



City of Nowthen  
**PLANNING & ZONING COMMISSION MEETING**  
**TUESDAY, MAY 23, 2023**  
**A G E N D A**  
**7 PM**

**Called to Order**

- Pledge of Allegiance
- Roll Call
- Approve/Amend tonight's meeting agenda of May 23, 2023.
- Approve/Amend meeting minutes of October 25, 2022.

- 1. 7:00 PM:**  
**Review of Planning and Zoning Commission Policy on Commission Structure, Meeting Order and General Procedure**
- 2. 7:10 PM:**  
**Election of Planning and Zoning Commission Chair and Vice Chair**
- 3. 7:20 PM:**  
**Public Hearing** – Consider Approval of an Interim Use Permit for Used Auto Sales at 20088 Ferret Street PID: 20-33-25-41-0010
- 4. 7:30 PM:**  
**Discussion, Continued** - Zoning Ordinance Changes to Fencing, Screening and Landscaping Requirements
- 5. 8:00 PM:**  
**Discussion** – Consider Changes to the City's septic system ordinance pertaining to maintenance records and general updates to reflect the MN 7080 rules

**Motion to Adjourn**



**CITY OF NOWTHEN MEETING MINUTES**  
**PLANNING AND ZONING COMMISSION REGULAR MEETING**  
**OCTOBER 25, 2022**

CALL TO ORDER

Chair Ames called the meeting to order at 7:05pm.

Those assembled recited the pledge of allegiance.

Present: Ames, Carlson, Haapala, Jorgensen, Bies,

Absent: Lewis, Pearo

Also Present: Liaison Mayor Pilon, Planner Stockman, and City Administrator Lehner

**MOTION BY CARLSON, SECOND BY HAAPALA TO APPROVE THE AGENDA FOR TONIGHT'S MEETING. MOTION CARRIED. FIVE (5) AYES.**

**MOTION BY BIES, SECOND BY AMES TO APPROVE THE MEETING MINUTES OF JULY 26, 2022. MOTION CARRIED. FIVE (5) AYES.**

ITEM 1. PUBLIC HEARING: 20885 ENGEN BLVD; CONSIDER A SHORELAND SETBACK VARIANCE TO ALLOW A NEW RESIDENCE 100 FEET FROM THE OHWL OF BEAR LAKE. PIN 17-33-25-42-0003.

Chair Ames asked Planner Stockman to present her report. She noted that the 11-acre parcel is irregular in shape and contains several wetlands. Should the 50-foot Variance be approved by the City Council, the new home would replace the existing home, which is to be torn down. The setback to the existing house is 93 feet to the OHWL and the proposed setback for the new home is 100 feet. The proposal would not interfere with the 75-foot grading impact zone.

Chair Ames asked the applicants if they had any comments. Ben Polgreen stated that he grew up on this property and that his family had lived there for 30+ years; he'd like to continue that.

Commissioner Bies wanted to make sure a condition was included regarding the removal of the old home. Ames questioned the shared driveway situation. Mr. Polgreen stated that his plan was to have a written easement agreement recorded before construction of the house is complete. Planner Stockman suggested that the City Attorney be contacted regarding the authority of the City to require the easement and a shared driveway agreement.

Commissioner Haapala questioned the required setback from the wetland to the north which was shown as 75 feet but is actually only 50 feet from high priority wetlands as required in the City Code. He noted that the house could be moved back further from the OHWL. Discussion ensued about moving the house +/-10 feet to the north and east, but this would push the house off an existing knoll and require added fill.

Commissioner Carlson commented on the steepness of the land surrounding the proposed building pad. Planner Stockman reviewed the Variance review criteria. It was also stated that a 100-foot setback Variance was issued for a property on Bass Lake a few years ago.

Planner Stockman stated that the DNR had not responded to the Variance hearing information and report that was provided in advance of both public hearing dates (the September meeting for which it had been originally noticed was canceled). The applicants were questioned about the buildings being removed. All but one building is to be removed from the property.

Commissioner Jorgensen had a question about the lake drainage which was changed from flowing south to flowing north 15+ years ago. Kreger had issues with the DNR and watershed who wanted to limit the number of additional houses that should be built around the lake. Mayor Pilon stated that the City shouldn't assume that the DNR has no comments because we haven't received anything verbally or in writing; this is disappointing. There have been too many cases where the DNR comes back later and raises issue with shoreland-related projects which can negatively affect property owners.

Mayor Pilon had concerns over the grading moving forward without approval of the Variance by the City Council. It was noted that Shane Nelson had approved the grading plan with a lowest floor elevation three feet above the highest known water level. The public hearing was closed at 7:37 PM.

Carlson recommended that we allow the applicant to use that knoll and leave the requested setback at 100 feet from OHWL. Bies concurred. Jorgensen questioned how many people actually saw the site. Ben Polgreen stated that he is building on the highest buildable part of the lot.

Commissioner Haapala had concerns over meeting the minimum action necessary to eliminate the practical difficulty. Planner Stockman stated that the Commission's job is to determine what's reasonable

***BIES MADE A MOTION TO APPROVE A 50-FOOT VARIANCE FOR 20885 ENGEN BLVD. SUBJECT TO THE CONDITIONS AS OUTLINED IN THE PLANNING REPORT and:***

- a. Planner Stockman contacts the DNR relative to their acceptance of the proposed Variance request and historic Bear Lake drainage issues/water flow, with response prior to the City Council meeting.***
- b. Planner Stockman contacts the City Attorney relative to the shared driveway and whether the City can require a recorded easement and shared easement agreement.***
- c. A demolition permit is obtained for removal of the old house.***

***Carlson seconded. All in favor, motion carried. Five ayes.***

**ITEM 2. PUBLIC HEARING: 5606 VERDE VALLEY RD; CONSIDER APPROVAL OF AN AMENDED CUP FOR THE CELL TOWER SITE FOR WHICH NEW GROUND EQUIPMENT AND UPGRADES ARE BEING PROPOSED AND FOR WHICH SCREENING/FENCING IS REQUIRED. PIN 14-33-25-44-0001.**

Planner Stockman presented the TPC Planning Report and recommended that the request be tabled until the November 22, 2022 Planning and Zoning Commission meeting by continuing the public hearing to said meeting date at 7:00PM. She stated that she'd been working with Dish Wireless and GPD Group (planning/engineering for the cell tower) since March of this year and that issues with the requested missing information and a complete application have not been addressed.

The following residents/comments were heard at the public hearing:

Craig Geisler, 5453 Verde Valley Road: Questioned whether there were new antennae going on the tower and whether there were additions such as satellite dishes or other protruding appurtenances. He also questioned whether the tower was higher than 200 feet and requires a light which would be a detriment to the neighborhood/rural area. He was in support of screening.

Ms. Xiong, 5683 Verde Valley Rd: Concerns over machinery used to make upgrades and disruption/blockage of the road and timing of project. Amount of time it will take as any work they do is very loud and travels across the road...constant pounding and any other noises, even talking, can be heard.

Ames made a motion to continue the public hearing to the November 22, 2022. Liaison Pilon interjected prior to a second being voiced so there could be additional discussion. He reiterated some of the issues and noted that the Commission could deny the request. The process would then need to start the process over again.

***The public hearing was closed at 8:17PM and CHAIR AMES RESCINDED HIS ORIGINAL MOTION AND MADE A MOTION TO DENY THE REQUESTED AMENDED CUP. SECONDED BY BIES. ALL IN FAVOR, MOTION CARRIED. FIVE AYES.***

**ITEM 3. DISCUSSION REGARDING POSSIBLE AMENDMENTS TO THE CITY CODE RELATIVE TO FENCING, SCREENING AND LANDSCAPING STANDARDS.**

Planner Stockman stated that the fencing, screening and landscaping ordinance as it is currently set up is predominantly geared toward commercial and industrial uses. There are also portions of this section which need clarification. She walked the group item by item through the proposed changes. It is important to require incorporation of the architectural standards which were just adopted.

Commissioner Bies asked if non-residential uses include agricultural as it relates to outdoor storage. Planner Stockman stated this is tough in Nowthen since we have a single zoning district allowing agriculture and residential development. The discussion continued about agricultural products, machinery and equipment being exempted from outdoor storage requirements when associated with agricultural operations which meet

the definitions in the city code. Agricultural property is defined as 20 acres or greater with the tax classification listed as Agricultural.

Outdoor storage higher than six feet necessitates added provisions for screening. The group felt that screening fences at seven feet is wise, except that it's not a standard material length. The group liked accommodating screening fences using finished metal.

The architectural committee has not been called upon for many years; the group is made up of the City Council and the City Planner. All outdoor storage requires an Interim Use Permit and needs to come before the City Council anyway. It was recommended that chain link is only permitted in the industrial areas and add metal panels (prefinished metal) in both commercial and industrial areas with upgraded posts in commercial areas.

The required bufferyard of 100 feet was questioned as excessive for some areas, especially in the commercial zones where land is valuable. It was suggested that review of the bufferyard may be reduced to 50 feet through submission of a detailed screening and landscaping plan. Bies suggested a percentage of the property size. Encouraged establishment of a linear trail/park as a screen.

Discussion began about turfgrass at a height of eight inches within manicured yard areas (bluegrass, fescue, and standard species). Native wildflowers and grasses shouldn't be within 50 feet of any structure, except cropped areas due to the fire hazard. Ditch mowing doesn't have a regular schedule and it is appreciated when residents assist by mowing ditches to maintain adequate visibility of traffic and pedestrians.

Requiring irrigation in commercial and industrial areas was not recommended.

**MOTION BY BIES, SECOND BY CARLSON TO ADJOURN. MOTION CARRIED.  
FIVE AYES.**

The meeting was adjourned at 9:27PM.

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Chairman Dale Ames

Attest:

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City Administrator Scott Lehner

May 23, 2023 – Review **PLANNING AND ZONING COMMISSION POLICY ON COMMISSION STRUCTURE, MEETING ORDER AND GENERAL PROCEDURE**

Planning and Zoning Commission Members will be asked to sign this acknowledgement at the meeting.

I have read, understand and agree to abide by the policies established for the Planning and Zoning Commission of the City of Nowthen.

\*Except in extenuating circumstances, members shall attend and participate in at least eighty (80%) of the Planning and Zoning Committee meetings each year to remain eligible for reappointment.

\*Members shall advise city staff at least 24 hours in advance of a scheduled Planning and Zoning Commission Meeting if they are unable to attend.

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Dale Ames

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Martin Bies

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Kelly Pearo

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Harold Jorgensen

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Dan Haapala

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Lars Carlson

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Jamie Lewis

**CITY OF NOWTHEN  
COUNTY OF ANOKA, MINNESOTA**

**PLANNING AND ZONING COMMISSION POLICY ON COMMISSION STRUCTURE,  
MEETING ORDER AND GENERAL PROCEDURE**

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**SECTION 1. PURPOSE**

The purpose of this Planning and Zoning Commission policy is to provide a set of operating procedures for the Planning and Zoning Commission and to facilitate adherence to the established code of conduct as referenced in Section 21 of this policy.

**SECTION 2. PLAN OF WORK**

Upon the appointment and organization of the Planning and Zoning Commission, the Commission, subject to council approval, shall exercise its powers and duties given by Minnesota Statutes 462.351 through 462.364 and conferred upon by Chapters 10 and 11 of the City Code and the performance of its duties. Subject to council approval, the plan may be revised from time to time.

**SECTION 3. ANNUAL REVIEW**

This policy shall be reviewed annually and as needed by the Planning and Zoning Commission, and any changes or amendments agreed to by a majority vote of the Commission shall be recommended to the City Council for adoption. In addition, the City Council may review this policy and adopt amendments as needed.

**SECTION 4. ANNUAL MEETINGS**

The annual meeting of the Planning and Zoning Commission shall be the first regular meeting of each year. Such meeting shall be devoted to the election of officers for the ensuing year and such other business as shall be scheduled by the Planning and Zoning Commission.

**SECTION 5. REGULAR MEETINGS**

Regular meetings of the Planning and Zoning Commission shall be held in the City Hall or other Officially Noticed location at 7:00 PM on the 4<sup>th</sup> Tuesday of each month or as publicly noted at the city offices or websites. At such meetings, the Commission may consider all matters properly brought before the Commission. A regular meeting may be cancelled or rescheduled by the Commission at a prior meeting, or by the Chairperson or the City Council. Any regular meeting falling upon a holiday shall be held on a date agreed upon by committee members at the same time and place.

## **SECTION 6. SPECIAL MEETINGS**

Special meetings of the Planning and Zoning Commission may be called by the Chairperson or Vice-Chairperson or City Council who shall designate the time, place, and purpose of the meeting. Notice of special meetings must conform to the State Open Meeting Law. Written notice thereof shall be given to all members at the same time as notice of the special meeting except in the case of an emergency.

## **SECTION 7. QUORUM**

For any meeting to be called to order, a quorum (one over half) of appointed members must be present (See Appendix 1). A quorum must be kept during the entire meeting for action to be taken on any matter before the Commission.

## **SECTION 8. MEETINGS AND THE OPEN MEETING LAW**

In accordance with the Minnesota Open Meeting Law (Minnesota Statute Chapter 13D), all official meetings of the Planning and Zoning Commission shall be open to the public. An "official" Planning and Zoning Commission meeting is any gathering, or simultaneous communication (via email, telephone or otherwise), between a quorum of Commission members for the purpose of considering the public business of the Planning and Zoning Commission. Informal gatherings and communications such as site visits and conference telephone calls, therefore, may constitute an official meeting. The Planning and Zoning Commission may exclude the public from its meeting only in certain very limited cases identified in the Open Meeting Law. (See Appendix 1)

## **SECTION 9. VOTING AND RECOMMENDATIONS**

At all meetings of the Planning and Zoning Commission, each member attending, except for the City Council non-voting ex -officio liaison member, shall be entitled to cast one vote on matters before the Planning and Zoning Commission. In the event that any member has a conflict of interest, as determined by the City Attorney, concerning a matter then before the Commission, he/she shall disclose his/her interest and disqualify him/herself from voting upon the matter, and the secretary shall so record in the minutes that no vote was cast by such member. The majority vote of all present and voting members shall be necessary for the adoption of any resolution or other voting matter. The results of any vote shall be recorded, listing the identity of the person who made and seconded the motion, and the record of the vote on the motion (identifying the vote count and, unless the vote was unanimous, the names of those voting for or against the motion).

All recommendations shall be sent to the City Council by means of written reports, minutes and Findings and Fact, and shall include the record of the division of votes on each recommendation.



