that would allow lot combinations through a simple administrative process providing certain standards were achieved.

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GOALS FOR 2016

1. Review sign regulations Chapter 1260 of the City Code. The PC held a hearing on the matter on December 20th. The Council will review the code amendment January 23rd.
2. Continue to consider accessory dwelling units as allowed uses in certain residential districts as a means of addressing community of a lifetime and active aging issues. The PC recommended and the Council opted out of a temporary family health care dwellings law over the summer.
3. Review of/familiarization with the 2008 Comprehensive Plan. The Commission conducted this effort at the February meeting.
4. Preparation for/outline structure of 2040 (i.e. 2018) Comprehensive Plan Update for consistency with Twin Cities Metropolitan Council 2040 Plan. An RFP for services has been developed.
5. Review of Chapter 11 of the City Code, subdivision regulations. This item will be carried over to 2017.
6. Review of/familiarization with the zoning map. The Commission did this in 2015 and prefers to look at the map periodically.
7. Review of zoning language relating to adult uses. The Commission held a hearing on this matter on December 20th. The Council will consider a code amendment on January 23rd.

GOALS FOR 2017

1. Consider whether or not food trucks should be allowed in the City. If so, consider necessary operational conditions and applicable districts.
2. Consider numerous inquiries received regarding auto repair shops in commercial and industrial districts. At this time automobile ‘service stations’ are allowed under CUP in the C-2 General Commercial District. Automobile “repair, major” is allowed as a permitted use in the B-I Business Industrial District, and auto repair as an accessory use is allowed in the C-3 Downtown District. At this time auto repair (either major or minor) is allowed as a principal use in the C-3, RC-1, or I-1 District. Discussion about where auto repair may fit in alternate zones and under what conditions could be examined in 2017.

3. Consideration of accessory dwelling units as allowed uses in certain residential districts as a means of addressing community of a lifetime and active aging issues. In 2016 we opted out of a recently enacted state law requiring “drop homes” be permitted as temporary health care dwellings.
4. Participate in the 2040 Comprehensive Plan update process.
5. Review of Chapter 11 of the City Code, subdivision regulations.
6. Review of/familiarization with the zoning map.
7. Consider zoning language relating to where Level III sex offenders can reside.



To: Chairperson Heher
Members of the Planning Commission
Administrator Helget

From: Cynthia Smith Strack, Strack Consulting LLC

Date: January 18, 2017

Re: Residential Lot Combinations

BACKGROUND

At the December meeting, the Commission discussed lot combinations. The discussion followed inquiries from residential property owners. At this time replatting is required to combine residential lots.

The PC reached consensus to request Staff bring sample language updating Section 1100.11 to the January meeting. Please find sample language attached.

ACTION

This item is for review and discussion.

1100.11 Exceptions.

Subd. 1 Simple Lot Division. A lot may be divided without having to comply with the requirements of this Ordinance, following a public hearing in accordance with established procedures, provided the resultant lots are easily described (e.g. N ½ and S ½) comply with the dimensional requirements of Chapter 12, Zoning and are generally consistent in size with other lots in the immediate vicinity. *(Amended by Ord. 128, 7-10-2000)*

Subd. 2 Division of Two Family Dwelling. Existing two family dwellings may be divided into individual parcels of record with the party wall acting as the dividing lot line, following a public hearing in accordance with established procedures, subject to the following conditions:

- A. To protect the safety and property of the owner and occupants of each unit, no two family dwelling may be split until the common party wall fire rating meets Uniform Building Code Standards.
- B. Each unit shall be provided with separate utility, sanitary sewer and water services.
- C. The area for each proposed lot shall meet the minimum requirements under the City's zoning ordinance.
- D. A certificate of survey is filed with the City showing the new lot line and the proposed legal descriptions for each lot.
- E. The owner of the property to be subdivided shall execute and record at his/her own expense a "Declaration of Covenants, Conditions and Restrictions" which shall include, but shall not be limited to, the following:
 - 1. How disputes will be handled.
 - 2. Maintenance agreements.
 - 3. How repairs and reconstruction will be handled in case of damage to the original structure.
 - 4. Party wall agreement.
- F. Any other reasonable condition imposed by the City. *(Amended by Ord. 128, 7-10-2000)*

Subd. 3 Boundary Line Adjustments

- A. Applicability/Purpose. This section is established to provide for administrative approval for changes in property lines through the detachment and attachment of land to a contiguous lot, tract, or platted or non-platted parcel. A boundary line adjustment is intended to modify or correct the location of a boundary line, to remedy adverse topographical features, to remedy encroachments of structures, to enable the sale of a portion of a lot to an adjoining property, and/or to remedy errors in perceived boundary lines subsequent to an official land survey. A Boundary Line Adjustment may be allowed provided any residual parcel or any existing structure does not become non-compliant or become further non-compliant with the provisions of the Zoning Ordinance.
- B. Application. Any person having a legal or equitable interest in a property may file an application for a Boundary Line Adjustment. An application for Boundary Line Adjustment shall be filed with the Zoning Administrator on an approved form and shall be accompanied by an assessment search, proof of ownership of the subject property, submittal of the required fee(s) and a certificate of survey, prepared and signed by a Minnesota registered land surveyor, illustrating the following:
 - 1. Existing site improvements and existing boundaries with lot dimension and area.
 - 2. Any encroachments and easements of record.
 - 3. Existing legal description(s) of property.
 - 4. Identification of the boundary to be moved and the location of the proposed boundary line.
 - 5. The dimensions, setbacks, existing site improvements, and square footage for all lots resulting from the proposed Boundary Line Adjustment.

- C. Review of Boundary Line Adjustment. The Zoning Administrator shall review all applications for Boundary Line Adjustments to determine compliance with the standards identified in this Section and all other pertinent requirements of this Title and the Zoning Ordinance as may be amended. Upon written approval of the request, the applicant shall be responsible for filing the certificate of survey with the County Recorder's office. Should the request be denied, the Zoning Administrator shall notify the applicant, in writing, of the findings of fact for such denial.
- D. Findings Required for Approval. In order for the Zoning Administrator to grant approval for a proposed Boundary Line Adjustment, each of the following provisions shall be met:
1. All necessary right-of-way, utility, and drainage easements are provided as requested.
 2. The Boundary Line Adjustment shall not create any additional lot, tract, parcel or division of land.
 3. All lots resulting from the Boundary Line Adjustment shall conform to lot area, width, and size requirements of the City of Norwood Young America Zoning Ordinance including all requirements established for the zoning district in which the property is located.
 4. The Boundary Line Adjustment shall not result in the expansion, enlargement, or intensification of an existing legal non-conforming lot or structure under Chapter 1215 and 1204 of the City Code as may be amended and relating to non-conformance. In the event of the Boundary Line Adjustment is requested to remedy an existing nonconforming lot or structural element and the proposed Boundary Line Adjustment brings the existing non-conforming lot or structural element nearer to conformity it shall be considered meeting this requirement. In no case shall a Boundary Line Adjustment further expand, enlarge, or intensify an existing non-conforming lot or structural element.
 5. The Boundary Line Adjustment shall not result or have the effect of replatting, amending, altering, or vacating a plat.
 6. The proposed Boundary Line Adjustment is in compliance with the Comprehensive Plan.
- E. The Zoning Administrator may attach conditions to the approval of a Boundary Line Adjustment.
(Amended by Ord. 246, 9-9-2013)

Subd. 4 Administrative Subdivision/Combination.

