



**AGENDA
PLANNING AND ZONING MEETING
Norwalk City Hall, 705 North Ave
Monday, August 25, 2014
5:45 P.M.**

1. Call meeting to order at 5:45 P.M.
2. Approval of Agenda
3. Approval of Minutes – August 11, 2014
4. Chairperson – Welcome of Guests
5. Public Comment – 3-minute limit for items not on the agenda (No action taken)
6. New Business
 - a. Preliminary Plat – Hy-Vee
 - b. Zoning Amendment – Driveway Surfacing Requirements (Discussion Only)
 - c. Communication Antennas and Towers Ordinance (Discussion Only)
 - d. Zoning Code Definitions Update (Discussion Only)
7. Future Business Items
 - a. Blooming Heights Preliminary Plat
 - b. Hy-Vee site plan
 - c. Sub-Area 1 Master Plan
 - d. Kading Properties –No new information
8. Adjournment

REGULAR NORWALK PLANNING AND ZONING MEETING 8-11-14

Call to order

The Regular Meeting of the Norwalk Planning and Zoning Commission was held at the Norwalk City Hall, 705 North Avenue, Monday, August 11, 2014. The meeting was called to order at 5:45 P.M. by Acting Chairperson Chad Ross. Those present at roll call were John Fraser, Jim Huse, Judy McConnell, Robin Wagner and Chad Ross. Absent: Stephanie Riva and Dan Schulz.

Staff present included: Josh Heggen, Community Development Director and Shelley Heisdorffer, Development Services Assistant.

Approval of Agenda – 14-59

Motion by Huse and seconded by Fraser to approve the agenda as presented.
Approved 5-0.

Approval of Minutes – 14-60

Motion by McConnell and seconded by Wagner to approve the minutes from the July 14 2014 meeting. Approved 5-0.

Welcome of Guests

Acting Chairperson Ross welcomed those guests present. The meeting was opened for public comments of any item not on the agenda. With no one wishing to speak, the business portion of the meeting was opened.

Preliminary Plat – Warrior Run Estates Plat 1 – 14-61

Civil Engineering Consultants, Inc. representing Diligent Warrior run, LLC has submitted a preliminary plat for the Warrior Run Estates Plat 1 in accordance with the City of Norwalk Subdivision Regulations and Zoning Code. The preliminary plat includes 29 single family lots zoned R-1(70), 1 multi-family lot zoned R-3, outlot W zoned R-4, outlot X zoned C-2, and outlot Y zoned R-1(70). It should be noted that the four outlots will require additional platting and/or site plans prior to development. Additionally, the lot 30 zoned R-3 will require a site plan prior to development.

Bike paths and park land dedication were discussed. Mr. Heggen informed Commission that a park land dedication is still under discussion with the landowner who has several options they are considering, which might include park land dedication in another phase of development. Heggen also noted that plat does not have a plan for a bike path, but that the ROW along 80th would be wide enough for a future trail if one is needed.

Motion by Fraser and second by Huse to approve Preliminary Plat – Warrior Run Estates Plat 1 with the following conditions:

- That the park land dedication requirement is satisfied prior to final platting.
- That upon final approval of the preliminary plat, the developer adheres to all provisions detailed in the Norwalk Subdivision Regulations and Norwalk Municipal Code of Ordinances.
- That any significant modifications to the proposed preliminary plat be reviewed and approved by the Planning & Zoning Commission and City Council.

Approved 5-0.

Final Plat – The Ridge @ Echo Valley Plat 4 – 14-62

Civil Design Advantage, LLC, representing VISTA Real Estate Investment Corporation has submitted a final plat for The Ridge at Echo Valley Plat 4 in accordance with the Echo Valley Community PUD and The Ridge at Echo Valley Preliminary Plat. This plat includes 25 single family lots located to the east of The Ridge at Echo Valley Plat 3.