## **SECTION 10. REGULAR PROCEEDINGS**

- A. At any regular meeting of the Planning and Zoning Commission, the following regular order of business shall be observed:
1. The Pledge of Allegiance
  2. Roll Call
  3. Meeting Policy read
  4. Approve/Amend Meeting Agenda
  5. Approve/Amend Meeting Minutes of the Preceding Meetings
  6. Public Hearings
  7. Other Business
  8. Old/New Business (if applicable)
  9. Adjournment
- B. The order of business may be varied by City Staff or the presiding officer, but no public hearings shall commence or be held at an earlier time than specified in the notice of hearing.
- C. The following procedures will normally be observed for matters before the Planning and Zoning Commission, except for public hearings which follow the procedures detailed in Section 14; however, they may be rearranged by the City Staff or the Chairperson for individual items if necessary for the expeditious conduct of business:
1. Staff presents report and makes recommendation (if any).
  2. Applicant provides a report
  3. The Planning and Zoning Commission members may ask questions regarding the staff presentation and report (if any).
  4. Public's opportunity for comment.
  5. Applicant makes rebuttal of any points not previously covered (if any).
  6. Planning and Zoning Commission asks any questions it may have of all parties and then acts or defers the vote to a date certain.
- D. Each formal action of the Planning and Zoning Commission required by law, rules, regulations, or policy shall be embodied in a formal vote duly entered in full upon the Minute Book after an affirmative vote as provided in Section 5 hereof and need be accompanied by written findings of facts, whereas originals are filed at the City offices.
- E. Unless agreed to by a majority vote of the Planning and Zoning Commission members in attendance at the meeting, no new agenda item shall be taken up after 9:15 p.m.

## **SECTION 11. AGENDA AND DEADLINE FOR AGENDA**

- A. **Purpose.** The agenda of a Planning and Zoning Commission meeting serves two important functions: 1) It focuses Planning and Zoning Commission deliberations by determining what matters will be considered at the meeting, when each matter will be considered, and the context in which each matter will be considered; and 2) It serves as the public's guide to what will be considered at the meeting, how the matter be dealt with, who will participate in the discussion, and when public comment may be made. The agenda should be prepared to best achieve these functions.
- B. **Deadlines.** The agenda shall be prepared by City Staff and closed for additional agenda items by the end of the day on the first Tuesday of each month. The Commission members and City Councilmembers will receive copies of the public hearing notice including those noticed at the same time they are received by the public. Development site signs shall be erected at the same time.
- C. **Submissions.** Any Planning and Zoning Commission member can place an item on the agenda by requesting the City Staff responsible for agenda preparation no later than the first Tuesday of the month prior to the meeting. No item shall be placed on the agenda unless the item is expressed in such a way as to clearly show the subject matter involved.
- D. **Agenda Additions During Regular Meetings.** Additional items may be added or removed from the agenda at a Planning and Zoning Commission meeting subject to approval by a majority vote of the members present and voting. The additional agenda items may be discussed, but no action may be taken if any member objects.
1. If a new item of business proposed to be added to the agenda requires staff review (such as rezonings, ordinance amendments, preliminary subdivision plans, and subdivision review procedures and guidelines), involves quasi-judicial procedures (such as a request for a hardship variance from Subdivision or Zoning Ordinance standards), or involves substantive matters of potential public interest (such as the Comprehensive Plan, or other major policies), the Commission may add the item to the agenda only for purposes of referring it to the staff or a Commission committee, or scheduling it for consideration at a later meeting (as appropriate). **The Commission may not discuss the substance of the matter or take any action on the item except at an open meeting where the item, the RCA and supporting documents are included as part of the distributed agenda and all timeframes and process have been completed.**
- E. **Delivery of Agenda Packet to Members.** At least six calendar days before the meeting, the City Staff shall provide each Commission member a paper and/or electronic meeting agenda packet including all materials related to items on the agenda (e.g., petition, application, plans, staff report, written comments received).

- F. **Order and Form of the Agenda.** The agenda organization shall conform to Section 10 above. In addition, the agenda shall organize matters to be addressed at the meeting to best promote opportunities for effective public input and the timely and efficient performance of Planning and Zoning Commission responsibilities. Items of business likely to attract the attendance of many interested persons (such as those involving notice to adjoining property owners and those involving other public notice) should be placed early on the agenda to minimize the time citizens must wait for consideration of the item.

## **SECTION 12. MINUTES**

- A. **Purpose.** The minutes of the Planning and Zoning Commission's meetings represent the official record of the Commission's deliberations and actions. As such, they record the Planning and Zoning Commission's vote on actions and the reasons for the vote.

The minutes also communicate background on the Planning and Zoning Commission's recommendations to the City Council, provide perspective on issues, and provide a historical record of Commission proceedings. Furthermore, state law requires the Commission to keep full and accurate minutes of all official meetings, and requires that those minutes be retained permanently and be available for public inspection by any person requesting.

- B. **Duties of Staff Preparing Minutes.** City Staff shall prepare minutes of all Planning and Zoning Commission meetings. The minutes shall state:
1. Which members were present and absent by name. Members arriving late or leaving early shall be so noted.
  2. A summary of staff and committee reports and recommendations, applicants' presentations, public comments, and the Planning and Zoning Commission's discussion on each item.
  3. The content of each principal motion before the Planning and Zoning Commission, the identity of the person who made and seconded the motion, and the record of the vote on the motion (identifying the vote count and, unless the vote was unanimous, the names of those voting for or against the motion). If the motion called for or recommended adoption of an ordinance or resolution, or the acceptance of a report, the official copies of such documents will be maintained in the files located at the city offices.

## **SECTION 13. RULES OF PROCEDURE FOR PLANNING AND ZONING COMMISSION MEETINGS**

All meetings of the Planning and Zoning Commission shall be conducted in accordance with the Minnesota Mayors Association Rules of Order. (See Appendix 2)

## **SECTION 14. PUBLIC HEARINGS**

- A. A public hearing is a noticed, official meeting, the express and limited purpose of which is to provide an equitable opportunity for the public to address matters before the Planning and Zoning Commission.
- B. For certain matters considered by the Planning and Zoning Commission, a requirement that the Planning and Zoning Commission conduct a public hearing is prescribed by State Statute, the City's Code of Ordinances or by City Policy. The Planning and Zoning Commission, however, may elect to conduct a public hearing, although not specifically required, if the Planning and Zoning Commission determines such action is advisable due to the unique nature of the matter. In all such instances the Planning and Zoning Commission will consider the precedence created by such action.
- C. The Planning and Zoning Commission may neither deliberate nor take a vote during a public hearing but may ask questions of anyone present.
- D. The Planning and Zoning Commission, upon resuming their regular meeting after the closure of the public hearing, may act upon the matter discussed at the public hearing.
- E. **Conduct of Persons Before the Planning and Zoning Commission**
  - 1. During all public hearings required by State law or ordinance, members of the public shall be given reasonable opportunity to speak. To promote meeting efficiency, the Chair may discourage duplicative testimony and may place reasonable but equal time limits on the amount of time that individuals must speak. Comments should be addressed to the item before the Planning and Zoning Commission. Where a comment is irrelevant, inflammatory, disruptive, or prejudicial, the Chair may instruct the Planning and Zoning Commission to "disregard" the comment, which nevertheless remains in the public record.
  - 2. During all regular and special meetings of the Planning and Zoning Commission, the public may be present but shall remain silent unless specifically invited by the Chair to provide comment.
    - 1. During all proceedings, members of the public have the obligation to remain in civil order. Any conduct which interferes with reasonable rights of another to provide comment or which interferes with the proper execution of Commission affairs may be ruled by the Chair as "out-of-order" and the offending person directed to remain silent. Once, having been so directed, if a person persists in disruptive conduct, the Chair may order the person to leave the Planning and Zoning Commission meeting or hearing. Where the person fails to comply with an order to leave, the Chair may then call upon civil authority to physically remove the individual from the chamber for the

duration of the hearing or deliberation on that item.

4. The Chairperson of the Planning and Zoning Commission may impose additional limits or rules upon members of the public as permitted by Section 16.

**F. Additional Rules of Procedure for Public Hearings**

1. **Public Hearing Format.** Public hearings shall be conducted in the following manner:
  - a. The presiding officer calls the public hearing to order and declares the time of opening.
  - b. It is the intent of the Planning and Zoning Commission to open all public hearings at the predetermined and published time. From a practical standpoint, not all hearings can be opened at their designated time. The presiding officer may delay the start of a hearing until the business at hand is acted upon, in any manner, by the Planning and Zoning Commission. However, in no circumstances can a hearing be opened prior to the predetermined and published time.
  - c. The presiding officer shall read, from the hearing notice, the details on the hearing sufficient to provide the public a general understanding of the purpose and procedures for the hearing, and the fact that the hearing is their exclusive or primary opportunity to provide input to the city on the subject.
  - d. Staff and/or a consultant make a presentation or report on the subject matter for the hearing.
  - e. The applicant (if any) may make a presentation or report on the subject matter for the hearing.
  - f. The presiding officer asks Planning and Zoning Commission members if they have questions of the staff, consultant, or applicant, if any.
  - g. The presiding officer announces that input will be received from the citizens, requesting that each speaker provide a name and address, noting any applicable time limits for comment from individual members of the public, any other applicable rules and explaining the procedure for enforcement of such rules.
  - h. After members of the public have spoken the presiding officer requests one of the following:
    - i. Close the public hearing, or

- ii. Continue a public hearing. If the Planning and Zoning Commission votes to continue the hearing, the presiding officer shall, in consultation with City Staff, select and announce a time and date certain for the continued public hearing. No additional publication or notice requirements are needed if a hearing is continued to a later date. However, no public hearing may be continued more than once without re-noticing and publishing the time, date, and location of the hearing.
- i. The Planning and Zoning Commission addresses the subject matter through deliberation, questions to citizens and staff, and reactions and statement of position on the subject.
- j. If the public hearing is closed, the Planning and Zoning Commission may act on the application before them. The Commission may formulate a recommendation which outlines the parameters under which an approval would be granted. The reasons and conditions shall be stated in the motion or resolution for approval or denial. Continuation of an action may occur in the event insufficient information is present to decide. The Planning and Zoning Commission shall delineate the missing information before continuing the item.

## **SECTION 15. OFFICERS AND MEMBERS**

The officers of the Planning and Zoning Commission shall consist of a Chairperson, a Vice-Chairperson. In the absence of the Chair and Vice-Chair, the remaining members shall elect a Temporary Chair for that respective meeting.

- A. Members shall serve three (3) year overlapping terms with one-third (1/3) being appointed each January.
- B. Members shall be residents of the City throughout the term of their term.
- C. Except in extenuating circumstances, members shall attend and participate in at least eighty (80%) of the Planning and Zoning Committee meetings each year to remain eligible for reappointment.
- D. Members shall advise city staff at least 24 hours in advance of a scheduled Planning and Zoning Commission Meeting if they are unable to attend.

## **SECTION 16. DUTIES OF OFFICERS**

The Chair is a voting member of the Planning and Zoning Commission and may make motions. In addition, the duties and powers of the officers of the Planning and Zoning Commission shall be as follows:

### A. Chairperson

1. To preside at all meetings of the Commission.
2. To call special meetings of the Planning and Zoning Commission in accordance with these bylaws.
3. To sign documents of the Commission.
4. To see that all actions of the Commission are properly taken.
5. To cancel or postpone any regularly scheduled meetings.
6. To invoke a reasonable time limit for speakers during any public hearing in the interest of maintaining focus and the effective use of time.
7. To provide for the selection of one or two spokespersons to represent groups of persons with common interests during public meetings and hearings.
8. To order an end to disorderly conduct and direct law enforcement to remove disorderly persons from Planning and Zoning Commission meetings or hearings.
9. To schedule a second official public hearing, meeting, or other continued meeting if a meeting or public hearing cannot be concluded by a reasonable hour in the judgment of the Chairperson.
10. The presiding officer has the responsibility to facilitate discussion by the Planning and Zoning Commission. This may occur in a variety of ways, including:
  - a. Interpret and apply rules of procedure.
  - b. Decide whether motions are properly made.
  - c. Decide whether motions are in order.
  - d. Decide whether questions of special privilege ought to be granted.
  - e. Decide when to recognize speakers.
  - f. Call for motions or recommend motions.
  - g. Expel disorderly persons from the meeting.
  - h. Enforce speaking procedures.

- B. **Vice-Chairperson.** During the absence, disability or disqualification of the Chairperson, the Vice-Chairperson shall exercise or perform all the duties and be subject to all the responsibilities of the Chairperson.
- C. Administrative duties to be delegated to City Staff.
  - 1. To give or serve all notices required by law or by these bylaws.
  - 2. To prepare the agenda for all meetings of the Commission.
  - 3. To be custodian of Commission records.
  - 4. To inform the Commission of correspondence relating to business of the Commission and to attend to such correspondence.
  - 5. To handle funds allocated to the Commission in accordance with its directives, the law and city regulations.
  - 6. To take the minutes of all meetings of the Commission for typing and filing into the appropriate minute book by City Staff.
  - 7. To sign official documents of the Commission and other duties as required.

## **SECTION 17. VACANCIES**

If a vacancy occurs among the members of this Planning and Zoning Commission by reason of death, resignation, disability or otherwise, notice shall be given to the City Clerk and Chairperson by the affected member. City staff shall then advise City Council of the opening and upon Council approval, follow the guidelines for filling the vacancy.

## **SECTION 18. AMENDMENTS**

This policy on rules of procedure may be amended at any meeting of the Planning and Zoning Commission if notice of said proposed amendment is given to each member in writing at least six (6) calendar days prior to said meeting. All amendments are subject to City Council review and approval before they take effect.

## **SECTION 19. COMMITTEES**

- A. The Chair may appoint ad hoc committees unless the Commission or City Council shall otherwise direct. The Chair shall be an additional voting member of all committees. The Chair may appoint a Planning and Zoning Commission member to chair each ad hoc committee.
- B. Committees shall normally consist of not more than three Planning and Zoning Commissioners including the Chair.
- C. The majority of members of any committee shall constitute a quorum of such committee. If a quorum is not present at a meeting, the members present may prepare reports and submit them to the Planning and Zoning Commission on behalf of the committee, in which case the report shall name the committee members who prepared it.



- D. Nothing in the foregoing shall be construed as waiving the ability of the Planning and Zoning Commission at any time to increase or curtail the duties of any committee and/or to direct or control its actions.