- A. **Applicability/Purpose. This Subdivision is established to provide for administrative approval of subdivisions that meet specified criteria and for the waiver of standard platting requirements specified elsewhere in this Title. It is intended largely to facilitate the further division of previously platted lots, the combination of previously platted lots into fewer lots, or for the adjustment of a lot line by relocation of a common boundary.**
- B. **Prohibited Administrative Subdivision/Combination. The following are not eligible for administrative subdivision/combination and must be platted.**
1. **Property(ies) described by metes and bounds.**
 2. **Property(ies) contained in different subdivisions of record.**
 3. **Property(ies) not sharing a common lot line.**
- C. **Application. The Owner, or all Owners if there are multiple owners may file an application for administrative subdivision. An application for minor subdivision shall be filed with the City Administrator on an approved form, and shall be accompanied by an assessment search, proof of**

ownership of the subject property, the submittal of required fee(s), and the submittal of an illustration of the proposed minor subdivision of sufficient detail as required by the Zoning Administrator, depicting the following:

1. Scale, one (1) inch equals fifty (50) feet or less, and north arrow.
2. Existing zoning district, existing site improvements, and existing boundaries with lot dimensions and area.
3. All encroachments.
4. Easements of record.
5. Legal description of property.
6. Ponds, lakes, springs, rivers, wetlands, or other waterways bordering on or running through the subject property.
7. The boundary(ies) and legal description(s) of the lots as they are proposed to be subdivided, along with proposed zoning.
8. The boundary and legal description of any proposed easements on the property. A drainage and utility easement at least five (5) feet in width for interior lots, ten (10) feet in width for corner lots, must be provided along all street-side property lines. A drainage and utility easement may also be required over wetland, ponds, lakes, and drainage channels and tributaries. Dedication of roadway easements consistent with City, County and regional plans may also be required.
9. Proposed legal descriptions for the resulting property(ies).
10. Proposed deeds for the resulting property(ies).

D. Review of Administrative Subdivision. The Zoning Administrator shall review all applications for administrative subdivision to determine compliance with the standards identified in this section and all other pertinent requirements of the City Code. The Zoning Administrator, at his/her discretion or may seek recommendation, direction, and/or require approval of the Planning Commission and/or City Council prior to authorizing an Administrative Subdivision. The Planning Commission and/or the City Council at their discretion may seek to review and/or comment on a proposed administrative subdivision prior to authorization of the administrative subdivision. Upon written approval of the request, the Zoning Administrator shall ensure the survey and associated deeds have been filed with the County Recorder's office. Should the request be denied, the City Administrator shall notify the Applicant, in writing, of the findings of fact for such denial.

E. Findings Required for Approval. In order for the Zoning Administrator to grant approval for a proposed administrative subdivision, each of the provisions shown below shall be met:

1. The proposed subdivision of land will not result in more than two (2) lots.
2. All necessary utility and drainage easements are provided.
3. For lot combinations, any existing drainage, utility, and/or other easements are vacated according to standard, applicable procedures.
4. All lots to be created by the subdivision conform to lot area and width requirements of the City Code, including all requirements established for the zoning district in which the property is located.
5. The proposed administrative subdivision is in compliance with the Comprehensive Plan.
6. Lots created have direct access onto a public street.
7. The property has not been divided through the provisions of this section within the previous five (5) years.
8. The subdivision meets all design and dedication standards as specified elsewhere in this Title.
9. All basic improvements required by this Section are installed in accordance with City standards.

10. No parcel of land or portion thereof shall result in buildings and/or uses becoming non-conforming.

F. The City and/or its assigns may impose such conditions on any proposed administrative subdivision that are deemed reasonable and necessary to protect the public interest and to ensure compliance with the provisions of this ordinance including, but not limited to, the following:

- 1. The Developer shall provide required utility and drainage easements for all newly created lots and be responsible for the cost of filing and recording written easements and resulting deeds with the County Recorder's office.**
- 2. That there be no more than one principal structure on a base lot in all residential districts. The principal structure on the unit lots created in a two-family, townhouse, or quadraminium subdivision will be the portion of the attached dwelling existing or constructed on the platted unit lots.**

G. All other Administrative Subdivision requests shall be approved by resolution of the City Council following consultation with the Planning Commission.

H. All applicable real estate taxes and pending assessments shall be paid prior to recording of an Administrative Subdivision.



To: Chairperson Heher
Members of the Planning Commission
Administrator Helget

From: Cynthia Smith Strack, Consulting Planner

Date: January 18, 2017

Re: Rental Housing Code

BACKGROUND

The Commission has been reviewing the rental code since September. At the December meeting staff was directed to:

1. Make changes to language included in the 'scope' related to "direct family members". As such a reference has been removed.
2. Remove 'overcrowding' as a 'nuisance' as defined within the rental code. The reference has been removed.
3. Comment on the definition of 'occupant'. It is noted zoning may not exclude a group which in every sense but a biological sense is a single family or a household which poses no threat to the goal of preserving the character of the traditional single-family neighborhood. Court decisions have indicated that the "factual and functional equivalent" of a traditional family of unrelated persons may be evidenced by the following:
 - single housekeeping unit;
 - more or less permanent living arrangement;
 - stable, rather than transient living arrangements (except where the handicapped are affected);
 - a group headed by a householder caring for a reasonable number of children as one would be likely find in a biologically unitary family.

As such this definition of 'occupant' is suspect. It isn't really defining what an occupant is (*i.e. a person who is using or living in a particular building, apartment, or room; or a person who is in a room, vehicle, etc. at a particular time*) but rather **WHO** an occupant may be. The definition is either trying to limit the number of people in a dwelling unit or the types of relations between persons living in a dwelling unit. The definition is open to challenge based on rationale and fairness/discrimination.

The IBC doesn't define occupant and staff is unable to find a satisfactory definition in other sample rental ordinances. It would appear either removing the definition or deferring to a dictionary definition (*i.e. a person who is using or living in a particular building, apartment, or room*) is most appropriate.

4. Related to Crime Free Housing:
 - a. Research whether or not existing large apartment units have crime-free rental housing language in leases. Staff checked with:
 - Carver County CDA (Oak Grove & C & L Apartments): Crime free language is addressed in lease language.

- Poplar Ridge and Country Cove: Crime free language is addressed lease agreement.
 - Young America Apartments: language addressed in lease agreement.
- b. Contact Carver County Sheriff's Office (Community Service Officer) regarding experience with crime free housing and comment on effectiveness of such programs. I reached out to Commander Paul Tschida and am awaiting input.
- c. It is worth noting Section 350.03, Subd. 2(F) requires the names, telephone numbers and addresses of principal tenants be included with rental permit applications. There is a standard included in the rental code relating to changes of ownership of the apartment but not for changes in principal tenants. Perhaps the following language included in the proposed crime free housing standards provided by the City Attorney's Office could be considered:

Tenant Register. *A licensee must, as a continuing obligation of its license, maintain a current register of tenants and other persons who have a lawful right to occupancy of dwelling units within an apartment building or dwelling. In its application, the licensee must designate the person or persons who will have possession of the register; and must promptly notify the Code Official of any change of the identity, address, or telephone numbers of such persons. The register must be available for the inspection by the Code Official at all times. Every complex with more than one dwelling unit must post a tenant register near the license in the entryway and include the first initial of the occupant's name, last name, and unit number.*

- d. Staff recommends consideration of language relating included in Subd. 9 of the proposed crime free housing standards provided by the City Attorney's Office be added to the existing rental code (highlighted in the attachment). Please note in the marked-up rental code I have added the phrase ", as may be amended" to all statutory references.