Mr. Heggen noted that construction of public improvements for The Ridge at Echo Valley Plat 4 is currently underway. The public improvements must be accepted by the City or a bond will not be provided for the cost of completion prior to the City releasing the final plat for recording. Additionally, all legal documentation and easements must be provided to the City for review prior to releasing the final plat for recording.

Park land dedication was discussed and Mr. Heggen explained that there is not a requirement for park land dedication due to the golf course area that provides green space. The park land dedication program works so that developments can give funds towards parks in other locations instead of their location, and that was done in the past with this area. The funds were given and used for other parks in Norwalk.

Motion by Huse and seconded by Wagner to Final Plat – The Ridge @ Echo Valley Plat 4 with the following conditions:

- That the applicant provides all supporting documentation required within the Norwalk Subdivision Regulations.
- That any significant modifications to the final plat be reviewed and approved by the Planning & Zoning Commission and City Council.

Approved 5-0.

Site Plan – Casey's General Store – North Ave. and Sunset Dr. – 14-63

Leo Pelds Engineering Company representing Casey's General Store has submitted a site plan requesting Commission recommendation of approval to City Council for a Casey's General Store located at the southwest corner of North Avenue and Iowa Highway 28. The Board of Adjustment previously approved revised setbacks for the site.

Mr. Heggen explained that some of the concerns the neighbors had were storm water and lighting, which Casey's was asked to address and tone down the lighting to accommodate the surrounding residential area.

Laura Lamberty, Schneider & Associates spoke as the engineer that reviewed this site plan on behalf of the City. She explained that the townhomes that neighbor Casey's to the west sit lower than Casey's does. Casey's will have to lessen the stormwater flow by laying slopes back and creating a detention area.

Ms. Lamberty also mentioned that they did conduct a traffic study in May, 2014 for this project and confirmed that the traffic in this area would flow properly with the addition of Casey's.

Lighting was discussed and she explained that Casey's has used flush mounted lights that will shine down more instead of out. Leo Pelds also spoke regarding the lighting and that Casey's uses all LED lights now which are very directional and do not bleed out like the old halogens used to.

Miriam Cox, 728 Kitterman Circle, spoke against Casey's being located on the site and regarding the storm water concerns they currently have and are concerned that having Casey's there will make it even worse for them.

Ms. Lamberty assured her that the storm water plan they have in place for Casey's will make their area better than it stands now as an empty lot and should have significant improvements overall for the residents in the area.

Ms. Cox also expressed concerns for the lighting coming into their homes and the dangers with the traffic issues in the area. She also has concerns with the traffic signals and how long people have to wait for a green light coming from the west on North Ave. Concerned of the line-up of cars during heavy traffic.

Mr. Pelds also noted that Casey's has been working the area residents to accommodate them as much as possible. They are working on savings as many trees as possible or relocating as many as they can if they are in the way.

Mr. Pelds informed the Commission that this Casey's is a new O2 Store, and will have a sub shop, full kitchen and inside seating area.

Paul Starkweather, 738 Kitterman Circle spoke regarding the stormwater concerns on Kitterman Circle and how prevalent erosion is around this channel. His information will be given to the Public Works Director for further discussion.

Rick Cox, 728 Kitterman Circle, spoke not in favor of the Casey's Store due to traffic issues and how it will affect their property values. Their living space is in the back of their homes and that is where the Casey's will be. Mr. Cox is concerned of safety issues with the increased foot traffic in the area.

Mr. Heggen noted that a future landscaping plan could be submitted that will take into account the number of trees being saved and replaced between Casey's and the residential area in order to maximize the trees as buffers between the two uses.

Motion by Huse and seconded by Fraser to approve Site Plan – Casey's General Store – North Ave. and Sunset Dr. with the following conditions:

- That the lighting plan be revisited prior to Council approval.
- That the site developer adheres to the approved development review and construction process within the City.
- That any necessary easements are obtained prior to Council approval.
- That a landscaping plan be submitted and approved prior to opening.

Approved 5-0.