## **SECTION 20. COMPENSATION**

Each Commission member shall receive \$20.00 for each regularly scheduled or special meeting.

## **SECTION 21. CODE OF CONDUCT**

The Planning Commission shall adhere to the Code of Conduct as follows:

### **A. Purpose**

To establish a code of conduct and associated remedies that Commission members agree to abide by in carrying out their duties as appointed officials. This code of conduct does not supersede any existing or future statutory or constitutional rights, but simply outlines appropriate Commission expectations, behavior and interactions with each other, city staff, citizens and all other groups encountered because of city business, so as to efficiently and effectively develop and carry out the mission, vision, goals and established policies of the city.

### **B. Roles/Responsibilities**

1. **Meetings** – The chairperson presides over meetings of the Planning and Zoning Commission. Speakers, including Commission members, do not speak until recognized by the chairperson.
2. **Fiduciary Responsibilities** – Recognizing that service to our citizens must be our primary concern; Commission members shall work for the common good of the people of Nowthen and not for any private or personal interest. Commission members will treat all persons, claims and transactions in a fair and equitable manner.
3. **Preparation** – Commission members are expected to be prepared for Commission meetings and work sessions including becoming familiar with all distributed materials, visiting the sites, and preparing questions and observations to share at the meeting.
4. **Agenda Preparation** – The city clerk directs preparation of draft meeting agendas. The final agenda is determined by the city clerk prior to the meeting. At the Commission meeting, agenda items may be added or deleted by Commission members through a majority vote.
5. **Knowledge** – Members are expected to be familiar with this policy, the city zoning ordinance and comprehensive plan.

## C. Conduct of Members

1. **Staff Direction** – The Commission is only a recommending body and shall only make a recommendation to the city council to direct staff, contract employees and consultants. The mayor and city council members then may direct city staff, contract employees and consultants only through the city clerk, as determined by majority vote.
2. **Respect for Staff Time** – If a Commission member is utilizing an inordinate amount of staff time, the city clerk is required to bring this to the attention of the city council for resolution.
3. **Interactions** – Commission members shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other members of the city council, boards, Commissions, committees, staff, or the public.
4. **Respect for Process** – Commission member duties shall be performed in accordance with the processes and rules of order established by the city council.
5. **Use of Public Resources** – Public resources not available to the public (e.g., city staff time, equipment, supplies or facilities) shall not be used by Commission members for private, personal, or political purposes.
6. **Advocacy** – To the best of their ability, Commission members shall speak with one voice in representing the official policies and positions of the Commission. When presenting their personal opinions or positions, members shall explicitly state that they do not represent the Commission or the city.
7. **Improper Influence** – Commission members shall refrain from using their position to improperly influence the deliberations or decisions of city staff, boards, commissions, or committees.
8. **Positive Work Environment** – Commission members shall support a positive, efficient, and effective environment for residents, businesses, and city employees.
9. **Steward of City Funds** – When the end of a Commission member's service on the Planning and Zoning has been determined by means of not being reappointed or resignation, that Commission member shall not subject the city to unnecessary trainings and mileage.

## D. Communication

1. **Sharing of Information** – It is the responsibility of Commission members to publicly share information with all other Commission members that they have received from sources outside of the public decision-making process, which pertains to a topic under consideration. Whenever possible, new information or data obtained by Commission members, pertinent to a topic being discussed, will be distributed through the city staff to the Commission members. Upon reviewing the “new information” the Commission may adopt a motion to postpone further consideration of the information until all members have had time to review and interpret this new information.
2. **Focused Discussions** – Commission members shall work to keep discussions and debates focused on the item under discussion without introducing extraneous or irrelevant information.
3. **Request for Information-** All Commission members shall receive the same information at the same time when deemed ready for distribution by staff. If a Commission member requests information in advance of others on the Commission, the matter shall be resolved by most of the Commission.
4. **Coordination with City Staff** – City staff should be involved when Commission members meet with officials from other agencies and jurisdictions to ensure proper staff support as needed and to keep staff appropriately informed.
5. **Citizen Questions** – Commission members should refer questions and concerns from citizens to the city clerk or appropriate department director. City staff should report back to the city council on the resolution of the referral.
6. **Confidential Information** – Commission members shall respect and preserve the confidentiality of non-public, protected non-public, private, and confidential information provided to them concerning matters of the city. They shall neither disclose confidential information without proper legal authorization nor use such information to advance their personal, financial, or private interests.
7. **Notice of Attendance** – If any Commission member has knowledge or reason to believe that there will be a large or emotional attendance at an upcoming Commission meeting or work session, they have an obligation to inform the city clerk as soon as they become aware of the potential situation.

**E. Implementation**

1. **Orientation** – This Code of Conduct shall be included in the regular orientations for new Commission members.
2. **Compliance and Enforcement** – Commission members themselves have the primary responsibility to assure that the code of conduct is understood and followed and that the public can continue to have full confidence in the integrity of the Nowthen city government.

**F. Remedies.** It is the responsibility of the Commission members to police its members. When inappropriate behaviors are observed, the chair and Mayor are to meet with the member. Based upon the findings from the meeting, Commission if inappropriate behavior is observed, the City Council will discuss the behavior at a City Council work session. By direction of the City Council, it will be determined whether:

1. A letter is sent to the offending Commission member stating that they have been found operating outside the established code of conduct, requesting them to correct the behavior identified as inappropriate; or
2. The Commission member is formally sanctioned or removed from the Commission by resolution at a City Council meeting.

ADOPTED this 14th day of April 2022

\_\_\_\_\_  
Mayor Jeff Pilon

ATTEST:

\_\_\_\_\_  
Interim City Administrator Frank Boyles



3601 Thurston Avenue  
Anoka, MN 55303  
763.231.5840  
TPC@PlanningCo.com

## **PLANNING REPORT**

**TO:** Nowthen Mayor & City Council  
Nowthen Planning & Zoning Commission

**FROM:** Elizabeth Stockman

**DATE:** May 15, 2023

**RE:** Nowthen – Newport Cardens LLC 20088 Ferret Street  
IUP for Used Auto Sales PID 20-33-25-41-0010

**TPC FILE:** 122.02 – 23.02

## **BACKGROUND**

Justin Sundell and Chris Zoerb of Newport Leasing Group LLC and Newport Cardens LLC have made application for an Interim Use Permit to allow used auto sales on this existing, developed property located at 20088 Ferret Street. The applicants wish to keep the collector vehicle sales separate from the truck sales and leasing operation approved in 2018. The property is located within the I-1, Industrial Zoning District.

A public hearing was noticed for the May 23, 2023 Planning and Zoning Commission meeting. Notices were mailed to property owners within 1500 feet of the property.

## **LIST OF EXHIBITS**

Exhibit A IUP Application (3 pgs.)  
Exhibit B Letter of Intent (3 pgs.)  
Exhibit C Consultant Fee Acknowledgement (2 pgs.)  
Exhibit D Existing Dealer License  
Exhibit E Proof of Public Notice  
Exhibit F Site Location Map  
Exhibit G Aerial Photo  
Exhibit H Site Plan  
Exhibit I Findings of Fact

## PLAN REVIEW

**Zoning.** The subject site is zoned I-1, Industrial. Auto sales is allowed as a principal or accessory use through approval of an IUP provided it meets the established criteria identified herein.

**Comprehensive Plan.** The City Council shall review the interim use application against the goals and policies set forth in the Nowthen Comprehensive Plan. The property is guided as Commercial/Industrial through the year 2040.

**Interim Use Permit.** In considering a new Interim Use Permit, the City Council may impose, in addition to the standards and requirements specified in the Zoning Ordinance, additional conditions which they consider necessary to protect the best interest of the surrounding area or the City as a whole. These conditions may include, but are not limited to, the following:

1. Limiting the height, size, or location of buildings. **NA**
2. Controlling the location and number of vehicle access points. **NA**
3. Providing for a sufficient number of off-street parking spaces. **See below.**
4. Limiting the number, size, location, or lighting of signs. **No new signs proposed.**
5. Requiring diking, fencing, screening, landscaping, or other facilities to protect adjacent or nearby property.

**Note: The site contains existing landscaping in the form of a 130-foot buffer along the north side of the property with 6 or 7 deciduous trees between the building and pond. There are evergreens along the south and west sides. The parking lot is setback 105 feet from the edge of Ferret Street. The City may require additional fencing, screening or landscaping if deemed necessary.**

**Outdoor Sales Area IUP.** Outdoor auto sales is allowed as a principal or accessory use within the I-1 District through approval of an IUP provided that:

1. Outside sales areas are fenced or screened from view of neighboring residential uses or an abutting residential district.

***Comment: The City Council shall make a decision regarding the acceptability of existing screening and fencing.***

2. The sales area is surfaced with asphalt, concrete or pavers to control dust.

***Comment: Compliant.***

3. The use does not take up parking space as required by the Zoning Ordinance.

***Comment: Proof of parking from the last four years shows the existing lot is not at capacity and able to accommodate the designation of five used autos, even though it's been noted that there will likely never be that many on site at all, much less at one time.***

**Parking & Access.** Access to the property has been established as will not change. The State requires that five (5) parking spaces be designated to accommodate vehicle parking, although the spaces will rarely, if ever, be used as Newport Cardens LLC will be operated like Newport Leasing Group LLC, where the vast majority of sales/transfer occurs off site.

The property currently contains 15 parking spaces, 7 of which are double deep allowing up to 22 cars to be parked. The 45x70 structure generates the requirement for 16 spaces based on the 1 space per 200 square feet ratio for office uses. In looking at the aerial photos back through 2018, the parking lot has never been at capacity and can accommodate the designation of 5 used auto sales stalls.

**May 2, 2023**



**September 11, 2022**



**April 27, 2022**



### **CONCLUSION & POSSIBLE MOTIONS**

Approval of the Interim Use Permit for the Newport Leasing/Newport Cardens property within the I-1, Industrial District is a decision to be made by the City Council. The existing commercial business operation is generally compatible with the underlying zoning and in conformance with Zoning Ordinance requirements.

- Motion to approve the Interim Use Permit to allow used auto sales based on consistency with Comprehensive Plan and Zoning Ordinance regulations, and subject to the conditions (as may be amended) attached in the findings of fact.
- Motion to deny the application based on a finding that the request is inconsistent with the Comprehensive Plan or Zoning Ordinance.
- Motion to table/continue the public hearing until the following meeting.

c: Scott Lehner, City Administrator  
Bob Ruppe, City Attorney  
Natalie Johnson, Deputy Clerk  
Donna Ogdahl, Admin. Asst.  
Madeline Greenberg, Admin. Asst.  
Justin Sundell and Chris Zoerb, Applicants



**Who must have a dealer license?**

- Anyone engaged in the business of leasing, selling or arranging the sale of motor vehicles (new or used)
- Anyone who has leased or sold more than five vehicles, wholesale or retail, in a twelve month period
- Anyone in the business of selling used vehicle parts, or processing and selling scrap metals acquired from vehicles
- Anyone who conducts consignment sales or arranges sales or leases

**State Requirements:**

- Any type of dealership is considered a commercial operation. Consequently, dealerships are required to be in a commercial location.
- In agricultural and industrial areas, zoning officials may consider issuing special use permits for a commercial operation.
- A zoning verification form is completed upon approval of the IUP and submitted to the State DVS.

**Used Vehicle Dealer:**

- Sell, lease, wholesale, broker, or auction used motor vehicles
- Solicit and advertise the sale, lease, wholesale, broker or auction of used motor vehicles
- Buy or acquire vehicles for dismantling and to sell used parts and remaining scrap metal. However, a used vehicle parts dealer license is required to acquire a junked vehicle from a salvage pool, insurance company, or its agent.

**What is a Used Vehicle?**

Before a motor vehicle is considered used, the following criteria must be met: A certificate of title must be issued for the vehicle. The vehicle must be licensed with full registration tax paid.

Motor vehicle sales tax must be paid, or sales tax paid on a lease of at least 120 days.

The vehicle must be placed in actual operation; sold to a retail buyer and not held for resale by a dealer.

If a new or used motor vehicle dealer buys a new vehicle that they are not franchised to sell, they must title the vehicle in their dealership name. Full registration tax and sales tax on the vehicle's purchase price must be paid. The dealer is then entitled to use their demonstration plates on the vehicle.

**Commercial Building**

A permanent, enclosed building that is on a permanent foundation, connected to local sewer and water facilities, or otherwise complying with local sanitary codes, adapted to commercial use and conforming to local government zoning requirements. This may include strip office malls or garages if a separate entrance and a separate address is maintained and the dealership is clearly identified as a separate business.



CONDITIONAL & INTERIM USE PERMITS

8188 199TH AVENUE NW, NOWTHEN, MN 55330  
(763) 441-1347

RETURN TO: PERMITS@NOWTHENMN.NET

<input type="checkbox"/> <b>CONDITIONAL USE PERMIT</b> <input checked="" type="checkbox"/> <b>INTERIM USE PERMIT</b>	<p>***FOR OFFICE USE ONLY *** FOR OFFICE USE ONLY***</p> <p>Date Application Received: <u>4-28-23</u></p> <p>Date Application Complete: _____  <small>(60-day review period starts from this date)</small></p> <p>Public Hearing Date: <u>5-23-23</u></p> <p>City Council Approval/Denial Date: <u>6-13-23</u></p> <p>60-Day Review Period Ends: _____</p> <p>60-Day Extension: <input type="checkbox"/> Yes <input type="checkbox"/> No Expires On: _____</p> <p>Received By: <u>Liz Stockman</u></p>
	<p>Base Fee: \$200  Escrow: \$1,000  Public Hearing Fee: \$250  Recording Fee: \$30  <b>Total Amt. Due: \$1,480</b></p> <p>Amt. Paid: <u>\$1,480</u></p> <p>CC/Check# _____</p>

Property Information

Street Address: 20088 Ferret St NW, Nowthen MN 55330

Property Identification Number (PIN#): 20-33-25-41-0010

Legal Description (Attach full description of Metes & Bounds if necessary):

Lot 1 Block 2 Burns Town Center

Type of Business or Use Requested: Used Auto Sales IUP in established business

Zoning Designation: I-1, Industrial

Applicant Information

Name(s): Chris Zoerb

Business Name: Newport Gardens LLC

Mailing Address: 20088 Ferret St NW, STE 3

City: Nowthen State: MN Zip Code: 55330

Cell Phone: 763-234-2058 Alternate Phone: \_\_\_\_\_

e-mail: chriszoerb@gmail.com

**Property Owner Information (If other than applicant):**

Name: Chris Zoerb Business Name: Newport Land Group  
Mailing Address: 20088 Ferret St NW  
City: Nowthen State: MN Zip Code: 55330  
Cell Phone: 763-234-2058 Alternate Phone: \_\_\_\_\_  
e-mail: chriszoerb@gmail.com

**Description of Request (attach additional sheets as necessary)**

Existing Use of Property: Headquarters for our wholesale division  
Description of Proposed Use: We will use this location to handle  
paperwork for this venture.  
Reason(s) to Approve Request: We already have a dealer license but  
we would like to keep these two ventures separate.