ATTACHMENTS

- Marked Up Rental Code
- Crime free housing standards provided by the City Attorney's Office

ACTION

Discussion is kindly requested.

Section 350 – Rental Housing Licensing

350.01 Purpose and Scope.

Subd. 1 Purpose. The purpose of this ordinance is to provide minimum standards to safeguard life or limb, health, and public welfare by regulating and controlling the use and occupancy, maintenance and repair of all buildings and structures within the City used for the purpose of rental housing. The purpose of this ordinance is not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this ordinance. *(Amended by Ord.161, 9/27/04)*

Subd. 2 Scope. The provisions of this ordinance shall apply to all buildings or portions thereof used, or designed or intended to be rented, leased, or let for human habitation. All provisions of this ordinance shall apply to dwellings in existence at the time of adoption of this ordinance. Rest homes, convalescent homes, nursing homes, hotels, and motels, ~~and units rented, let or leased to direct family members of the property owner~~ are exempt from the provisions of this ordinance. *(Amended by Ord.184, 7/10/2006)*

Subd. 3 Application to Existing Buildings. Additions, alterations or repairs, shall be done in compliance with the Building, Fire, Plumbing and Mechanical Codes. Applicable permits shall apply as required by these Codes. All properties, whether pre-existing as Rental Property at the time of adoption of this ordinance or afterward becoming Rental Property shall comply with all terms of this ordinance. *(Amended by Ord. 222, 8/16/10)*

350.02 Definitions.

Where terms are not defined, they shall have their ordinary accepted meanings within the context with which they are used. Webster's New International Dictionary of the English Language, Unabridged, as may be amended, shall be considered as providing ordinary accepted meanings. Words in the singular include the plural and the plural the singular. Words used in the masculine gender include the feminine and the feminine the masculine. *(Amended by Ord.161, 9/27/04)*

Apartment Building. A building or portion of a building that contains three or more dwelling units.

Board of Appeals. The Board of Appeals shall be a three-member board consisting of a City Council representative, the Fire Chief, and a Planning Commission representative. *(Amended by Ord. 222, 8/16/10)*

Building Code. "Building Code" is the Minnesota State Building Code.

Code Official. "Code Official" is the official who is charged with the administration and enforcement of this ordinance, or any duly authorized representative.

Condemn. "Condemn" shall mean to adjudge unfit for occupancy.

Direct Family Member. "Direct Family Member" is a parent, child, sibling, grandparent, grandchild, step-parent, step-child, step-grandparent, or step-grandchild of the property owner. *(Amended by Ord. 222, 8/16/10)*

Dwelling. "Dwelling" is a building wholly or partly used or intended to be used for living, sleeping, cooking or eating purposes by human occupants; but not including hotels and motels.

Dwelling Unit. "Dwelling Unit" is a room or a group of rooms located within a dwelling forming a single habitable unit with facilities, which are used or intended to be used for living, sleeping, cooking and eating purposes.

Egress. “Egress” is an arrangement of exit facilities to assure a safe means of exit from a building.

Electrical Code. “Electrical Code” is the **Minnesota State National** Electrical Code.

Extermination. “Extermination” is the control and elimination of insects, rodents, or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping; or by any other recognized and legal pest elimination method approved by the code official; and to remove all signs of extermination thereafter.

Fire Code. “Fire Code” is the Minnesota State Fire Code.

Health Officer. “Health Officer” is the legally designated health officer or official of the State, County and/or City.

Infestation. “Infestation” is the presence of insects, rodents, or other pests within or around the dwelling on the premises.

Kitchen. “Kitchen” is a room or an area equipped for preparing and cooking food.

Lease, Leased, or Let. “Lease, Leased, or Let” is to give the use of a dwelling, dwelling unit or rooming unit by an owner or manager to a tenant in return for rent.

License Period, Year One. The first year of the three-year rental license period, starting in 2013 and occurring every three years thereafter. *(Amended by Ord. 222, 8/16/10)*

License Period, Year Three. The third year of the three-year rental license period. *(Amended by Ord. 222, 8/16/10)*

Manager. “Manager” is a person or firm who has charge, care or control of a building or part thereof, in which dwelling units or rooming units are let.

Mechanical Code. “Mechanical Code” is the **Minnesota State International** Mechanical Code.

Nuisance. The following shall be defined as nuisances:

- A. Any public nuisance as defined in Chapter 6 of the City Code.
- B. Any attractive nuisance that may prove detrimental to children whether in a building, on the premises of a building or on an unoccupied lot. This includes any abandoned wells, shafts, basements or excavations; abandoned refrigerators and motor vehicles; any structurally unsound fences or structures; or any lumber, trash, fences, debris or vegetation that may prove a hazard for inquisitive minors.
- C. Whatever is dangerous to human life or is detrimental to health, as determined by the code official or health officer.
- ~~D. **Overcrowding a room with occupants.**~~
- E. Insufficient ventilation or illumination.
- F. Inadequate or unsanitary sewage or plumbing facilities.
- G. Un-cleanliness, as determined by the health officer.
- H. Whatever renders air, food or drink unwholesome or detrimental to the health of human beings, as

determined by the Health Officer.

Occupancy. “Occupancy” is the purpose for which a building or portion thereof is utilized or occupied.

Occupant. “Occupant” is a person living alone, or two or more persons all related by blood, marriage or adoption, including foster children, occupying and maintaining a common household in a single dwelling unit, or a group of not more than 5 persons, any 2 of whom are not related by blood, marriage or adoption, including foster children, occupying and maintaining a common household in a single dwelling unit.

Notes: Zoning may not exclude a group which in every sense but a biological sense is a single family or a household which poses no threat to the goal of preserving the character of the traditional single-family neighborhood. Court decisions have indicated that the "factual and functional equivalent" of a traditional family of unrelated persons may be evidenced by the following:

1. single housekeeping unit;
2. more or less permanent living arrangement;
3. stable, rather than transient living arrangements (except where the handicapped are affected);
4. a group headed by a householder caring for a reasonable number of children as one would be likely find in a biologically unitary family.

As such this definition of ‘occupant’ is suspect. It isn’t really defining what an occupant is (*i.e. a person who is using or living in a particular building, apartment, or room; or a person who is in a room, vehicle, etc. at a particular time*) but rather **WHO** an occupant may be. The definition is either trying to limit the number of people in a dwelling unit or the types of relations between persons living in a dwelling unit. The definition is open to challenge based on rationale and fairness/discrimination.

Suggestions: The IBC doesn’t define occupant. I am unable to find a satisfactory definition in other sample rental ordinances. I recommend either removing the definition or deferring to a dictionary definition (*i.e. a person who is using or living in a particular building, apartment, or room*)

Owner. “Owner” is a person, firm or corporation who, alone, jointly or severally with others, owns or has an ownership interest in a dwelling, dwelling unit or rooming unit within the city.

Plumbing Code. “Plumbing Code” is the ~~Minnesota State~~ **International** Plumbing Code.

Premises. “Premises” are the dwelling and its land and all buildings thereon and areas thereof.

Refuse. “Refuse” is all putrescible and non-putrescible waste solids including garbage and rubbish. Refuse is liable to undergo bacterial decomposition when in contact with air and moisture at normal temperatures.

Rent. “Rent” is a stated return or payment for the temporary possession of a dwelling, dwelling unit or rooming unit. The return or payment may be money or service or property.