Future Business Items

Communication Tower Ordinance – Mr. Heggen noted that some additional updates have been submitted and that the Commission will probably include this item during the entire zoning code update.

Kading Properties – No new information at this time.

Blooming Heights Preliminary Plat –Mr. Heggen noted this item may be on the next agenda.

Hy-Vee Platting and Site Plan – Mr. Heggen noted this item may be on the next agenda.

Sub-Area 1 Master Plan – No new information at this time.

Adjournment – 14-64

Motion by Huse and seconded by McConnell to adjourn the meeting at 7:14 p.m.
Approved 5-0.

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Chad Ross, Acting Chairperson

Josh Heggen, Comm. Dev. Director

**CITY OF NORWALK
REPORT TO THE NORWALK PLANNING COMMISSION**

ITEM: Preliminary Plat – Hy-Vee

MEETING DATE: August 25, 2014

INTRODUCTION & DISCUSSION:

Hy-Vee, Inc. has submitted a preliminary plat for the proposed Hy-Vee site at the corner of Iowa Highway 28 and Colonial Parkway in accordance with the City of Norwalk Subdivision Regulations and Zoning Code. The preliminary plat includes 3 commercial lots with C-2 and C-3 zoning. The proposal would create space for the Hy-Vee grocery store on lot 1, space for a Hy-Vee gas station on lot 2, and additional unplanned commercial ground on lot 3.

APPLICABLE CODE SECTION(S):

City of Norwalk Zoning Ordinance

C-2 Zoning District Regulations

17.10.100.2 Principal Permitted Uses: *The use of structures or land listed in this section shall be permitted in the C-2 District.*

- B. *The following retail commercial and service establishments and uses:*
 - 18. *Grocery and food stores*

The proposed preliminary plat includes 1 lot that is proposed as a grocery store.

Bulk Regulations: *The C-2 district has a minimum lot size of 80,000 sq. ft., lot width of 200', setbacks of 50' front, 35' total side, 50' rear, and maximum height of 50'.*

The two C-2 lots in the proposed preliminary plat conform to the bulk regulations.

C-3 Zoning District Regulations

17.10.110.2 Principal Permitted Uses: *The use of structures or land listed in this section shall be permitted in the C-3 District.*

- B. *The following retail commercial and service establishments and uses:*
 - 5. *Gas stations or Service stations*

The proposed preliminary plat includes 1 lot that is proposed as a gas station.

Bulk Regulations: *The C-3 district has a minimum lot size of 20,000 sq. ft., lot width of 200', setbacks of 30' front, 20' total side, 35' rear, and maximum height of 50'.*

The one C-3 lot in the proposed preliminary plat conforms to the bulk regulations.

Subdivision Regulations – Sec. 16.05 – Review & Approval Procedure

3. Preliminary Plat: *The developer shall submit to the Community Development Director five (5) full size (22"x34") copies and five (5) half size (11"x17") copies of the preliminary plat. The preliminary plat shall contain such information and data as outlined in Chapter 16.11. If the submittal requirements of Chapter 16.11 of this Title are complied with, the review of the preliminary plat by the City staff, Commission and Council shall be conducted in a timely manner and in accordance with the Norwalk Community Development Application Schedule.*

The applicant has adhered to the application requirements and included all information required in Chapter 16.11.

Staff Review. *The Community Development Director shall coordinate input from other City departments and service providers, and carefully examine the plat as to its compliance with the City's Comprehensive Plan, Zoning Ordinance, Subdivision Ordinance and other applicable land use management policies and regulations of the City. The Director shall coordinate with the City Engineer his or her review of the preliminary plat to determine if it is compatible with the approved neighborhood sketch plan or master plan including the existing and planned street system, compliant with City standards and is consistent with good planning and engineering practices. The Director shall coordinate review comments from the City Engineer and other City departments and service providers, and submit a report with recommendations and comments to the Commission and Council. The Director may confer with the developer on changes deemed advisable and the kind and extent of such improvements to be made to implement the plat or subdivision.*

All necessary City departments have reviewed and provided comments on the proposal. Revisions were made prior to the final submittal of the preliminary plat in a manner acceptable to City Staff to move forward with the approval process.