**Please describe any previous applications pertaining to the subject site:**

Project Name: \_\_\_\_\_ Date of Application: \_\_\_\_\_  
Nature of Previous Request: \_\_\_\_\_

**Existing Building Sizes:**

**RESIDENTIAL LOTS:** House (main floor/footprint of living area): \_\_\_\_\_ SF  
Garage 1: \_\_\_\_\_ SF(attached/detached?) Garage 2: \_\_\_\_\_ SF(attached/detached?)  
**COMMERCIAL/INDUSTRIAL LOTS:** Main Building(s): \_\_\_\_\_ SF \_\_\_\_\_ SF  
Office Area: \_\_\_\_\_ SF; Warehouse/Storage: \_\_\_\_\_ SF; Manufacturing: \_\_\_\_\_ SF  
**ALL LOTS:**  
Accessory Buildings: (type/size) \_\_\_\_\_ / \_\_\_\_\_ SF: \_\_\_\_\_ / \_\_\_\_\_ SF  
\_\_\_\_\_ / \_\_\_\_\_ SF: \_\_\_\_\_ / \_\_\_\_\_ SF: \_\_\_\_\_ / \_\_\_\_\_ SF

**APPLICATION FEES AND EXPENSES:** We the applicant and undersigned property owner agree to provide to the City, in cash or certified check, for deposit in an escrow fund, the amount of \$ 1,000 as partial payment for all fees and estimated future City administrative, planning, legal and engineering fees incurred in processing this request. If the escrow amount is depleted, I agree to furnish additional monies as requested by the City within 10 days of such request. I understand that any amounts not utilized from this escrow fund shall be returned to me, without interest, when all financial obligations to the City have been satisfied. All fees and expenses are due whether the application is approved or denied.

I understand and agree that all City-incurred professional fees and expenses associated with the processing of this request and enforcing the terms of this agreement including, but not limited to, attorney's fees are my responsibility as the property owner and will be promptly paid by myself upon billing by the City in the event the escrow fund is depleted. I further understand and agree that as the property owner I must make said payment within 10 days of the date of the invoice. Bills not paid within the 10 days of request for payment by the City shall accrue interest at the rate of 6% per year. Further, if I fail to pay said amounts when due, then the City may certify such costs against any property owned by me within the City limits for collection with the real estate taxes and/or take necessary legal action to recover such costs and I agree that the City shall be entitled to attorney's fees and other costs incurred by the City as a result of such legal action. I knowingly and voluntarily waive all rights to appeal said certification of such expenses against my property under any applicable Minnesota Statutes.

Applicant: Chris Zoerb (May 4, 2023 21:08 CDT) Date: \_\_\_\_\_  
Property Owner: Justin Sundell (May 4, 2023 21:41 CDT) Date: \_\_\_\_\_

I, the undersigned, hereby apply for the considerations described above and declare that the information and materials submitted in support of this application are in compliance with adopted City policy and ordinance requirements and are complete to the best of my knowledge.

I understand that this application will be processed in accordance with established City review procedures and Minnesota Statutes 15.99 at such time as it is determined to be complete. Pursuant to Minnesota Statutes 15.99, the City will notify the applicant within fifteen (15) days from the filing date of any incomplete or other information necessary to complete the application. Failure on my part to supply all necessary information as requested by the City may be cause for denying this application.

Signature of Applicant: Chris Zoerb (May 4, 2023 21:08 CDT) Date: \_\_\_\_\_  
Signature of Property Owner: Justin Sundell (May 4, 2023 21:41 CDT) Date: \_\_\_\_\_  
Signature of Property Owner: \_\_\_\_\_ Date: \_\_\_\_\_  
Signature of Property Owner: \_\_\_\_\_ Date: \_\_\_\_\_



**LETTER OF INTENT  
(TO BE COMPLETED FOR ALL CUPs AND IUPs)**

**8188 199TH AVENUE NW, NOWTHEN, MN 55330  
(763) 441-1347**

**RETURN TO: PERMITS@NOWTHENMN.NET**

Name of Applicant(s): Newport Gardens LLC

Address of Property: 20088 Ferret St NW, STE 3 Nowthen, mn 55330

Home Phone No: \_\_\_\_\_ Mobile No: 763-234-2058

What type of business is proposed on this property? We would like to obtain a dealer's license to sell classic vehicles.

We would like to keep separate venture from our Wholesale Dis.

Is this business currently being operated on this property? \_\_\_\_\_ Yes  No

If yes, for how long? \_\_\_\_\_

Has a Conditional Use Permit or Interim Use Permit ever been approved for this business or property? If so, when? Yes - TEMG - Newport (attach a copy if you have one)

What will be the days and hours of operation: M-F 8-5

Number of proposed employees? 0 Full time 0 Part time

**Traffic Impacts:**

- a) Do you live on a  paved or \_\_\_\_\_ gravel road?
- b) How many access points/driveway entrances do you have onto the adjacent roadway(s)? 1
- c) How many times during an average week will you have pickups or deliveries to or from the property? 0

- d) Please describe the type(s) of trucks making deliveries (UPS, box truck, semi-truck, etc) and what is being transported (type of merchandise, refuse, scrap lumber, etc) Nothing besides regular Post office
- 
- e) How are the trucks unloaded? (ie: pallets are removed with a fork lift, boxes are removed by hand) N/A
- 
- f) How many customers, clients or business related visitors do you expect to have in a typical week? 1 per Month
- 
- g) Is there space for trucks and cars to park and turn around on the property or is it necessary that they stop on the street? Yes
- 

**Effects your business may have upon neighboring properties:**

- a) Does your business generate any noises or vibrations?  Yes  No
- b) If yes, from what? \_\_\_\_\_
- 
- c) Can the noise be heard from outside the building? \_\_\_\_\_
- 
- d) Does the business generate any odors, smoke, or fumes?  Yes  No
- If yes, please explain \_\_\_\_\_

**Storage of Materials:**

- a) Do you have any material(s) on site that may be classified as toxic or hazardous?  Yes  No
- b) Do you have material(s) on site that could be explosive?  Yes  No
- c) If you answered yes to either (a) or (b) above, identify the material(s): \_\_\_\_\_
-

d) Please list any materials or equipment that will be stored within an accessory structure on the property. *Note: The storage of business materials and equipment may not take up garage space otherwise intended for the parking of vehicles.* \_\_\_\_\_  
\_\_\_\_\_

e) Please list any materials or equipment that will be stored outside and where on the property it will be stored: \_\_\_\_\_  
\_\_\_\_\_

**Accessory Structures:**

- a). What is the size of your property?  
\_\_\_\_\_ Acres \_\_\_\_\_ Feet of Street Frontage, if known
- b). How large is the principal structure (residence)? \_\_\_\_\_ Square Feet
- c). How many accessory structures exist on the property? 1 shed 10' x 12'
- d). List all accessory structures by type and size (i.e. detached garages, barns, pole buildings, sheds, free-standing decks/screen porches, etc.)  
\_\_\_\_\_  
\_\_\_\_\_

**Site Inspection:**

- a) Please list the name and phone number of someone who can be considered a contact person. A city staff member will call to arrange for a site review visit.  
Chris Zoub 763-234-2058
- b) Please state a convenient day and time for a site review visit.  
M-F 8-5

**Signs:** Do you intend to place a sign on the property which identifies the business?

       Yes    X No    Commercially zoned properties should contact City Hall regarding sign regulations for specific land uses.

For residentially zoned property, you must include a colored drawing of the sign that indicates how it will be constructed and installed. The sign may not exceed twelve (12) square feet in total area (a two-sided sign is limited to six (6) square feet per side).

**CITY OF NOWTHEN**  
**SIGNED ACCEPTANCE AND NON-RELIANCE STATEMENT**

I, on behalf of Newport Cardens LLC/Justin Sundell, understand that in connection with an  
(property owner's name or SELF if owner)  
application for IUP for used auto sales, I/Chris Zoerb  
(application type, ie. Lot Split, Concept Plan, etc.) (person signing this document)

requested the City of Nowthen provide a written, nonbinding estimate of the Consultant fees to be charged, relating to the application.

Based on the information available to the City, the City estimated it would charge \$ 600-1000.00  
(City Planner's estimate)  
in Consultant fees. I acknowledge that I have received the written estimate of Consultant fees and accept the fee estimate.

Furthermore, I acknowledge that I, on behalf of Newport Cardens LLC/Justin Sundell have not relied  
(property owner's name or SELF if owner)  
on the City's estimate of Consultant fees in my decision to proceed with the final application for  
IUP for used auto sales  
(application type, ie. Lot Split, Concept Plan, etc.)

APPLICANT:  
Chris Zoerb

DATED:  
5-4-23

TITLE:  
\_\_\_\_\_

ON BEHALF OF:  
Newport Cardens LLC/Justin Sundell

THE CITY OF NOWTHEN

RECEIVED BY:  
Liz Stockman


DATED:  
5-4-23

Chris Zoerb / Justin Sundell

Justin Sundell



**Signature:** Chris Zoerb  
Chris Zoerb (May 4, 2023 21:11 CDT)  
**Email:** [chriszoerb@gmail.com](mailto:chriszoerb@gmail.com)

**Signature:**   
Justin Sundell (May 4, 2023 21:42 CDT)  
**Email:** [justinsundell@gmail.com](mailto:justinsundell@gmail.com)

STATE OF MINNESOTA

# Dealer License Certificate

**DEALER NUMBER:** DLR39933

**EXPIRATION:** 28-Feb-2023

**Name:** NEWPORT LEASING GROUP LLC

**Dealer Type:** Used

**Address:** 20088 FERRET ST NW #4  
NOWTHEN MN 55330-0138

**Additional Location:**

**Owners/Officers**

SUNDELL, JUSTIN DUANE  
BISKE, LUCAS LLOYD  
NADEAU, MICHAEL ARTHUR  
SUNDELL, DONALD CLARENCE JR





EAST CENTRAL MINNESOTA

# Ad Proof

Not Actual Size

**CITY OF NOWTHEN  
COUNTY OF ANOKA  
STATE OF MINNESOTA  
NOTICE OF  
PUBLIC HEARING**

TAKE NOTICE, that pursuant to the requirements of Minnesota Law, a public hearing shall be held before the Nowthen PLANNING & ZONING COMMISSION on TUESDAY, MAY 23, 2023 at 7:00 P.M. at Nowthen Historic Town Hall located at 19800 Nowthen Boulevard NW, Nowthen, Minnesota

Justin Sundell and Chris Zoerb of Newport Gardens LLC (PID 20-33-25-41-0010), are requesting approval of an INTERIM USE PERMIT to allow the sale of used collector automobiles at 20088 Ferret Street NW. A maximum of five (5) used vehicles will be displayed at any one time. No changes are proposed to the site or existing parking area

At such hearing both written and oral comments will be heard. The City Council will act on this request at its regular meeting on Tuesday, June 13, 2023 at 7:00 PM. Please contact the City of Nowthen at 763-441-1347 or [info@nowthenmn.net](mailto:info@nowthenmn.net) with any questions or comments.

Dated: May 4, 2023  
Scott Lehner, City Administrator  
City of Nowthen

Published in the  
Star News  
May 13, 2023  
1314475

## -Public Notice Ad Proof-

This is the proof of your ad scheduled to run on the dates indicated below. Please proof read carefully. If changes are needed, please contact us prior to deadline at Cambridge (763) 691-6000 or email at [publicnotice@apgecm.com](mailto:publicnotice@apgecm.com)

Date: 05/09/23

Account #: 367250

Customer: CITY NOWTHEN ~

Address: 8188 199TH AVE NW  
ELK RIVER

Telephone: (763) 441-1347

Fax: (763) 274-1927

### Publications:

Star News

Ad ID: 1314475

Copy Line: May 23 PH Sundell/Zoerb IUP

#### PO Number:

Start: 05/13/23

Stop: 05/13/2023

Total Cost: \$0.00

# of Lines: 42

Total Depth: 4.694

# of Inserts: 1

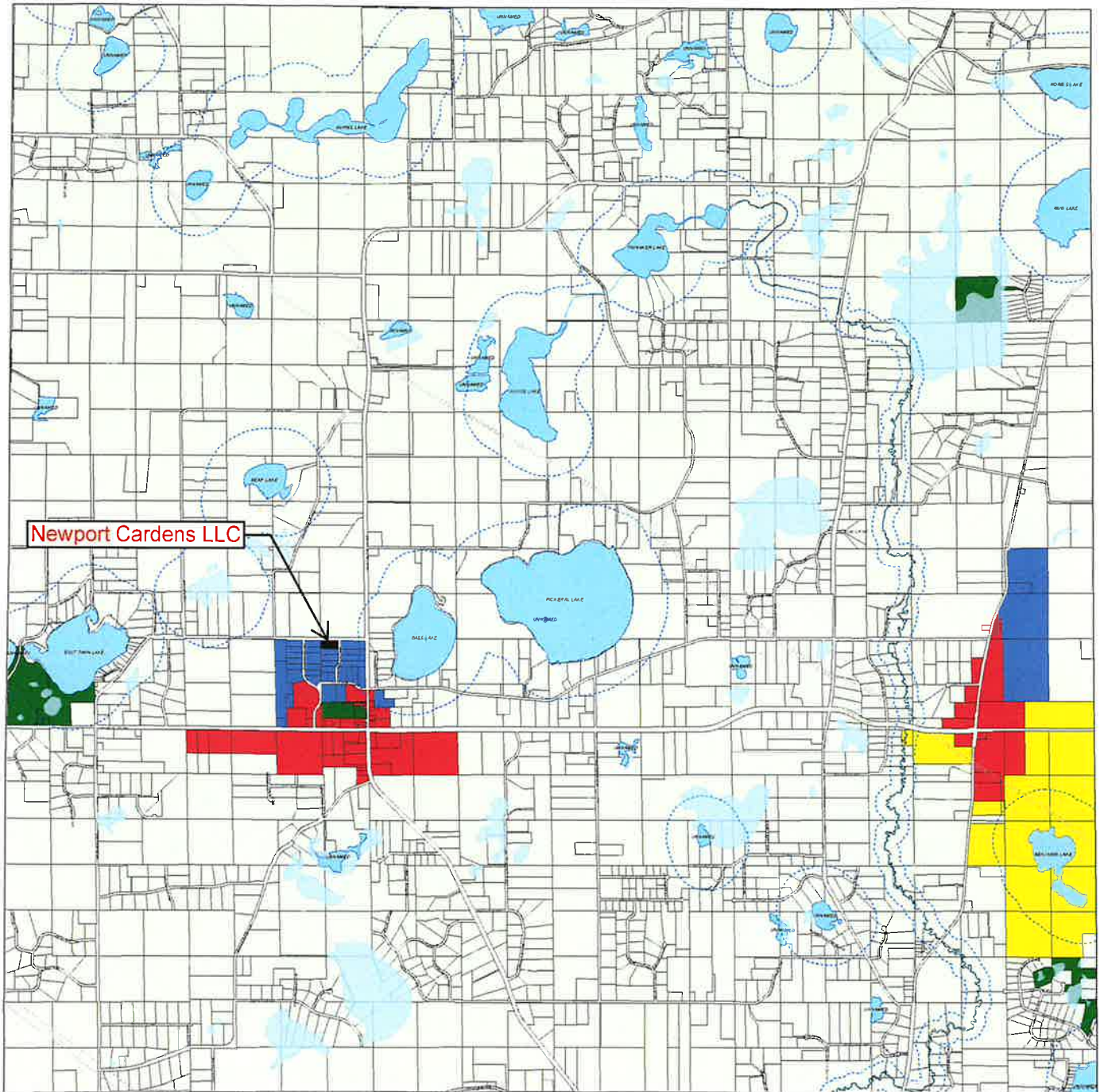
Ad Class: 150

Phone # (763) 691-6000







Email: [publicnotice@apgecm.com](mailto:publicnotice@apgecm.com)