Safety. “Safety” is the condition of being reasonably free from danger and hazards, which may cause injury or illness.

Substandard Building. “Substandard Building” means any rental dwelling or portion thereof that is not

safe due to inadequate maintenance, dilapidation, physical damage, unsanitary condition, abandonment or any other reason.

Substandard Property Condition Citation. “Substandard Property Condition Citation” shall be issued in the event of a ‘Substandard Building’ and shall, upon posting of the citation, prohibit the occupancy of the building or unit until such time as corrections are made and verified by inspection. *(Amended by Ord.184, 7/10/2006)*

Tenant. “Tenant” can be a person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

Variance. “Variance” is a difference between that which is required or specified and that, which is permitted. *(Amended by Ord.161, 9/27/04)*

350.03 Rental Housing License.

Subd. 1 License Required. No person may operate, let, or cause to be let, a rental dwelling unit without first having obtained a rental housing license from the City as hereinafter provided. Further, no owner or manager shall allow the occupancy of a rental dwelling unit by a tenant after the expiration of the rental housing license for the rental dwelling in which the rental dwelling unit is located unless the license has been properly renewed. *(Amended by Ord. 222, 8/16/10)*

- A. **Temporary License.** The code official may issue a temporary rental housing license not exceeding 3 months in duration in order to bring the unit into compliance with this ordinance. *(Amended by Ord.161, 9/27/04)*
- B. **Licensing Period.** The licensing period shall encompass ~~two~~ **three** calendar years. *(Amended by Ord. 222, 8/16/10)*

Subd. 2 Application contents. Owners of one or more rental dwelling units who have not yet received a license are responsible for applying to the City for a license. With the application the owner must supply the following information:

- A. Name, address, and telephone number of dwelling owner, owning partners if a partnership, or corporate officers if a corporation;
- B. Name, address, and telephone number of designated resident agent, if applicable;
- C. Legal address of the dwelling;
- D. Number of dwelling units with the dwelling;
- E. At least one emergency telephone number;
- F. The names, telephone numbers and addresses of principal tenants. *(Amended by Ord. 222, 8/16/10)*

Subd. 3 Fees.

- A. **Inspection Fee.** A Rental Housing License-inspection fee shall be established by the City Council. *(Amended by Ord.161, 9/27/04)*
- B. **Additional Fees.** The City shall have the right, and just cause, to bill or to assess owner for additional costs associated with:

1. Required additional follow up Rental Inspections, beyond the prescribed number allowed, for a single Rental Inspection cycle.
2. Failure of the responsible party to appear for a scheduled inspection without prior notification of the inspector.
3. After hours, weekend or holiday inspections. *(Amended by Ord.184, 7/10/2006)*
4. Complaint Inspections *(Amended by Ord. 222, 8/16/10)*

Subd. 4 Rental Dwelling Inspections No license may be issued or renewed unless the City determines, following an inspection conducted pursuant to this section, that rental dwelling unit(s) conform to the provisions of this Section 350. As more specifically provided below, the code official and his or her agents may cause inspections, follow-up inspections, and reinspections on rental dwelling units within the city on a scheduled basis, and on rental dwelling units when reason exists to believe that a violation of an applicable subdivision of this Section 350 exists, has been, or is being committed. *(Amended by Ord. 222, 8/16/10)*

- A. **Consent.** The code official and his or her agents are authorized to contact owners, tenants and/or managers of rental dwellings to schedule inspections of rental dwellings at reasonable times. If the City is unsuccessful in securing consent for an inspection pursuant to this Section 350, the City shall seek permission, from a judicial officer through an administrative warrant, for its enforcement officer or his or her agents to conduct an inspection. Nothing in this Section shall limit or constrain the authority of the judicial officer to condition or limit the scope of the administrative warrant. *(Amended by Ord. 222, 8/16/10)*
- B. **Inspections not Required.** Inspection for the issuance or renewal of a license may be waived by the City if the owner of a dwelling unit:
 1. Proves that within the previous 12 months the dwelling unit(s) passed an inspection required by the County, State, or Federal regulations that is at least as stringent as the inspection required under this Section 350.
 2. Has, within the 12 months preceding the licensing period deadline as defined in Subd. 6 below, applied for and received a rental dwelling license from the city. *(Amended by Ord. 222, 8/16/10)*

Subd. 5 Issuance. The code official shall issue a rental housing license for each dwelling, dwelling unit or rooming unit, when upon inspection finds such unit meets or exceeds the minimum requirements set forth by this ordinance; also a rental housing license shall be issued for each dwelling, dwelling unit or rooming unit, when a variance has been granted by the Board of Appeals, pursuant to Section 350.06 of this Chapter; provided, however, it is found that no condition exists, in a shared or public area of the building or in any other part of the unit, which could endanger the health or safety of the occupants of such unit or of the public. Such license shall show the number of occupants for which the dwelling, dwelling unit or rooming unit is approved for and once issued shall remain valid until it expires or such time as the code official or housing inspector determines that the dwelling, dwelling unit or rooming unit does not meet the minimum requirements set by this ordinance. *(Amended by Ord.161, 9/27/04)*

Subd. 6 Licensing period Deadline. The licensing period deadline shall be January 1 of the Year-One License Period. All properties required to be licensed by this Ordinance shall have applied for licensing with the City Office, shall have paid the required fee or fees, and shall have satisfactorily completed the required Rental Housing Inspection by the deadline date. Failure to comply with this section may result in fines and/or denial of a Rental Housing License for the property in violation. *(Amended by Ord.184, 7/10/2006)*

Subd. 7 Renewals. A rental housing license shall expire December 31 of the Year-~~Two~~ **Three** License Period.

Re-inspection of all dwellings, dwelling units or rooming units shall be required prior to issuance of a new certificate, pursuant to Subd. 4 above. In order to allow sufficient time to complete the renewal process, applications for licenses shall be made in writing on forms provided by the City and accompanied by the required fee at least sixty (60) days prior to the licensing period deadline. *(Amended by Ord. 222, 8/16/10)*

Subd. 8 License and Inspection Report Posting. Every registrant of a rental dwelling shall post the license issued by the City. The license shall be conspicuously posted (in a frame with a glass covering) by the registrant, in a public corridor, hallway, or lobby of the rental dwelling for which they are issued. In addition to posting the license, the owner shall post the inspection report completed for the license renewal or any complaint inspection next to the posting of the rental license for a period of 30-days after receipt of the license.

Subd. 9 Transfer of Rental Property. A license is not transferable to another person or to another rental dwelling. Every person holding a license must give notice in writing to the city within 72 hours after having legally transferred or otherwise disposed of the legal control of any rental dwelling. The notice must include the name and address of the person(s) succeeding to the ownership or control of such rental dwelling(s). The person succeeding to the ownership or control of the rental dwelling(s) must obtain a temporary permit or operating license in order to continue operating the rental dwelling(s). An inspection is not required to obtain this temporary permit or license unless the rental dwelling(s) have not been inspected within two years of the transfer of ownership or control. *(Amended by Ord. 222, 8/16/10)*

Subd. 10 Tenant Register. A licensee must, as a continuing obligation of its license, maintain a current register of tenants and other persons who have a lawful right to occupancy of dwelling units within an apartment building or dwelling. In its application, the licensee must designate the person or persons who will have possession of the register; and must promptly notify the Code Official of any change of the identity, address, or telephone numbers of such persons. The register must be available for the inspection by the Code Official at all times. Every complex with more than one dwelling unit must post a tenant register near the license in the entryway and include the first initial of the occupant's name, last name, and unit number.