Commission and Council Review *After receiving the Community Development Director's report, the Commission shall study the preliminary plat and other material for conformity to this Title and other applicable City regulations. The Commission may request changes to the subdivision deemed advisable before recommending approval or rejection of a preliminary plat. The Commission may, at its discretion, hold a public hearing on the proposed plat. The Commission shall file with the Council recommendations for approval or rejection of such preliminary plat within 60 days after the date of submission of the plat to the Commission.*

Upon receiving recommendations from the Commission, the Council shall consider the same, the Council shall approve or deny the preliminary plat. The preliminary plat approval by the Council shall be null and void unless improvements are constructed and a final plat is presented to the Council for all or part of the area of the preliminary plat within two (2) years after the date of the preliminary plat approval, or an extension is granted by the Council.

STAFF COMMENT:

Staff has received all required documentation for the preliminary plat approval process. Staff is comfortable with moving along in the development process based on the submitted preliminary plat. Several items still need resolution as the development process progresses. Those items are:

- Public cross access easement – the current plat and preliminary plans have a frontage road that would run along the lot boundaries of lots 1, 2, & 3. Private access easements have been shown and the City Staff would like to continue discussion of including a public access easement across this frontage road, at least until the transportation network is built out to provide additional public roads in the area. Final easement locations and easement agreements would be set during the final platting stage of development.
- Easements for infrastructure construction – several easements are shown that will be needed to build the public infrastructure identified on the plat. These easements will need to be obtained prior to the start of construction.
- Vertical alignment of Market Street – the plat shows the vertical alignment of Market Street that has potential conflicts with an existing gas main and existing water main. The design shown on the preliminary plat is not sufficient enough to determine if these utilities will need to be relocated. Staff notes that approval of the preliminary plat should not constitute acceptance of the vertical alignment shown. Further design, study, and planning will be needed to determine the vertical design and the plan for relocating utilities, if needed.
- Iowa DOT permitting – the developer is responsible for obtaining the appropriate permits from the Iowa DOT.

STAFF RECOMMENDATION:

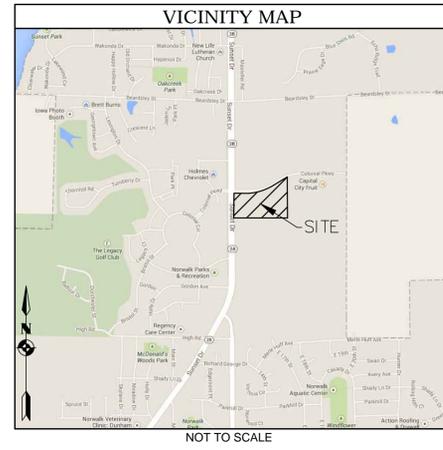
Staff would recommend approval of the Hy-Vee preliminary plat with the following condition(s):

- That the issue of desired public cross access easements is resolved prior to final platting.
- That easements for public infrastructure construction are obtained prior to the approval of construction drawings.
- That the vertical alignment concerns are addressed accordingly and found satisfactory by City Staff.