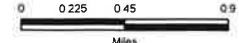
Rep No: CA700

Contract-Gross



### ZONING MAP

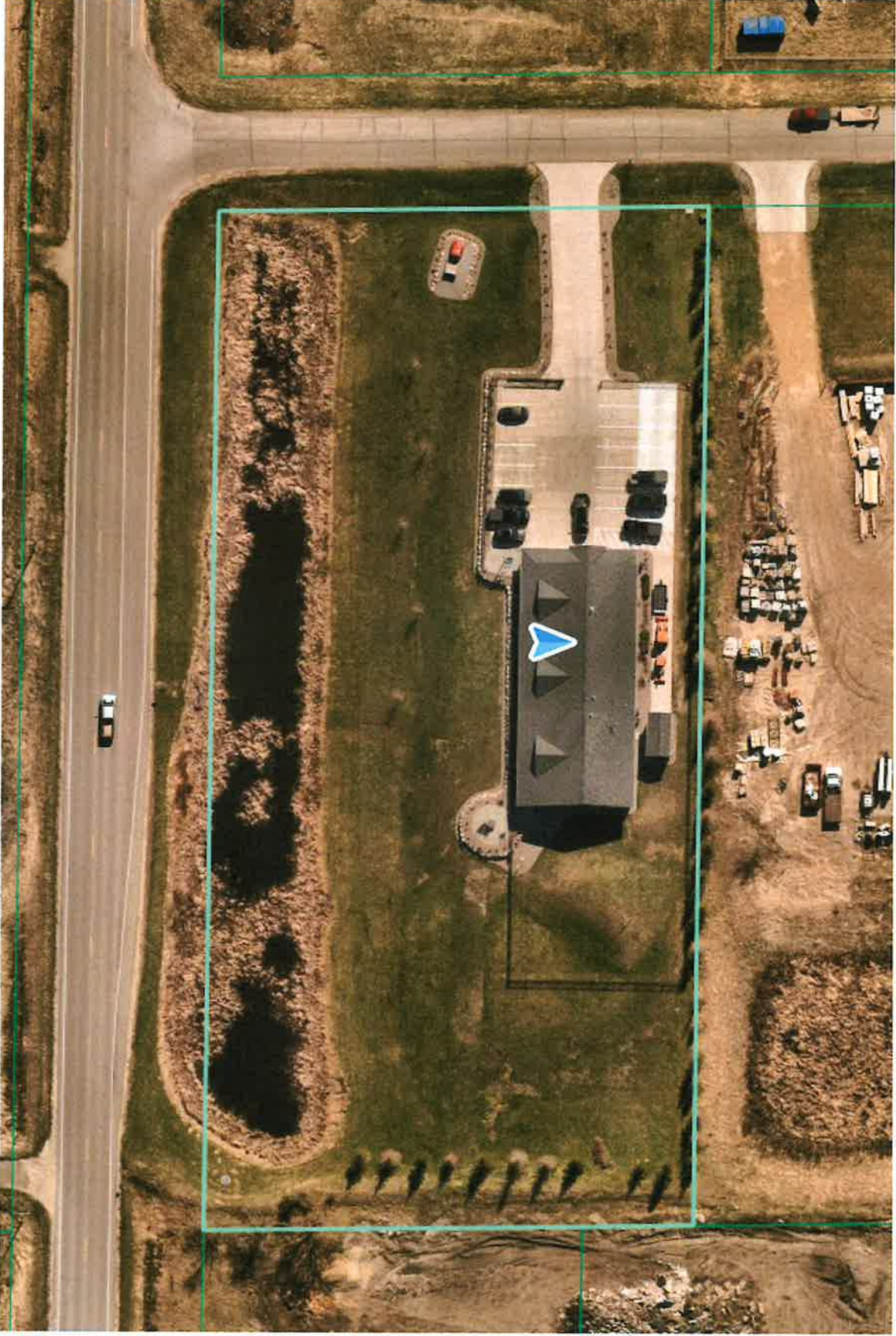
-  C-1 - Commercial District (365 acres / 1.72%)
-  I-1 - Industrial District (225 acres / 1.06%)
-  CON - Conservancy District (156 acres / 0.74%)
-  RRA - Rural Residential Agriculture (19,897 acres / 94.20%)
-  RRT - Rural Residential Transition (478 acres / 2.26%)
-  Shoreland Overlay District



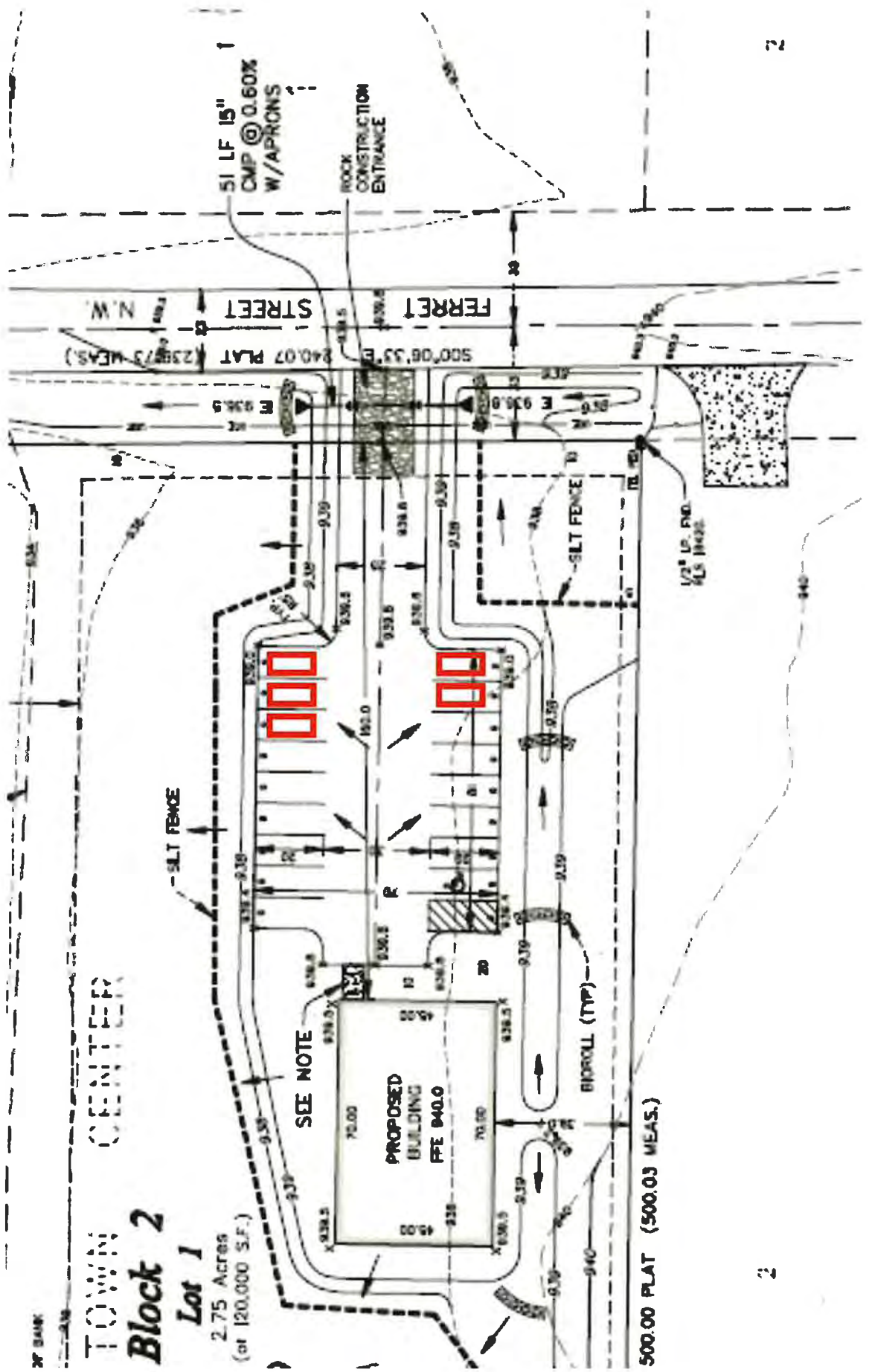
SOURCES: CITY OF NOWTHEN, ANOKA COUNTY, MN DNR, HAA, TPC

Adopted: Aug 10, 2020  
K:\GIS\Projects\Municipal\NT907\2020 Zoning Map.mxd

20088 Ferret Street May 2, 2023



May 4, 2023 Interim Use Permit for Used Auto Sales  
 Newport Cardens LLC Property 20088 Ferret Street  
 2018 Approved Site Plan - 17 parking spaces, with 5 spaces designated for used auto sales



**CITY OF NOWTHEN  
ANOKA COUNTY, MINNESOTA**

**PLANNING & ZONING COMMISSION**

**FINDINGS & RECOMMENDATION  
Interim Use Permit for Auto Sales**

**APPLICANTS:** Justin Sundell and Chris Zoerb  
Newport Land Group  
20088 Ferret Street NW  
Nowthen, MN 55330  
**PID 20-33-25-41-0010**

**APPLICATION:** Request for approval of an Interim Use Permit to allow outdoor used auto sales

**PLANNING & ZONING COMMISSION MEETING:** May 23, 2023

**FINDINGS:** Based upon review of the application and evidence received, the Planning & Zoning Commission of the City of Nowthen now makes the following findings of fact:

1. Newport Land Group is the fee owner of the real property located at 20088 Ferret Street NW, Nowthen, Minnesota as legally described in paragraph 2, herein after referred to as the "Subject Property", which real property is proposed to be used as an outdoor used automobile sales lot with one legally approved commercial building allowed by the I-1 Industrial Zoning District, and
2. The legal description of the Subject Property is LOT 1, BLOCK 2 BURNS TOWN CENTER, and
3. Applicant's plans for the site involve NO interior or exterior changes to the building or site at the present time, and
4. Applicant's plans for the site show the provision of five (5) parking stalls for used automobile sales within the parking area already paved and striped, and
5. The existing parking lot has not been used to its capacity in the last four years, and
6. The sale of used collector autos will rarely result in the display of vehicles on site, but rather

the sale and transfer of vehicles will occur off site; and

7. The Comprehensive Plan guides the subject site for commercial/industrial land uses through the year 2040, and
8. The subject site is zoned I-1, Industrial, and
9. The Subject Property encompasses 2.75 acres with direct access onto Ferret Street NW, and
10. Section 11-3-8.D.3 of the Nowthen Zoning Ordinance allows outdoor sales areas as a principal or accessory use provided they:
  - a. Are screened and landscaped from residential districts or uses;
  - b. Are surfaced with asphalt, concrete or pavers;
  - c. Do not take up required parking spaces, and
11. The Planning Report dated May 15, 2023, prepared by the City Planner, The Planning Company LLC., is incorporated herein., and
12. The Nowthen Planning and Zoning Commission held a public hearing, preceded by a published and mailed notice, and considered the request at a regular meeting on May 23, 2023.

**RECOMMENDATION:** Based on the foregoing information and applicable ordinances, the Planning and Zoning Commission recommends approval of the **Newport Land Group Interim Use Permit for outdoor used auto sales** subject to the following conditions:

1. No more than five (5) vehicles (for sale) shall be displayed or parked on site at any one time.
2. Vehicles may only be parked in designated spaces and not within drive lanes or on any portion of the property not approved as parking or on yard/grass-surfaced areas not intended for parking. Individual parking spaces in the sales area(s) do not need to be striped, however drive lanes must be marked and kept clear of vehicles/other obstacles and order must be maintained at all times.
3. No parking, loading, unloading, pick-up or drop-off of vehicles will be allowed on public streets.
4. The 130-foot bufferyard on the north side of the property adjacent to residential uses is maintained at all times including existing trees/shrubs, natural areas, wetland, ponding areas, or any combination thereof.
5. The property owner(s) and/or sales agents shall encourage the use of Nowthen Boulevard for test drives rather than the surrounding area local streets.