Subd. ~~10~~ 11 Revocation. A Rental Housing License may be suspended or revoked as prescribed in this ordinance.

- A. A rental housing license may be suspended or revoked by the City Council if the City Council finds that the provisions of this ordinance have been violated in regard to the rental dwelling for which the license was issued. Before any suspension or revocation occurs, the City shall send written notice to the license holder specifying the ordinance violations alleged. This notice shall also specify the date for a hearing before the Board of Appeals, which shall not be less than ten (10) days from the date of the notice.
- B. At such hearing before the Board of Appeals, the license holder or their attorneys may submit and present witnesses on their behalf.
- C. After a hearing, the City Council shall act upon the Board of Appeals recommendation at the next available meeting and may suspend or revoke the license if the Council deems it necessary to protect public health, safety or general welfare. *(Amended by Ord.222, 8/16/10)*

350.04 Requirements.

Subd. 1. Substandard Buildings. No substandard buildings are allowed.

Subd. 2. Condition. No owner or manager shall allow infestation if extermination is not the tenant's responsibility by law.

Subd. 3. Improper Occupancy. No rental dwelling shall be used in manner inconsistent with its design or construction.

Subd. 4. Smoke Detectors. No smoke detector installed in a rental dwelling shall be allowed to remain disabled or nonfunctional. The tenant of a rental dwelling shall notify the owner or manager within 24 hours of discovering that a detector is disabled or not functioning. The owner or manager shall take immediate action to render the smoke detector operational or replace it.

Subd. 5. Carbon Monoxide Alarms. Each rental dwelling shall have an approved and operational carbon monoxide alarm installed with ten feet of each room used for sleeping purposes as required by Minnesota Statutes §§ 299F.50 and 51, as amended, unless an exception listed in Section 299F.51, Subd. 5, applies.

Subd. 6. Refuse. Each rental dwelling shall have an adequate number of refuse containers to hold the amount of refuse produced by the occupants of the rental dwelling or as required elsewhere by the **Waconia Norwood Young America City** Code. Containers shall be rodent and animal proof plastic, fiberglass or rust resistant metal with a tight fitting cover. Tenants shall properly dispose of their recyclables, rubbish, garbage and other organic waste.

Subd. 7. Nuisance. No rental dwelling premise shall be kept in any state which creates a nuisance.

Subd. 8. Storage of Items. Large amounts of combustible items and materials shall not be stored in attics, basements, common areas, or any other underutilized areas of a rental dwelling. Storage shall be maintained two (2) feet or more below ceilings and floor joists. Combustible materials and items shall not be stored within one (1) foot of any fuel burning appliances. Storage of items shall be orderly and shall not block or obstruct exits. A minimum three (3) foot wide aisle shall be maintained to all exits, furnaces, water heaters, water meters, gas meters or other equipment serving the rental dwelling.

Subd. 9. Fuel Storage. LP tanks shall only be stored outdoors.

Subd. 10. Fueled Equipment. Fueled equipment including, but not limited to, motorcycles, mopeds, lawn-care equipment and portable cooking equipment shall only be stored outdoors or in the garage of a rental dwelling.

Subd. 11. Barbecues and Open Flames. No person shall kindle, maintain, or cause any fire or open flame on any balcony above ground level, on any roof, or on any ground floor patio within 15 feet of any structure. Further, no person shall store or use any fuel, barbecue, torch, or similar heating or lighting chemicals or device in such locations.

Subd. 12. Sidewalks and Driveways. All sidewalks, walkways, stairs, driveways, parking spaces and similar areas on a premises shall be kept in a proper state of repair and maintained free from hazardous conditions.

Subd. 13. Defacement of Property. If a rental dwelling is defaced by graffiti, it shall promptly be removed.

Subd. 14. Disorderly Conduct Prohibited. **Disorderly conduct is prohibited on all licensed premises. It shall be the responsibility of the licensee to take appropriate action to prevent disorderly conduct by tenants and their guests on the licensed premises.**

A. For purposes of this subchapter, a violation of the following statutes or ordinances shall be deemed disorderly conduct:

- 1. Minnesota Statutes, Sections 609.75 through 609.76, which prohibit gambling, as may be amended;**
- 2. Minnesota Statutes, Sections 609.321 through 609.324, which prohibit prostitution and acts relating thereto, as may be amended;**

3. Minnesota Statutes, Sections 152.01 through 152.025, and Section 152.027, subdivisions 1 and 2, which prohibit the unlawful sale or possession of controlled substances, as may be amended;
4. Minnesota Statutes, Section 340A.401, which prohibits the unlawful sale of alcoholic beverages, as may be amended;
5. Minnesota Statutes, Section 340A.503, which prohibits the underage use of alcoholic beverages, as may be amended;
6. Chapter 600 of this Code, which prohibits nuisances, as may be amended;
7. Minnesota Statutes, Sections 97B.021, 97B.045, 609.66 through 609.67, and 624.712 through 624.716, which prohibit the unlawful possession, transportation, sale, or use of a weapon, as may be amended;
8. Minnesota Statutes, Section 609.72, which prohibits disorderly conduct, when the violation disturbs the peace and quiet of the occupants of at least one unit on the licensed premises or other premises, other than the unit occupied by the person(s) committing the violation, as may be amended;
9. Minnesota Statutes, Sections 609.185, 609.19, 609.195, 609.20, and 609.205, which prohibit murder and manslaughter, as may be amended;
10. Minnesota Statutes, Sections 609.221, 609.222, 609.223, Section 609.2231 which prohibit assault, excluding domestic assaults, as may be amended;
11. Minnesota Statutes, Sections 609.342, 609.343, 609.344, 609.345, and 609.3451, which prohibit criminal sexual conduct, as may be amended;
12. Minnesota Statutes, Section 609.52, which prohibits theft, as may be amended;
13. Minnesota Statutes, Sections 609.561, 609.562, 609.563, 609.5631, and 609.5632, which prohibit arson, as may be amended;
14. Minnesota Statutes, Section 609.582, which prohibits burglary, as may be amended;
15. Minnesota Statutes, Section 609.595, which prohibits damage to property, as may be amended;
16. Failure to comply with the dangerous dog requirements in violation of Minnesota Statutes Chapter 347, as may be amended;
17. Minnesota Statutes, Section 152.07, subdivision 4, which prohibits the sale or possession of small amounts of marijuana, as may be amended; and
18. Minnesota Statutes, Section 152.092, which prohibits the unlawful possession or use of drug paraphernalia, as may be amended.

B. Upon determination by the Code Official that a licensed premises or unit within a licensed premises was used for disorderly conduct activities as set forth in this Subdivision, the Code Official shall cause notice to be made to the owner and manager of the violation and direct the owner and property manager to take steps to prevent further disorderly conduct violations.

C. If a second disorderly conduct violation as determined by the Code Official occurs within a continuous twelve month period involving the same tenancy, the Code Official shall cause notice to be made to the owner and manager of the second violation. The owner or manager shall be required to participate in a Problem Solving Conference (“PSC”), scheduled and conducted by the City Administrator or designee, and immediately remedy the violations. The purpose of the PSC shall be to develop, by consensus, a plan of action to reasonably ensure that future incidents will not occur at the licensed premises.