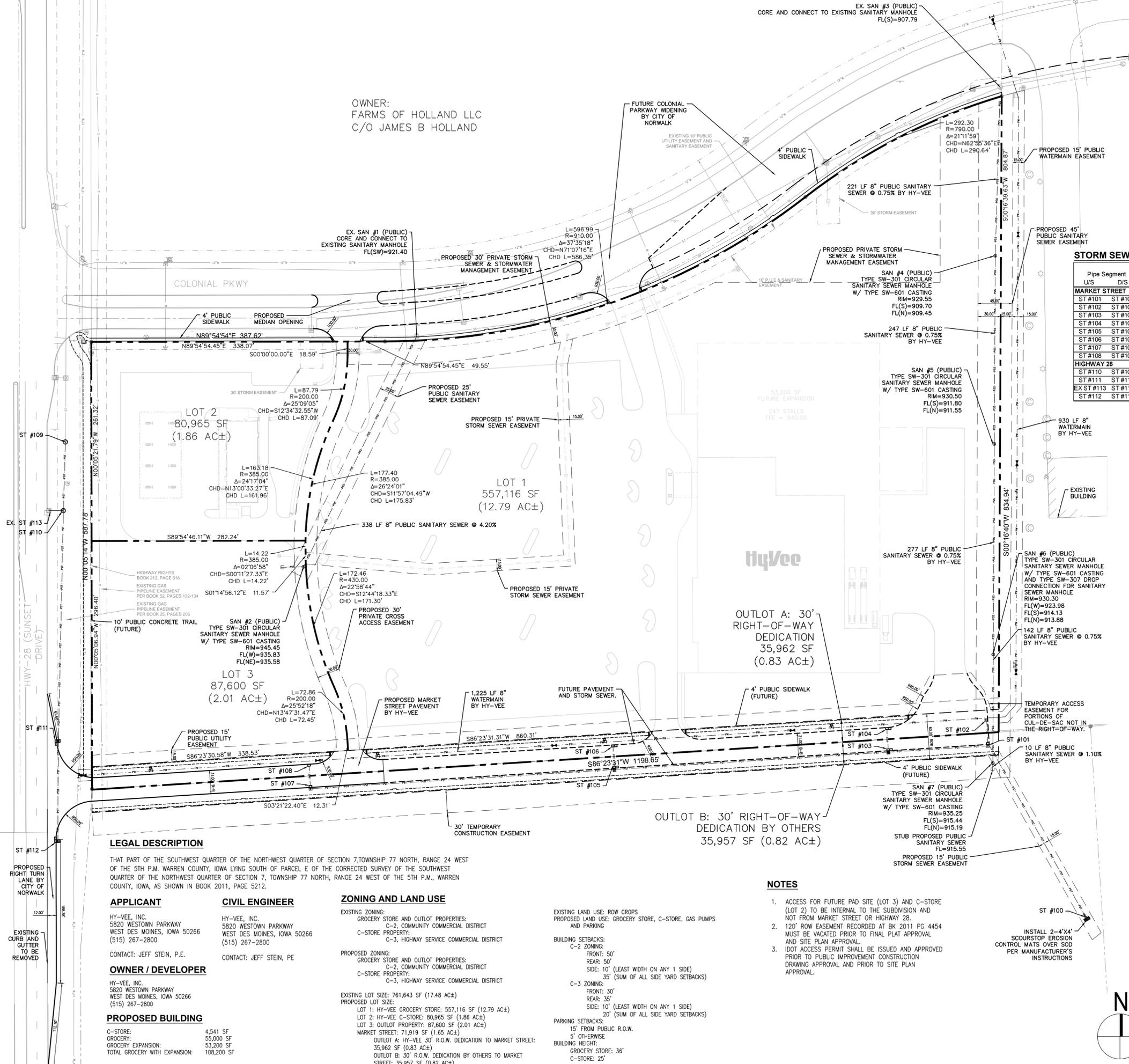
- That upon final approval of the preliminary plat, the developer adheres to all provisions detailed in the Norwalk Subdivision Regulations and Norwalk Municipal Code of Ordinances.
- That any significant modifications to the proposed preliminary plat be reviewed and approved by the Planning & Zoning Commission and City Council.