6. All trees, grass and landscaping shall be maintained throughout the life of the business and shall be replaced should the vegetation become diseased, damaged or destroyed. **The dead or dying trees which are currently on site shall be replaced prior to October 31, 2023.**
7. The parking area shall be maintained in good condition at all times and shall be resurfaced/repared as it shows wear.
8. The property owners remain in compliance with State of MN automobile dealer licensing regulations at all times.
9. Any sales transaction conducted on site or any preview of vehicles shall happen during the hours of operation documented as 8:00AM to 8:00PM Monday through Friday, by appointment only on Saturdays and Sundays between the hours of 8:00AM to 7:00PM.
10. Any changes to structures, parking areas, lighting or signs shall require application for a building permit and review by the City Building Official and City Planner.
11. There shall be no outside storage of any kind including, but not limited to, auto parts, tires, junk and debris.
12. There shall be no discharge of oil or hazardous substances into the adjacent stormwater pond, wetlands or ditches, or anywhere upon the subject property, other than what is typically expected as residual from the operation and parking of vehicles.
13. All vehicles for sale or parked anywhere on the property shall be licensed and operable. No auto repair shall be allowed on the property.
14. The Subject Property must be in compliance with all State, County and City building codes and is subject to review and approval by the City Building Official.
15. Pursuant to Section 11-10 of the Nowthen Zoning Ordinance, this interim use shall terminate on the happening of any of the following events, whichever occurs first:
  - a. The date or event stated in the permit as determined by the City Council.
  - b. Upon violation of conditions under which the permit was issued.
  - c. The interim use permit shall terminate upon a change of occupancy or ownership of the principal use.
  - d. The use or operation is discontinued for a period of one (1) year. This does not apply to a specific part of a use or operation, or a single event, when the remainder of the use or operation has been on-going.
  - e. If an interim use approved by the City Council is not exercised or put into effect within one (1) year of the date of approval, by fulfilling each and every condition attached thereto, it shall terminate unless a request is submitted to the City in writing no less than thirty (30) days prior to the deadline.

16. The City Council may revoke an interim use permit upon violation of any condition of the permit, any City ordinance, any law of the State of Minnesota, or any law of the United States.
17. The applicant(s) are responsible for all costs associated with the processing of this request.

**MOTION BY:**

**SECOND BY:**

**ALL IN FAVOR:**

**THOSE OPPOSED:**

**ADOPTED by the Planning and Zoning Commission of the City of Nowthen this 23rd day of November 2023.**

**CITY OF NOWTHEN**

By: \_\_\_\_\_  
Chair Dale Ames

Attest: \_\_\_\_\_  
Scott Lehner, City Administrator

**CITY OF NOWTHEN  
ANOKA COUNTY, MINNESOTA**

**ORDINANCE NO. 2022-03**

**AN ORDINANCE AMENDING SECTIONS 11-4-17, GENERAL PERFORMANCE STANDARDS, and 11-4-18, LANDSCAPING, SCREENING AND FENCING, TO CLARIFY AND DIFFERENTIATE BETWEEN RESIDENTIAL/AGRICULTURE AND COMMERCIAL/INDUSTRIAL REQUIREMENTS.**

The City Council for the City of Nowthen hereby ordains:

**SECTION 1. City Code Section 11-2, is hereby amended to add the following:**

**DEFINITIONS**

Semi-Public: Partly public; public in some respects, as a private institution offering some public services or facilities such as churches, some schools.

Institutional Uses: Of a public character, such as schools, hospitals, banks, churches, large organizations, foundations, care facilities and the buildings they occupy.

Traffic Visibility Triangle:

**SECTION 2. City Code Section 11-4-17, is hereby amended as follows:**

**11-4-17: GENERAL PERFORMANCE STANDARDS**

**A. DEVELOPMENT STANDARDS FOR COMMERCIAL, INDUSTRIAL, PUBLIC, SEMI-PUBLIC AND INSTITUTIONAL USES: ~~All permitted uses within the Commercial or Industrial Districts shall comply with the following standards.~~**

- 1. A.**—All structures shall have permanent concrete or treated wood foundations which will anchor the structure, which comply with the building code as adopted by the State of Minnesota and which is solid for the complete circumference of the structure.
- 2. B.**—No structure shall have a width of less than twenty-four (24) feet at its narrowest point. Width measurements shall not take into account overhangs or other projections beyond the principal exterior walls.
- 3. C.**—All structures must be built in conformance with Minnesota Statute 327.31 to 327.35, and the Building Code as adopted by the State of Minnesota.

4. ~~D.~~—All commercial or light manufacturing principal structures shall have a minimum of two thousand (2,000) square foot ground floor area.
5. ~~E.~~—The size of structures on any lot shall not exceed twenty (20%) percent of the total lot area. The maximum area of impervious land coverage, to include the building and all paved or impervious surfaces, shall not exceed seventy (70%) percent of the total lot area. (Ordinance #3, adopted November 9, 2010)
6. ~~F.~~—Off-street access and parking shall be provided in accordance with Section 6 of this Chapter. (Ordinance #38, adopted October 11, 2011)
7. ~~G.~~—No commercial or light manufacturing use shall be approved unless that use is accessed from a paved street with a total pavement structure sufficient for commercial traffic. All pavements within commercial industrial areas shall be designed minimum nine (9) ton standards in accordance with Mn/DOT bituminous street design procedures. (Ordinance #3, adopted November 9, 2010)
8. ~~H.~~—Signs shall be allowed in accordance with Section 7 of this Chapter. (Ordinance #38, adopted October 11, 2011)
9. ~~I.~~—Any new commercial or light manufacturing uses shall be allowed only after review and approval of site plans including water supply, proper waste disposal and appropriate surface water management.
10. Exterior materials shall comply with the requirements of Section 6 of this Chapter.
11. Design and architectural guidelines in this Chapter shall be met and detailed architectural plans shall be provided to the City for review.
12. ~~J.~~—~~All Commercial or Light Manufacturing Uses are required to have a~~A screened/fenced trash enclosure area for dumpsters or waste receptacles is required.

**B. RESIDENTIAL HOUSING STANDARDS:**

(no changes or additions, just relocated in section, not included for the sake of simplicity)

**SECTION 3. City Code Section 11-4-17, is hereby amended as follows:**

**11-4-18: LANDSCAPING, SCREENING AND FENCING**

**A. OUTDOOR STORAGE – COMMERCIAL, INDUSTRIAL, PUBLIC, SEMI-PUBLIC AND INSTITUTIONAL USES**

—1. All outside storage shall be screened from view ~~and in an area enclosed with opaque fencing, with to~~ a minimum height of six (6) feet as measured from finished grade of the outdoor storage area. Higher fences or fences in combination with landscaping shall be required to block views to the highest point of items being stored. All fences over ~~6~~ seven (7) feet in height require a building permit and approval by the Architectural Review Committee. ~~Fencing material must be new, un-used durable material in sound condition and properly installed and maintained. Permitted materials include:~~

~~1. Chain-link with vinyl or metal slats.~~

~~2. Naturally decay resistant or chemically treated wood.~~

~~3. Decorative masonry or concrete.~~

~~4. Low or maintenance-free vinyl.~~

~~5. Other materials may be approved by the Nowthen Architectural Review Committee.~~

~~6. Fabric Fencing or screening material is prohibited.~~

L2. All storage lots must maintain a minimum of thirty (30) feet front set back to the fencing and such area shall be landscaped.

MB. ~~Screening and buffers~~ **BUFFERYARD REQUIRED**: Any commercial or industrial development that abuts any existing residential development or abuts any parcel planned or zoned for housing shall be screened from view from the housing site using a combination of fencing, plantings and/or berming to the satisfaction of the City:

1. Landscape terms:

a. Bufferyard: Landscaped area between land uses of different intensities sharing a lot line.

b. Screening: Methods used to obscure or block unsightly views.

2. Screening and Buffering:

a. A minimum of one hundred (100) feet of bufferyard is required along property lines which separate commercial or industrial and residential uses which may consist of either natural, wetland, woods open space, man-made ponding or a combination thereof.

i. The required bufferyard may include park land, trails and landscaping when dedicated as part of the project.

- ii. The City Council may consider a reduction in bufferyard width of not less than fifteen (15) percent of the lot depth according to the following table but in no case shall the bufferyard be less than twenty (20) feet.

<u>REQUIRED BUFFERYARD AND SCREENING</u>	
<u>Bufferyard Width (Proximity to Lot Line)</u>	<u>Length of shared property line w/ residential use requiring screening and landscaping</u>
<u>100 feet or greater</u>	<u>Not required *</u>
<u>75 to 99 feet</u>	<u>40%</u>
<u>50 to 74 feet</u>	<u>60%</u>
<u>25 to 49 feet</u>	<u>80%</u>
<u>20 feet</u>	<u>100%</u>
<ul style="list-style-type: none"> <li><u>Outdoor storage, refuse, parking and loading areas shall be subject to additional screening requirements as outlined in this Chapter.</u></li> </ul>	

- b. The following uses shall be screened or buffered in accordance with the requirements of this Section.
- (1) Principal buildings and structures and any accessory structures located in any business district containing non-residential uses shall be screened and buffered from lots used for any residential purpose.
  - (2) Off-street parking spaces shall be screened and buffered from lots which are zoned residential in accordance with this Chapter.
  - (3) Loading docks, trash and recycling storage facilities shall be screened from all lot lines and public streets.
  - (4) Outside storage in business districts that is allowed by other provisions of this ordinance shall be screened from all public views

~~e.C.~~ **SCREENING METHODS.** Required screening or buffering may be achieved with fences, walls, earth berms, hedges, or other landscape materials.

1. All walls and fences shall be architecturally harmonious with the principal building and shall achieve no less than ninety (90) percent opacity.
2. Fencing material must be new, unused, durable material in sound condition and properly installed and maintained. Permitted materials include:
  - a. Naturally decay resistant or chemically treated wood.
  - b. Decorative masonry or concrete.
  - c. Low or maintenance-free vinyl.
  - d. Finished metal, provided the design is architecturally consistent with the building and provided higher quality materials are integrated in the columns/supports.
  - e. Chain link fencing with vinyl or metal slats is only permitted for industrial uses on industrially-zoned land.
  - f. Other materials may be approved by the Nowthen Architectural Review Committee.
3. Fabric and mesh screening material is prohibited.
- ~~34.~~ Earth berms shall not exceed a slope of 4:1, with a minimum height of 6 feet and must include the planting of two (2) or more rows of trees on top of the berm. Trees must consist of approximately fifty (50%) percent evergreen and fifty (50%) percent deciduous with a minimal height of six (6) feet.
- ~~(35)~~ The screen shall be designed to employ materials that provide an effective visual barrier during all seasons-
- ~~d6.~~ All required screening or buffering shall be located on the lot occupied by the use, building, facility, or structure to be screened. No screening or buffering shall be located on any public right-of-way.
- ~~e.7~~ Screening or buffering required by this subdivision shall be of a height needed to accomplish the goals of this Chapter. The hHeight of plantings required under this section shall be measured at the time

of installation and shall be consistent with the minimum size requirements outlined in this Chapter. Screening higher than six (6) feet shall be provided as may be required by the City Council in cases where the items being screened are higher than six (6) feet or where views into the storage yard from public rights-of-way or adjacent residential uses necessitate added provisions.

8. Home Extended Businesses approved in accordance with this Chapter which are required to provide screening and landscaping of storage areas shall be required to comply with the screening and landscaping methods contained in this Section unless otherwise specified with the Conditional or Interim Use Permit.

## N. RESIDENTIAL FENCING

1. Height. Except as provided herein, the maximum height of a fence shall not exceed six (6) feet.
2. Materials. Fencing material must be new, un-used durable material in sound condition and properly installed and maintained. Permitted materials include:
  - a. Chain-link *without* vinyl or metal slats
  - b. Naturally decay resistant or chemically treated wood.
  - c. Ornamental iron or aluminum
  - d. Low or maintenance-free vinyl.
  - e. Fences intended for the containment of livestock shall be exempt from material requirements.
3. Fabric and mesh screening material is prohibited.
4. Location.
  - a. Side and Rear Yards: Fences in side and rear yards may be placed up to the property line provided the fence structure and footings are located entirely on the fence-owner's land.
  - b. Front Yards: Fences in front yards or in side yards abutting a street which exceed forty-two (42) inches in height or fifty (50) percent opacity, must be setback ten (10) feet from the property line.



- c. Solid screening walls or 100% opaque fencing must be located to meet accessory structure setbacks in the side and rear yard and shall not be less than 50 feet from the front property line and from a side property line abutting a street.
- d. Fences shall not impede drainage. Fences may encroach into drainage and utility easements but shall be subject to removal if access is required by City, County or State staff for maintenance, grading, repair or installation of pipes or utilities.

## 5. Swimming Pool Protection

- a. Swimming pools having a depth of twenty four inches (24") at any point and a surface area exceeding one hundred fifty (150) square feet shall require a building permit. In-ground swimming pools shall be subject to accessory building regulations contained in this Chapter.
- b. Each application for a permit to construct or erect a swimming pool shall be accompanied by site and building plans of sufficient detail to show:
  - i. The proposed location of the pool and its relationship to the principal building on the lot.
  - ii. The size of the pool.
  - iii. Fencing and other fixtures existing and proposed on the lot, including utility location and trees.
  - iv. The location, size, and types of equipment to be used in connection with the pool, including, but not limited to, filter unit, pump fencing, and the pool itself.
- c. All swimming pools for which a permit is required and granted shall be provided with a physical barrier as a safeguard to prevent children from gaining uncontrolled access. This can be accomplished with fencing, a lockable auto cover or the walls of a principal or accessory structure of sufficient density as to be impenetrable.
  - i. The fence or wall shall be at least five (5) feet in height except that fences existing prior to January 4, 1995 may remain at four (4) feet high.

- ii. The bottoms of the fences shall not be more than two inches (2") from the ground nor shall any open space in the fence be more than four inches (4").
- iii. Fences shall be of a noncorrosive material and shall not be easily climbable.
- iv. All fence openings or points of entry into the pool enclosure shall be equipped with gates or doors.
- v. All gates or doors to swimming pools shall be equipped with self-closing and self-latching devices placed at a minimum height of four (4) feet so as to be inaccessible to small children.
- vi. The fencing requirements of this subsection need only be provided around the means of access on aboveground pools which have four feet (4') high, vertical or outward inclined side walls.
- vii. New chain link fencing must not exceed 1-1/2 inch mesh for fencing less than eight feet high. New chain link fencing eight foot high or higher must have mesh which does not exceed two inches.