- D. If a third disorderly conduct violation as determined by the Code Official occurs within a continuous twelve month period involving the same tenancy, the Code Official shall cause notice to be made to the owner and property manager of the third violation. The owner or manager shall notify the tenant or tenants within ten days of the Notice of Disorderly Conduct violation of the Crime Free/Drug Free lease language within the lease and proceed with termination of the tenancy of all tenants occupying the unit. The owner shall not enter into a new lease for a unit located in the licensed property with an evicted tenant for a period of one year after the eviction.**
- E. If, pursuant to Subdivision, a third disorderly conduct violation of the licensed premises occurs at the same dwelling within a twelve month period, the rental dwelling license for the premises may be denied, revoked, suspended, placed on probation, or not renewed. An action to deny, revoke, suspend, place on probation, or not renew a license under this section shall be initiated by the City in the manner described in Section 350, Subdivision 11, and proceed according to the procedures established therein.**
- F. No adverse license action shall be imposed where the instance of disorderly conduct occurring on the licensed premises occurred during the pendency of evictions proceedings or within 30 days after notice is given by the licensee to a tenant to vacate the premises. Evictions proceedings shall not be a bar to a license action, however, unless the licensee diligently pursues them. A notice to vacate shall not be a bar to adverse license action unless a copy of the notice is submitted to the City within ten days of receipt of the violation notice. Further, an action to deny, revoke, suspend, place on probation, or not renew a license based upon violations of this section may be postponed or discontinued by the Code Official at any time if it appears that the licensee has taken appropriate action to prevent further instances of disorderly conduct.**

350.05 Enforcement.

Subd. 1 Authority. The building official is hereby authorized and directed to enforce or cause the enforcement of all of the provisions of this ordinance. For such purposes, the building official or his/her designated representative shall have the powers of a code official. The code official shall have the power to render interpretations of this ordinance. Such interpretations shall be in conformity with the intent and purpose of this ordinance. *(Amended by Ord.161, 9/27/04)*

Subd. 2 Responsibilities Defined. Property owners remain liable for violations of duties imposed by this ordinance even if the owner has, by agreement, imposed on the occupant the duty of furnishing required equipment or of complying with this ordinance. *(Amended by Ord. 222, 8/16/10)*

- A. Buildings and structures and parts thereof shall be maintained in a safe and sanitary condition. The owner or the owner's designated agent shall be responsible for such maintenance. To determine compliance with this subsection, the building may be re-inspected.
- B. Owners, in addition to being responsible for maintaining buildings in a sound structural condition, shall be responsible for keeping that part of the building or premises which the owner occupies or controls in a clean, sanitary and safe condition, including the shared or public areas in a building containing two or more dwelling units.
- C. Owners shall, when required by this ordinance, health laws or the health officer, furnish and maintain such approved sanitary facilities as required, and shall furnish and maintain approved devices, equipment or facilities for the prevention of insect and rodent infestation, and when infestation has taken place, shall be responsible for any insects, rodents or other pests when such

extermination is not specifically made the responsibility of the occupant by law or ruling.
(Amended by Ord 161, 9/27/04)

Subd. 3 Right of Entry. When it is necessary to make an inspection to enforce the provisions of this ordinance, or when the code official has reasonable cause to believe that there exists in a building or upon a premises a condition that is contrary to or in violation of this ordinance, the code official may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this ordinance, provided that if such building or premises are occupied that credentials be presented to the occupant and entry requested. If such building or premises is unoccupied, the code official shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is refused, the code official shall have recourse to the remedies provided by law to secure entry, pursuant to Section 350.04, Subd. 4.A. of this Chapter. (Amended by Ord.161, 9/27/04)

Subd. 4 Complaint Inspections. When the code official or a health officer has reasonable cause to believe that a condition exists in regards to a rental dwelling or premises that violates this ordinance including, but not limited to, a written tenant complaint made in good faith, the code official or health officer may enter the rental dwelling to inspect, re-inspect, or otherwise perform the duties imposed by this ordinance. No such entry shall be made, however, until: i) the owner, manager or tenant permits entry; ii) the code official or health officer secures an administrative warrant from a court with jurisdiction; or iii) an emergency exists.

Subd. 5 Compliance Order. Upon completion of a complaint inspection and finding of a violation(s), the code official shall prepare a compliance order, listing all violations and the date or dates when such violations shall be corrected. The property owner shall have the responsibility to correct such alleged violations and have them re-inspected and verified by the Code Official for compliance with this Ordinance within the time period as set forth:

- A. Smoke Detector Violations. Corrections must be completed immediately and re-inspected within three (3) working days.
- B. All Other Violations. Preparations for the actual work for correcting the alleged violations shall be commenced immediately and work re-inspected within twenty-five (25) working days OR within the time period as specified by the Code Official.
- C. Follow-Up Inspection. Upon completion of the second follow up inspection:
 - 1. If the infraction(s) have been satisfactorily addressed or corrected the City will, at its discretion, levy a reinspection fee to cover the cost of the second follow up inspection. The fee will be set by the City Council.
 - 2. If the infractions remain, the following penalties shall be imposed upon the property owner(s) if the alleged violations are not corrected and verified by the Code Official within the time period allowed by this Ordinance:
 - a. A \$50.00 fine.
 - b. The assessment of \$5.00 per day, each and every day thereafter until a satisfactory follow up inspection is conducted.
 - 3. The \$50.00 fine and subsequent \$5.00 per day assessment must be paid in full to the city within 14 days of the satisfactory follow up inspection or, pursuant to Section 350.04 Subd 10, the City of Norwood Young America shall have the right and just cause to revoke or deny licensing the property as Rental Housing Property.
 - 4. The property owner or agent shall be notified in writing of Section 350.06, indicating his or her right of appeal. (Amended by Ord.184, 7/10/2006)
- D. Extensions. Extensions may be granted by the Code Official. The request shall be made in writing

and justifiable cause must be demonstrated for the requested extension. All requests shall be made and delivered to the Code Official prior to the expiration date of the violation or violations.

Subd. 6 Substandard Property Condition.

- A. When, during the course of a Rental Housing Inspection or complaint investigation, the code official encounters or observes a condition or conditions that are considered dangerous to life, safety, health, or the welfare of the occupants, the inspector shall, if the situation warrants, issue a Substandard Property Condition Citation.
- B. Prior to, or immediately after, the issuance of the Substandard Property Condition Citation, the code official will be required to notify the City of the posting and the reason for the posting.
- C. The code official shall have the authority to require immediate evacuation of the premises in the event of immediate danger to life or safety.
- D. The removal or defacing of, or tampering with, a Substandard Property Condition Citation posting shall be punishable as a criminal offense and subject to the provisions of State Statutes regulating misdemeanors and as outlined in this ordinance.
- E. The Property shall remain unoccupied until such time as the condition is, or conditions are, corrected and satisfactorily reinspected. *(Amended by Ord. 184, 7/10/2006)*

Subd. 7 Substandard Buildings. Buildings or portions thereof that are determined to be substandard as defined in this ordinance are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal, pursuant to Chapter 6, Nuisances, of the Norwood Young America City Code.