O. ~~Landscape~~ LANDSCAPE PLAN REQUIRED: A landscape plan is required for all commercial, industrial, public, semi-public -and ~~non-residential~~ institutional ~~primary~~ uses. ~~in non-residential zoning districts.~~

- 1. Minimum Landscaping Requirements: For commercial, industrial and non-residential primary uses in the non-residential zoning district:
  - a. One (1) overstory deciduous shade tree or one (1) coniferous tree for every two thousand (2,000) square feet of total building floor area.
  - b. One (1) understory shrub for every 300 square feet of total building floor area.
  - c. The City may require additional landscaping as necessary to provide adequate screening or to provide a complete quality landscape treatment of the site.
  - d. All new overstory trees shall be balled and burlapped or removed from the growing site by a tree spade.

- e. Size:
  - (1) Deciduous trees shall have a minimum caliper of two and one-half (2 ½ ) inches.
  - (2) Coniferous trees shall be a minimum of six (6) feet in height.
  - (3) Ornamental trees shall have a minimum caliper of one and one-half (1 ½ ) inches.
  - (4) Shrubs shall be consistent in size to what a twenty-four (24) inch pot would normally contain.
  
- f. All site areas not covered by buildings, sidewalks, parking lots, driveways, patios, or similar hard surface materials shall be ~~covered~~ planted with sod, seeded or native vegetation, prairie wildflowers and grasses ~~an equivalent or alternative~~ groundcover approved by the City. ~~This requirement shall not apply to site areas preserved in a natural state.~~
  
- g. No more than fifty (50) percent of the required number of trees shall be composed of one (1) species. Due to various ecological and maintenance related concerns, no required tree shall be any of the following:
  - (1) A species of the genus (elm), except those bred to be immune to Dutch Elm Disease.
  - (2) Common Buckthorn.
  - (3) Russian Olive
  - (4) Black Locust.
  - (5) Box-elder.
  - (6) Additional trees may be restricted from specific locations due to ecological and maintenance related issues. It is the responsibility of the landowner and/or applicant to confirm with the City whether or not a specific tree species is appropriate.

2. ~~Maintenance of Landscaping~~ MAINTENANCE:

A. Purpose: The purpose of this section is to establish minimum standards for lawn and yard maintenance while recognizing that a variety of landscapes within a community adds diversity and richness to the quality of life for all

residents. Turf grass lawns as well as alternatives to this traditional type of lawn are recognized as important parts of a diverse and successful landscape.

B. General Maintenance Requirements:

1. The owner or occupant of any lot or parcel shall install and maintain turf grass or combined ground cover of cultivated vegetation, garden, hedges, trees and shrubbery. All plants shall be alive, of good quality, and disease free or shall be replaced or removed unless dormant due to season or exceptional weather conditions.
2. Plantings shall be maintained so as not to present hazards to adjoining properties or to persons or vehicles traveling on public ways and shall be maintained so as to enhance the appearance of the property on which located and thereby the appearance of the neighborhood and the City.
3. The owner or occupant of any lot or parcel shall be responsible for turf grass lawns to be maintained to a height not to exceed eight inches (8").
4. Native grasses and wildflowers may be permitted to within fifty (50) feet of principal and accessory structures. Natural landscaping shall not create a fire hazard for the property or neighborhood within which it is located. Noxious weeds shall be controlled or eradicated subject to the MN Department of Agriculture Noxious Weed List, published annually.
5. The boulevard portion of the public right-of-way shall be maintained to provide adequate visibility of pedestrians and vehicular traffic. Corner lots must maintain a traffic visibility triangle as defined in Section 11-5 of this Chapter.
6. The owner and their respective agents shall be jointly and severally responsible for the maintenance of all landscaping in a condition presenting a healthy, neat, and orderly appearance, and free from refuse and debris.
7. Plants and groundcover which are required by an approved site or landscape plan and which are diseased or have died shall be replaced with like kind and size within three (3) months of notification by the City. However, the time for compliance may be extended up to nine (9) months by the City in order to allow for seasonal or weather conditions.

D. BOULEVARD AND PUBLIC RIGHT-OF-WAY LIMITATIONS

1. Plantings placed upon public right-of-way or major easements are subject to removal by the City or utility company if required for maintenance or

improvement of the utility. Trees on utility easements containing overhead wires shall not exceed fifteen (15) feet in height and shall be the property owner's responsibility to maintain.

2. Plantings must be maintained in such a way that there is no overhang or encroachment onto the road surface, shoulder, sidewalk, or trail.
3. Notwithstanding the foregoing, all boulevards remain public property and are subject to the right of the City to restrict any plantings and/or private irrigation systems that are deemed to interfere with the use of the public right-of-way as determined necessary by the City or which affects the safety of pedestrians and motorists alike:
4. The City and other right-of-way users shall have the right to perform necessary work to plant, trim and otherwise maintain trees, to access utilities and to store excess snow.
5. In the event the City or other right-of-way user interferes with boulevard plantings or private irrigation in the course of such work, they shall be responsible only to restore the boulevard by use of black dirt and grass seed.
6. In no event shall the City or other right-of-way user be liable for any damage to, disruption of or removal of plantings, either direct or indirect, as a result of the City, its employees, agents or contractors performing any installation, maintenance or repairs.

**SECTION 4. City Code Section 11-4-2.A, Accessory Structures, is hereby amended to add the following:**

Section 11-4-2.A

5. **Detached Decks.** In all zoning districts, detached decks that are not an integral part of a principal structure by being attached thereto, and which exceed thirty (30) inches above grade shall be considered an accessory structure which shall be subject to the size, location and quantity limitations outlined in Section 11-4-2.C
6. **Swimming Pools.** In all zoning districts, swimming pools which exceed twenty-four (24) inches in depth and a surface area of one-hundred fifty (15) square feet or more shall:

- a. Be considered a structure under the terms of the City Code and require a building permit;
- b. Comply with the accessory structure setback requirements applicable to the underlying zoning district;
- c. Be located a minimum of ten (10) feet from the principal structure;
- d. Not be located within any drainage or utility easement.
- e. Comply with fencing regulations contained in this Chapter.—

**SECTION 5. City Code Section**

**SECTION 5.** This Ordinance shall be effective immediately upon its passage and publication.

Passed and adopted this \_\_\_\_th day of \_\_\_\_\_ 2023 by the City Council of the City of Nowthen.

\_\_\_\_\_  
Jeff Pilon, Mayor

ATTEST:

\_\_\_\_\_  
Scott Lehner, City Administrator

**CITY OF NOWTHEN  
ANOKA COUNTY, MINNESOTA**

**ORDINANCE NO. 2023-02**

**AN ORDINANCE AMENDING CHAPTERS 9 SECTION 3 OF THE CITY CODE  
TO UPDATE INDIVIDUAL SEWAGE TREATMENT SYSTEM STANDARDS**

The City Council for the City of Nowthen hereby ordains:

**SECTION 1.** City Code Section 9-3 is hereby amended to read as follows:

**INDIVIDUAL SEWAGE AND WASTEWATER TREATMENT**

Section:

- 9-3-1 Purpose, Applicability, and Authority
- 9-3-2 General Provisions
- 9-3-3 Standards Adopted
- 9-3-4 Permits
- 9-3-5 Violations and Penalties

**9-3-1 PURPOSE, APPLICABILITY, AND AUTHORITY:**

- A. Purpose. It is the purpose and intent of this Section to establish standards for the design, location, construction, operation, and maintenance of Subsurface Sewage Treatment Systems (SSTS).
- B. Applicability. This Section shall apply to those sites or facilities which are licensed, permitted, or otherwise regulated by the City Code of Ordinances. The sewer provisions of this Section shall also apply to any premises in the City of Nowthen (referred to herein as "City") that are not served by a sewage treatment system permitted by the Minnesota Pollution Control Agency.
- C. Authority. This Section is adopted pursuant to the authorization and requirements contained in Minnesota Statutes §145A.05, 115.55 and Minnesota Administrative Rules Chapter 7082.

**9-3-2 DEFINITIONS**

- A. The following definitions shall apply in the interpretation and enforcement of this Section:

**Building Drain:** The building drain is that part of the lowest piping of the drainage system which receives sewage discharge inside the walls of the building and conveys it to the building sewer beginning at least one foot outside the building footings.

**Building Sewer:** The building sewer is that part of the drainage system which extends from the end of the building drain and conveys its discharge to an individual sewage treatment system.

**Individual Sewage Treatment System:** An individual sewage treatment system is the smallest type of a subsurface sewage treatment system (SSTS), or part thereof, serving a dwelling or other establishment or group thereof which utilizes subsurface soil treatment and disposal. Unless otherwise indicated, the word "system" as it appears in this part of this chapter means "individual sewage treatment system."

**Septage/Sewage:** Sewage is any water-carried domestic waste, exclusive of footing and roof drainage, from any industrial, agricultural or commercial establishment or any dwelling or any other structure. Domestic waste includes but is not limited to liquid waste produced by bathing, laundry, culinary operations and liquid wastes from toilets and floor drains and specifically excludes animal waste and commercial process water.

SWF: Systems in shoreland areas or wellhead protection areas or systems serving food, beverage, or lodging establishments, means the following three categories or systems: (A) SSTS constructed in shoreland areas where land adjacent to public waters has been designated and delineated as shoreland in Section 11-3-10.D of this Chapter; (B) SSTS constructed in wellhead protection areas regulated under MN Statute, Chapter 103I; and (C) SSTS serving food, beverage, and lodging establishments that are required to obtain a licenses under MN Statutes, section 157.16, subdivision 1, and includes manufactured home parks and recreational camping areas licensed according to MN Statutes, chapter 327.

### 9-3-3 GENERAL PROVISIONS:

- A. Treatment Required. All sewage generated in unsewered areas shall be treated and dispersed by an approved SSTS or a system permitted by the Minnesota Pollution Control Agency.
- B. Administrative Policy and Procedures. The provisions of the Nowthen City Code, Chapter 1, Section 4 apply to the administration and enforcement of SSTS, unless otherwise expressly provided for in this Section.



- C. Administration. This Section shall be administered by the City Building Official.
- D. Compliance. No person shall cause or permit the location, construction, alteration, extension, conversion, operation, or maintenance of a subsurface sewage treatment system, except in full compliance with the provisions of this Section.
- E. Conditions. Violation of any condition imposed by the City on a license, permit, or variance, shall be deemed a violation of this Section and subject to the penalty provisions set forth in this Chapter.
- F. Site Evaluation, System Design, Construction, Inspection, and Servicing.
1. Site evaluation, and system design, construction, inspection and system servicing shall be performed by Minnesota Pollution Control Agency licensed SSTS businesses or qualified employees of local governments or persons exempt from licensing in MN Statute 7083.0700. For lots platted after April 1, 1996, a design shall evaluate and locate space for a second soil treatment area.
  2. At the time of subdivision, development or redevelopment, the developer of each lot shall identify two (2) sites encompassing five thousand (5,000) square feet each, for the purpose of sewage treatment and dispersal. These sites shall be protected from all future encroachment by any improvements, construction or other activities that may result in compaction or disturbance of soil on the site, other than installation of a sewage treatment system.
  3. If a homeowner or developer wishes to commence construction, building additions, accessory buildings, pools, driveways, parking areas or other improvements in an area which partially or fully encompasses the previously identified sewage treatment area(s), the developer shall be required to prove that space on the property exists to accommodate relocation of one septic dispersal and treatment site (or both in the case of undeveloped property or where a functional and compliant SSTS does not currently exist). The developer shall submit to the City the required soil borings and all supporting information which supports relocation of the treatment area(s). This shall include a site survey or site plan, drawn to scale, as part of the building permit submittal and City review process.

Note: Accessory buildings are handled like any other building, they either need to connect to the main system or they need to have their own Type I septic system. Holding tanks are only a last resort situation. MNspect says we do not need to state what is allowed because we already state what is not allowed.

G. Inspection.

1. No part of an individual sewage treatment system shall be covered until it has been inspected and approved by the City. If any part of the system is covered before being inspected and approved as herein provided, it shall be uncovered upon the direction of the City Building Official.
2. The City shall require such inspections as are necessary to determine compliance with this Section. It shall be the responsibility of the permittee to notify the City that the system is ready for inspection a minimum of 24 to 48 hours prior to the inspection. If the integrity of the system is threatened by adverse weather if left open and the City Building Official is unable to conduct an inspection, the permittee may, after receiving permission from the City, document compliance with this Section by photographic means that show said compliance and submit that evidence to the City Building Official prior to final approval being sought.
3. If upon inspection the Building Official discovers that any part of the system is not constructed in accordance with the minimum standards provided in this part of this Section, he shall give the applicant written notification describing the defects. The applicant shall pay an additional fee as set forth by Section 1-2-2 of the City Code for each reinspection that is necessary. The applicant shall be responsible for the correction or elimination of all defects, and no system shall be placed or replaced in service until all defects have been corrected or eliminated.
4. The licensed installer shall provide an "as built" drawing on the form supplied by the Building Official or other City staff.

H. Compliance Inspection Required. SSTS compliance inspection is required:

1. For a new or replacement SSTS, the Building Official will issue a letter stating that the system was installed in accordance with the approved plans after the final inspection has passed.
2. When altering or adding onto an existing structure ~~to add a bedroom~~, a septic system may need to be expanded or upgraded to accommodate the additional square footage or number of bedrooms.
3. When a parcel having an existing system undergoes development, subdivision, or split.
4. Point-of-Sale. When property ownership is being transferred from one person(s) to another person(s).

5. Frequent Pumping. The application for a third pumping permit within a twelve (12) month period is indicative of a failing Subsurface Sewage Treatment System and requires an inspection of the system.
6. Any change in use of a facility served by a subsurface sewage treatment system.
7. When deemed necessary by the City to ascertain the compliance of an existing system.

I. ~~Imminent Public Health and Safety Threat; Failing System; and Surface Discharge~~Compliance Criteria for Existing Systems.

1. ~~A subsurface sewage treatment system which poses an imminent threat to public health and safety shall immediately abate the threat according to instructions by the City and be brought into compliance with this Section within forty five (45) days or in accordance with a schedule established by the City, not exceeding six (6) months except as may be dependent upon weather conditions and with the Building Official's approval.~~The SSTS must be protective of public health and safety. A system that is not protective is considered an imminent threat to public health or safety and . At a minimum, a system that is an imminent threat to public health or safety is a system with a discharge of sewage or sewage effluent to the ground surface, drainage systems, ditches, or storm water drains or directly to surface water; systems that cause a reoccurring sewage backup into a dwelling or other establishment; systems with electrical hazards; or sewage tanks with unsecured, damaged, or weak maintenance hole covers. A determination of protectiveness for other conditions must be made by a qualified employee inspector or licensed inspection business.
- 4.a. A subsurface sewage treatment system which poses an imminent threat to public health and safety shall immediately abate the threat according to instructions by the City and be brought into compliance with this Section within forty-five (45) days or in accordance with a schedule established by the City, not exceeding six (6) months except as may be dependent upon weather conditions and with the Building Official's approval.
2. ~~A failing system, an SSTS that is not protective of groundwater shall be brought into compliance within twenty four (24) months after receiving notice from the City.~~The SSTS must be protective of groundwater. A system that is not protective is considered a system failing to protect groundwater. At a minimum, a system that is failing to protect groundwater is a system that is a seepage pit, cesspool, drywell, leaching pit, or other pit; a system with less than the required vertical separation distance described in Sections 4 and 5 below; and a system not abandoned in accordance with MN Statute 7080.2500. A determination of

the threat to groundwater quality for other conditions must be made by a qualified employee or licensed inspection business.

2.a. A failing system, an SSTS that is not protective of groundwater shall be brought into compliance within ten (10) months after receiving notice from the City.

33. The ISTS must be operated, meet performance standards, and be managed according to its operating permit.

4. SSTS built after March 31, 1996, or in an SWF area, must have at least a three-foot vertical separation or a vertical separation in compliance with MN Statute 7080.2350, subp. 2, Table XI.

a. Vertical Separation Reduction. A fifteen (15) percent reduction of vertical separation (separation distance no less than 30.6 inches) may be determined to be compliant for existing systems to account for settling of sand or soil, normal variation of measurements, and interpretations of the limiting layer conditions.

b. Soil Loading Rates. The absorption area and mound absorption ratio must be sized according to Table IX (detailed soil descriptions) or IXa (percolation tests) contained in MN Statute 7080.2150, subp. 3.

5. ISTS built before April 1, 1996, in areas that are not SWF areas, must have at least two feet of vertical separation.

6. The vertical separation measurement must be measured outside the area of system influence in an area of similar soil.

7. An SSTS discharging raw or partially treated wastewater to ground surface or surface water is prohibited unless permitted under the National Pollution Discharge Elimination System.

J. Conflict Resolution. For SSTS systems regulated under this Section, conflicts and other technical disputes over new construction, replacement systems, and existing systems relative to periodically saturated soils will be managed in accordance with the MN Statutes 7082.0700 Subpart 5. Upon resolution of a dispute, amendments to initial disputed documents containing the resolution shall be made and submitted to the local unit of government and all other parties involved.

K. Septic Tank Maintenance.

1. ~~All~~The owner(s) of a sewage tank, or tanks, within the City shall regularly, but not less frequently than every three (3) years: ~~-(unless otherwise approved by the City due to limited use),~~

~~4.~~a. Have the system pumped by a licensed pumper and provide a copy of the pumping permit to the City. If the system is pumped, measurement of accumulations of sludge and scum is not needed.

2. The owner shall remove and sanitarly dispose of septage whenever the top of the sludge layer is less than twelve (12) inches below the bottom of the outlet baffle or the bottom of the scum layer is less than three (3) inches above the bottom of the outlet baffle. Removal of septage shall include complete removal of scum and sludge.

3. If necessary, risers shall be installed to bring the manhole cover ~~to within twelve (12) inches of the~~ even with the ground surface.

4. Maintenance activities require reporting on forms provided by the City. Pumpers are to obtain pumping permits from the City prior to pumping, and are to leave a completed copy of the pumping permit with the property owner, and forward one copy back to the City for its records.

5. Fees shall be paid in accordance with the City's fee schedule adopted annually as part of Section 1-2-2.

6. Compliance Required. \*Discussion needed to define City preferences.

a. Inspection by City. If any property owner fails to file the required pumping or compliance reports every three (3) years, or files incomplete reports, the Zoning Administrator shall, by certified mail, notify the owner that a complete report shall be filed with the City within thirty (30) days from the date of the notice. In the event the owner fails to file a complete report with the City within the thirty (30) day period, the Building Official or other qualified Inspector shall inspect the Subsurface Sewage Treatment System and file the report on behalf of the owner. The City's costs to conduct such inspection shall be...

Invoiced? made part of building permit fees? Eventually assessed against the property? Administrative Enforcement procedures?

~~5.~~

L. ~~Non-Compliant Systems. Existing systems which are non-compliant, but not an imminent health or safety threat, failing, or discharging to surface, may continue to be used so long as the property use is not changed or expanded. If the property use changes or is expanded, thereby requiring a building permit or special use permit by the City, the non-conforming elements of the existing system must be brought into compliance.~~ Existing Systems - Certificates of Compliance and Noncompliance. A SSTS in compliance with applicable requirements must be

issued a certificate of compliance and systems found not in compliance must be issued a notice of noncompliance.

1. A SSTS not in compliance with this Section must be repaired or replaced within ten (10) months or as directed under Minnesota Statutes, Chapter 145A.
2. Systems out of compliance with other applicable requirements must be repaired or replaced according to this Section.
3. Systems issued a notice of noncompliance for operational or monitoring deficiencies must immediately be maintained, monitored, or managed according to the operating permit.
4. Existing SSTS must be checked for tank integrity, soil separation, and hydraulic and operational performance during the inspection.
5. The certificate of compliance or notice of noncompliance for existing systems must be submitted to the City, the owner or owner's agent no later than fifteen (15) days after any compliance inspection.

M. ~~Non-Complying Work~~New & Replacement Systems – Non-Compliance: New individual sewage treatment system construction that is non-compliant, or other work on a replacement system that is non-compliant, must be brought into compliance with this Section in accordance with a schedule established by the City ~~which schedule will~~ not exceeding seven (7) days unless the City finds extenuating circumstances.

1. The certificate of compliance for new construction and replacement must include the vertical separation distance report and the management plan.
2. All certificates of compliance and notices of noncompliance for new construction and replacement must include property and property owner identification, date of inspection, system components, system location (dimensioned or drawn to scale), well setback distance, field check of soil conditions, SWF, and designations as applicable.
3. A certificate of compliance or notice of noncompliance for new construction and replacement must be submitted to the City, the owner or owner's agent no later than fifteen (15) days after any compliance inspection.
4. A certificate of compliance or notice of noncompliance must include a certified statement from the qualified employee who conducted the compliance inspection and indicate whether the SSTS is in compliance with this Chapter.

5. If a compliance inspection for new construction or replacement indicates that the system is not in compliance with applicable requirements, the notice must contain a statement to this effect and specify the reason for noncompliance.

6. Certificates of compliance for new construction or a replacement system remain valid for five (5) years from the date of issuance unless the City finds evidence of noncompliance.

N. Change In Use. A Certificate of Compliance may be voided if, subsequent to the issuance of the certificate, the use of the premises or condition of the system has changed or been altered.

~~O. Setback Reduction. Where conditions prevent the construction, alteration, and/or repair of an individual sewage treatment system on an existing developed parcel of real property, the City may reduce property line and/or building setbacks provided said reduction does not endanger or unreasonably infringe on adjacent properties and with written agreement of adjacent property owners.~~

PO. Floodplain. An SSTS shall not be located in a floodway or floodplain. Location within the flood fringe is permitted provided that the design complies with this Section and all of the rules and statutes incorporated by reference. All soil treatment systems located in areas subject to excessive run-on must have a diversion constructed upslope from the system.

QP. Class V Injection Wells. All owners of new or replacement SSTS that are considered to be Class V injection wells, as defined in the Code of Federal Regulations, title 40, part 144, are required by the Federal Government to submit SSTS inventory information to the Environmental Protection Agency.

#### **9-3-4 STANDARDS ADOPTED**

A. Minnesota Rules Adopted. ~~Minnesota Rules~~Mn Statutes, Chapters 7080 ~~and 7081 through 7082~~, that are in effect on the date of passage of this Section, relating to subsurface sewage treatment systems, are hereby adopted by reference and made a part of this Section as if fully set forth herein.

B. ~~Rules Amended. The rules, adopted in Section 9-3-3(A) are amended as follows~~Setbacks Required:

~~1. Compliance Inspection – 15 Percent Vertical Separation Reduction. MR 7080.1500 Subp. 4D is amended to allow 15 percent reduction of vertical separation (separation distance no less than 30.6 inches) may be determined to be compliant for existing systems to account for settling and variable interpretation of soil characteristics.~~

2. The following setbacks apply within the City of Nowthen:

Table 1—Minimum Setback Distances (Feet)

Feature	Sewage Treatment	
	Tank	Area
Water supply well less than fifty (50) ft. deep and not encountering at least ten (10) ft. of impervious materials:	50	100
Any other water supply well or buried water suction pipe:	50	50
Buildings occupied:	10	20
Buried pipe distributing water under pressure:	10	10
Property Lines:	10	10
The ordinary high water mark of lakes and streams:	50	50
Wetlands*:	50	50

\*Measured to the distribution area, berming/backslope of the mound is fine within the setback.

~~3. No experimental or alternative systems shall be allowed unless the City Council has reviewed and approved an application to permit an alternative system. The applicant must provide sufficient materials as required by the City Council to show that such an alternative system is consistent with the spirit and intent of this Section and Minnesota Rules Chapter 7080 and will not create a threat to the public health, safety and welfare of the residents of the City. *Note: There is no such thing as an experimental or alternative system per MNspect.*~~

1. Setback Reduction. Where conditions prevent the construction, alteration, and/or repair of an individual sewage treatment system on an existing developed parcel of real property, the City may reduce property line and/or building setbacks provided said reduction does not endanger or unreasonably infringe on adjacent properties and with **written agreement of adjacent property owners**

Define Administrative actions versus Variance



2. Variances. If the City finds that by reason of exceptional circumstances, the strict enforcement of any provisions of this Chapter would cause Practical Difficulties or that strict conformity with the standards would be unreasonable, impractical, or not feasible under the circumstances, the City Council may permit modifications to this Section for individual cases based on conditions it may prescribe for prevention, control or abatement of pollution, not excluding other exceptions which may require City approval under MN Statutes adopted by reference herein. The City will only grant Variances for existing lots of record which, at a minimum, meet non-conforming lot regulations of Section 11-4-1 of this Chapter and for replacement systems necessary to serve existing structures. The application and processing procedures of Section 11-11-1 and 2 of this Chapter shall be followed.

4B. No more than one (1) dwelling, commercial, institutional, or industrial unit shall be connected to the same sewage treatment system unless a multiple connection was specified in the application submitted, approved by the City Council, and provided for in the permit issued for the system.

C. Holding Tanks. Holding tanks may be allowed for the following applications; as replacement to a failing existing system, an SSTS that poses an imminent threat to public health and safety, or for an existing lot in which a SSTS cannot feasibly be installed and the City finds extenuating circumstances. Holding tanks require an operating permit/monitoring and disposal contract signed by the owner and a licensed maintenance business unless the owner is a farmer exempt from licensing under Minnesota Statutes, section 115.56, subd. 2(b), clause (3). The homeowner is responsible for ensuring that the contract guarantees the removal of the tank contents before overflow or any discharge.

~~which defines routine pumping and maintenance procedures to be approved by the City Building Official.~~

D. System Abandonment. An SSTS, or component thereof, that is no longer intended to be used must be abandoned in accordance with the adopted standards of this Section. Replacement systems which result in discontinued use of any or all components of an existing system shall initiate the requirement of pumping permits and/or abandonment procedures as may be required by the City Building Official.

### 9-3-5 PERMITS

A. Permit Required. ~~No person shall cause or allow the location, construction, alteration, extension, conversion, or modification of any subsurface sewage treatment system without first obtaining a permit for such work from the City Building Official. No person shall construct, alter, extend, convert, or modify any~~

~~structure which is or will utilize subsurface sewage treatment system without first obtaining a permit.~~

MNspect recommendation: Consider prohibiting homeowners from installing pressurized Type I, Type III and Type IV systems. Type 1 gravity trench system is the ONLY system type that can be installed by a resident.

1. No new construction shall be allowed by the City until the permit required for the subsurface sewage treatment system has been issued.
2. No additions, enlargements, improvements, remodeling or alterations that include the addition of one or more bedrooms shall be allowed until the subsurface sewage treatment system has been determined to be both adequate and conforming or a permit for a new treatment system has first been issued. A Certificate of Compliance (COC) or a Certificate of Noncompliance (NON) shall be provided for the City's records prior to issuance of a building permit.
3. No person shall cause or allow the location, construction, alteration, extension, conversion, or modification of any subsurface sewage treatment system without first obtaining a permit for such work from the City Building Official.
- 4.4. All work performed on an SSTS shall be done by an appropriately licensed business, qualified employees or persons exempt from licensing as specified in [MN Statute Minnesota Rules 7083.0700](#). Permit applications shall be submitted by the person doing the individual subsurface sewage treatment system construction on forms provided by the City and accompanied by required site and design data, and permit fees.
5. Permits shall only be issued to the person doing the individual sewage treatment system construction.
6. Permit applications for new and replacement SSTS shall include a management plan for the owner that includes a schedule for septic tank maintenance in compliance with this Section.
7. A permit is not required for minor repairs or replacement of damaged or deteriorated components that do not alter the original function, change the treatment capacity, change the location of system components or otherwise change the original system's design, layout, or function.

- B. Operating Permit. An operating permit shall be required of all owners of new holding tanks, Type IV and V systems; MSTs and other SSTs that the City has determined requires operational oversight.
  - 1. Application. Application for an operating permit shall be made on a form provided by the City.
  - 2. Holding Tanks. The owner of holding tanks installed after the effective date of this Section shall provide the City with a copy of a contract with a licensed sewage maintenance business for monitoring and removal of holding tank contents.

**9-3-6 VIOLATIONS AND PENALTIES**

- A. Misdemeanor. Any person who fails to comply with the provisions of this Section may be charged with a misdemeanor and upon conviction thereof, shall be punished therefore, as provided by law. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.
- B. Injunctive Relief. In the event of a violation or a threat of violation of this Section, the City may institute appropriate actions or proceedings to include injunctive relief to prevent, restrain, correct or abate such violations or threatened violations; and the City Attorney may institute a civil action.
- C. Civil Action. In the event of a violation of this Section, the City may institute appropriate actions or proceedings to include injunctive relief to prevent, restrain, correct, or abate such violations, or threatened violations, and the City Attorney may institute such action.

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

Passed and adopted this \_\_\_\_\_ day of \_\_\_\_\_ 2023 by the City Council of the City of Nowthen.

\_\_\_\_\_  
Jeff Pilon, Mayor

ATTEST:

\_\_\_\_\_  
Scott Lehner, City Administrator