Subd. 8 Notice to Vacate. The code official shall have the authority to issue a NOTICE TO VACATE order on any building that is, in the opinion of the code official and as defined in this ordinance, deemed substandard. *(Amended by Ord.161, 9/27/04)*

350.06 Appeals.

Subd. 1 Appeal. Any person may appeal from any notice and order or any action of the code official under this ordinance by filing an appeal to the City Administrator. A written appeal to the City a brief statement in ordinary and concise language of that specific order or action protested, together with any material facts claimed to support the contentions of the appellant. *(Amended by Ord.161, 9/27/04)*

Subd. 2 Time Allotted for Appeal. The appeal shall be filed within 10 days or within the time of correction as allowed by the code official, whichever is shorter, from the date of the service of such order or action of the code official. *(Amended by Ord.161, 9/27/04)*

Subd. 3 Scheduling and Noticing Appeal for Hearing. In the event that an appeal is filed with the City Administrator, the Board of Appeals shall fix a date for a hearing, which shall be held within ten (10) business days from the date the appeal is filed. *(Amended by Ord. 222, 8/16/10)*

Subd. 4 Notice. The City Administrator shall mail a notice of the date, time, place and subject of the hearing to the owner, occupant(s) and any other known responsible parties. *(Amended by Ord. 222, 8/16/10)*

Subd. 5 Orders after an Appeal. Following a hearing, any order of the Board of Appeals made pursuant to this ordinance shall be forwarded to the City Council who shall act upon the Board of Appeals recommendation at its next available meeting. The City Council shall issue a decision in writing to the appealing party within 10 days of the hearing. Any fines or penalties imposed must be paid no later than 30 days of the date of the order. The decision of the City Council is final and may only be appealed to the Minnesota Court of Appeals by petitioning

for a writ of certiorari pursuant to Minnesota Statute Section 606.01.

350.07 Violation and Penalties.

Subd. 1 Administrative Charge. Failure to obtain a license pursuant to this Section 350 will subject the owner of a dwelling unit to an administrative service charge up to \$250 per unit, plus \$10 per unit per day each and every day thereafter until a license is obtained. *(Amended by Ord. 222, 8/16/10)*

Subd. 2 Violation. Any person that maintains a rental dwelling unit without having either a valid temporary permit or a valid license, or permits new occupancy in violation of this Section 350, is guilty of a misdemeanor, and upon conviction is subject to a fine and imprisonment as prescribed by state law. In addition to, or in lieu of, charging a misdemeanor, the City may impose an administrative fee in an amount set in the City Fee Schedule. An administrative fee may be appealed pursuant to Subsection 350.06 of this Section. Upon the failure to appeal an administrative fee within the period established in Subsection 350.06 of this Section, the City may post the dwelling unit as illegal for habitation. Thereafter, all persons must vacate the premise and the dwelling unit may not be occupied by anyone other than the primary homestead owner and that person's immediate family until (a) the administrative fee has been paid and (b) a rental license is obtained or the City is satisfied that the dwelling unit will not be used as a rental dwelling unit. Each day of each violation constitutes a separate offense. *(Amended by Ord. 222, 8/16/10)*

Subd. 3 Assessment of Unpaid Fees. Any fees imposed under the authorization of Section 350 shall be paid in full. In the event of non-payment, the City Clerk may certify the entire unpaid amount and any penalty to the County Auditor to levy the charges in the same manner as special assessments against the real estate involved, or the real estate of the person or entity responsible for the fee. *(Amended by Ord. 222, 8/16/10)*

350.07 Crime Free/Drug Free Rental Housing; Background Checks

Subd. 1 Definitions. The following definitions shall apply for this section:

- A. “Criminal Record Check” means an inquiry into public criminal arrest data, for fifteen (15) years prior to the inquiry or such period of time as may be specified from time to time by the Minnesota Bureau of Criminal Apprehension, the Carver County Sheriff’s Office (“Sheriff’s Office”), and “CJIS” Minnesota Criminal Justice Information System information obtained through the Minnesota Bureau of Criminal Apprehension, which is used for inquiries for licensing and will retrieve arrest data only.
- B. “Manager” means the owner, the agent, or any other individual responsible for receiving lease applications or rent payments or authorizing the lease or rent of an apartment, house, manufactured home or lot for the placement of a manufactured home and who has received a certificate of completion from the Crime Free Multi-Housing (“CFMH”) training.
- C. “Residential Property Managers” means persons who are defined in and must qualify under Minnesota Statutes, Sections 299C.66 to 299C.71.

Subd. 2 Tenant Information Required. Upon request of the manager for the purpose of a background check, all persons making an application for housing shall complete the application and provide the following information:

- A. Full name, place and date of birth, and the present residence address and residence addresses for the previous five (5) years of the tenant.
- B. Whether the tenant has ever used or been known by a name other than his or her present name, and if so, what such name or names were and information concerning dates and places where such names were used.
- C. Whether the tenant has been convicted of a crime. If so, the tenant shall furnish information as to the time, place, and offense resulting in the conviction.

Subd. 3 Background Investigation on Tenants. The manager shall obtain appropriate authorizations from prospective tenants and shall conduct a criminal record check and a driver’s license record check on a tenant. The consent for release of information form shall contain the following:

- A. Notification to the tenant that the manager will request the Sheriff’s Office and Bureau of Criminal Apprehension to conduct a criminal record check;
- B. Notification of the right to obtain a copy of the criminal record check;
- C. Notification of the right to challenge the accuracy and completeness of the criminal record check; and

- D. Notification of the right to be informed by the manager if the application for housing has been denied based on information contained in the criminal record check.

Subd. 4 Information to be Protected. Information which is gathered as a result of criminal record check which is not deemed public data under the Minnesota Government Data Practices Act shall not be released to the requesting manager. Information provided under this section shall only be used by a manager for the purpose of approving or rejecting the application for housing.

Subd. 5 Background Checks on Managers. Upon request by the City, the Sheriff's Office shall conduct a criminal record check on the residential property managers of dwellings as provided for in Minnesota Statutes, Sections 299C.66 to 299C.71 and as it may be amended from time to time.

Subd. 6 Mandatory Training. The owner or manager of a dwelling unit must complete CFMH training offered by the City or a similar program approved by the City. This training must be completed before the license for a dwelling is renewed and thereafter every three years if the dwelling continues to be a rental dwelling. Upon completion of the CFMH training, the owner will receive a certificate of completion. The owner must submit a copy of the certificate upon license renewal. The requirements for mandatory training do not apply to a person who only owns or manages one dwelling unit in the City. If two or more violations of Subdivision 9 of this Section occur in a 365 day period at a single family rental dwelling owned by a person who is not required to complete mandatory training, that person must complete the mandatory training before the dwelling license may be renewed.

Subd. 7 Tenant Register. A licensee must, as a continuing obligation of its license, maintain a current register of tenants and other persons who have a lawful right to occupancy of dwelling units within an apartment building or dwelling. In its application, the licensee must designate the person or persons who will have possession of the register; and must promptly notify the Code Official of any change of the identity, address, or telephone numbers of such persons. The register must be available for the inspection by the Code Official at all times. Every complex with more than one dwelling unit must post a tenant register near the license in the entryway and include the first initial of the occupant's name, last name, and unit number.

Subd. 8 Mandatory Lease Language.

- A. All tenant leases, except for state licensed residential facilities and subject to all preemptory state and federal laws, shall contain the following Crime Free/Drug Free and Disorderly Conduct language:

(1) Crime Free/Drug Free.

1. Resident, any members of the resident's household, or a guest or other person affiliated with resident shall not engage in criminal activity, including drug related criminal activity, on or near the premises. "Drug related criminal activity" means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use of a controlled substance or any substance represented to be drugs (as defined in Section 102 of the Controlled Substance Act [21 U.S.C. 802]).
2. Resident, any member of the resident's household or a guest or other person affiliated with resident shall not engage in any act intended to facilitate criminal activity, including drug-related criminal activity, on or near the premises.
3. Resident or members of the household will not permit the dwelling unit to be used for, or to facilitate criminal activity, including drug-related criminal activity, regardless of whether the individual engaging in such activity is a member of the household, or a guest.
4. Resident, any member of the resident's household or a guest, or other person affiliated with the resident shall not engage in the unlawful manufacturing, selling, using, storing, keeping, or giving of a controlled substance at any locations, whether on or near the premises or otherwise.
5. VIOLATION OF THE ABOVE PROVISIONS SHALL BE A MATERIAL AND IRREPARABLE VIOLATION OF THE LEASE AND GOOD CAUSE FOR IMMEDIATE TERMINATION OF TENANCY.

(2) Disorderly Conduct.

1. Resident, members of the resident's household, guests, or other persons under the resident's control shall not engage in the following Disorderly Use activities: violations of state law relating to alcoholic beverages, trespassing or disorderly conduct; and violation of the Norwood Young America City Code relating to zoning, nuisance, and prohibited noise.
2. THREE DISORDERLY CONDUCT VIOLATIONS INVOLVING THE SAME TENANCY WITHIN A CONTINUOUS TWELVE MONTH PERIOD SHALL BE A SUBSTANTIAL AND MATERIAL VIOLATION OF THE LEASE AND GOOD CAUSE FOR TERMINATION OF THE TENANCY.

(3) Non-Exclusive Remedies. The Crime Free/Drug Free and Disorderly Conduct provisions are in addition to all other terms of the lease and do not limit or replace any other provisions.

B. These lease provisions shall be incorporated into every new lease for a tenancy beginning January 1, 2017 and all renewed leases by January 2, 2018.

Subd. 9 Disorderly Conduct Prohibited. Disorderly conduct is prohibited on all licensed premises. It shall be the responsibility of the licensee to take appropriate action to prevent disorderly conduct by tenants and their guests on the licensed premises. For purposes of this subchapter, a violation of the following statutes or ordinances shall be deemed disorderly conduct:

(1) Minnesota Statutes, Sections 609.75 through 609.76, which prohibit gambling;

(2) Minnesota Statutes, Sections 609.321 through 609.324, which prohibit prostitution and acts relating thereto;

(3) Minnesota Statutes, Sections 152.01 through 152.025, and Section 152.027, subdivisions 1 and 2, which prohibit the unlawful sale or possession of controlled substances;

(4) Minnesota Statutes, Section 340A.401, which prohibits the unlawful sale of alcoholic beverages;

(5) Minnesota Statutes, Section 340A.503, which prohibits the underage use of alcoholic beverages;

(6) Chapter 600 of this Code, which prohibits nuisances;

(7) Minnesota Statutes, Sections 97B.021, 97B.045, 609.66 through 609.67, and 624.712 through 624.716, which prohibit the unlawful possession, transportation, sale, or use of a weapon;

(8) Minnesota Statutes, Section 609.72, which prohibits disorderly conduct, when the violation disturbs the peace and quiet of the occupants of at least one unit on the licensed premises or other premises, other than the unit occupied by the person(s) committing the violation;

(9) Minnesota Statutes, Sections 609.185, 609.19, 609.195, 609.20, and 609.205, which prohibit murder and manslaughter;

(10) Minnesota Statutes, Sections 609.221, 609.222, 609.223, Section 609.2231 which prohibit assault, excluding domestic assaults;

(11) Minnesota Statutes, Sections 609.342, 609.343, 609.344, 609.345, and 609.3451, which prohibit criminal sexual conduct;

(12) Minnesota Statutes, Section 609.52, which prohibits theft;

(13) Minnesota Statutes, Sections 609.561, 609.562, 609.563, 609.5631, and 609.5632, which prohibit arson;

(14) Minnesota Statutes, Section 609.582, which prohibits burglary;

(15) Minnesota Statutes, Section 609.595, which prohibits damage to property;

(16) Failure to comply with the dangerous dog requirements in violation of Minnesota Statutes Chapter 347;

(17) Minnesota Statutes, Section 152.07, subdivision 4, which prohibits the sale or possession of small amounts of marijuana; and

(18) Minnesota Statutes, Section 152.092, which prohibits the unlawful possession or use of drug paraphernalia.

- A. Upon determination by the Code Official that a licensed premises or unit within a licensed premise was used in violation of the Crime Free/Drug Free provisions of this Subdivision 8(A)(1), the Code Official shall cause notice to be made to the owner and manager of the violation. The owner or manager shall notify the tenant or tenants within ten days of the notice of violation of the Crime Free/Drug Free lease language and proceed with termination of the tenancy of all tenants occupying the unit. The owner shall not enter into a new lease for a unit located in the licensed property with an evicted tenant for a period of one year after the eviction.
- B. Upon determination by the Code Official that a licensed premises or unit within a licensed premises was used for disorderly conduct activities as set forth in this Subdivision 8(A)(2), the Code Official shall cause notice to be made to the owner and manager of the violation and direct the owner and property manager to take steps to prevent further disorderly conduct violations.
- C. If a second disorderly conduct violation as determined by the Code Official occurs within a continuous twelve month period involving the same tenancy, the Code Official shall cause notice to be made to the owner and manager of the second violation. The owner or manager shall be required to participate in a Problem Solving Conference ("PSC"), scheduled and conducted by the City Administrator or designee, and immediately remedy the violations. The purpose of the PSC shall be to develop, by consensus, a plan of action to reasonably ensure that future incidents will not occur at the licensed premises.

- D. If a third disorderly conduct violation as determined by the Code Official occurs within a continuous twelve month period involving the same tenancy, the Code Official shall cause notice to be made to the owner and property manager of the third violation. The owner or manager shall notify the tenant or tenants within ten days of the Notice of Disorderly Conduct violation of the Crime Free/Drug Free lease language within the lease and proceed with termination of the tenancy of all tenants occupying the unit. The owner shall not enter into a new lease for a unit located in the licensed property with an evicted tenant for a period of one year after the eviction.
- E. If, pursuant to subsection (d) of this Subdivision, a third disorderly conduct violation of the licensed premises occurs at the same dwelling within a twelve month period, the rental dwelling license for the premises may be denied, revoked, suspended, placed on probation, or not renewed. An action to deny, revoke, suspend, place on probation, or not renew a license under this section shall be initiated by the City in the manner described in Section 350, subdivision 10, and proceed according to the procedures established therein.
- F. The provisions of Subsections (a), (b), (c), and (d) herein do not apply if the determination that the premises have been used in violation of the Crime Free/Drug Free provisions of this subchapter originates from a call from or at the request of one or more of the tenants occupying the premises for police or emergency assistance, or in the case of domestic abuse, from a call for assistance from any source. The term “domestic abuse” has the meaning given in Minnesota Statutes, Section 518B.01, subdivision 2.
- H. No adverse license action shall be imposed where the instance of disorderly conduct occurring on the licensed premises occurred during the pendency of evictions proceedings or within 30 days after notice is given by the licensee to a tenant to vacate the premises. Evictions proceedings shall not be a bar to a license action, however, unless the licensee diligently pursues them. A notice to vacate shall not be a bar to adverse license action unless a copy of the notice is submitted to the City within ten days of receipt of the violation notice. Further, an action to deny, revoke, suspend, place on probation, or not renew a license based upon violations of this section may be postponed or discontinued by the Code Official at any time if it appears that the licensee has taken appropriate action to prevent further instances of disorderly conduct.