ATTACHMENTS:

Attachment "A" – Hy-Vee – Preliminary Plat



OWNER:
FARMS OF HOLLAND LLC
C/O JAMES B HOLLAND



STORM SEWER PIPE DATA

Pipe Segment U/S	Pipe or Private	Pipe Material	Pipe Diameter (inches)	Pipe Length (feet)	Grate or Rim U/S	Invert U/S	Invert D/S	Slope	Proposed or Future
MARKET STREET									
ST #101 ST #100	Public	RCP CLASS III	18	257	934.80	930.30	922.00	3.23%	Future
ST #102 ST #101	Public	RCP CLASS III	15	28	934.80	930.80	930.40	1.43%	Future
ST #103 ST #101	Public	RCP CLASS III	15	130	937.25	933.00	930.40	2.00%	Future
ST #104 ST #103	Public	RCP CLASS III	15	26	937.25	933.50	933.10	1.54%	Future
ST #105 ST #103	Public	RCP CLASS III	15	360	944.50	940.30	933.10	2.00%	Future
ST #106 ST #105	Public	RCP CLASS III	15	26	944.50	940.80	940.40	1.54%	Future
ST #107 ST #105	Public	RCP CLASS III	15	400	952.60	948.40	940.40	2.00%	Proposed
ST #108 ST #107	Public	RCP CLASS III	15	26	952.60	948.90	948.50	1.54%	Proposed
HIGHWAY 28									
ST #110 ST #109	Public	RCP CLASS III	15	90	948.50	943.90	941.20	3.00%	Proposed
ST #111 ST #110	Public	RCP CLASS III	15	303	953.50	948.85	944.00	1.60%	Proposed
EX ST #113 ST #110	Public	RCP CLASS III	18	19	948.00	944.38	944.00	2.00%	Proposed
ST #112 ST #111	Public	RCP CLASS III	15	131	955.50	950.78	948.95	1.40%	Proposed

STORM SEWER STRUCTURE DATA

ST#100 (PUBLIC-FUTURE) 18-INCH F.E.S. W/ APRON GUARD AND FOOTING FL=922.00	ST#106 (PUBLIC-FUTURE) TYPE SW-505 DOUBLE GRATE INTAKE W/ TYPE SW-603 TYPE 'R' CASTING GRATE(E)=944.55 GRATE(I)=944.50 FL(S)=940.80	ST#112 (PUBLIC) TYPE SW-506 DOUBLE GRATE INTAKE W/ MANHOLE W/ TYPE SW-603 TYPE 'R' CASTING, AND TYPE SW-602 TYPE 'E' CASTING GRATE(S)=955.80 GRATE(E)=956.00 FL(N)=950.78
ST#101 (PUBLIC-FUTURE) TYPE SW-503 SINGLE GRATE INTAKE W/ MANHOLE W/ TYPE SW-603 TYPE 'R' CASTING, AND TYPE SW-602 TYPE 'E' CASTING GRATE(N)=934.80 RIM(S)=935.30 FL(N)=930.40 FL(W)=930.40 FL(E)=930.30	ST#107 (PUBLIC) TYPE SW-503 SINGLE GRATE INTAKE W/ MANHOLE W/ TYPE SW-603 TYPE 'R' CASTING, AND TYPE SW-602 TYPE 'E' CASTING GRATE(N)=952.60 RIM(S)=953.80 FL(N)=948.50 FL(E)=948.40	EX ST#113 (PUBLIC) CORE AND CONNECT TO EXISTING STORM SEWER INTAKE RIM=948.00 FL(E)=944.38
ST#102 (PUBLIC-FUTURE) TYPE SW-501 SINGLE GRATE INTAKE W/ TYPE SW-603 TYPE 'O' CASTING GRATE=934.80 FL(S)=930.80	ST#108 (PUBLIC) TYPE SW-501 SINGLE GRATE INTAKE W/ TYPE SW-603 TYPE 'R' CASTING GRATE=952.60 FL(S)=948.90	
ST#103 (PUBLIC-FUTURE) TYPE SW-508 DOUBLE GRATE INTAKE W/ MANHOLE W/ TYPE SW-603 TYPE 'R' CASTING, AND TYPE SW-602 TYPE 'E' CASTING GRATE(W)=937.30 GRATE(E)=937.25 RIM(S)=937.80 FL(N)=933.10 FL(W)=933.10 FL(E)=933.00	ST#109 (PUBLIC) TYPE SW-601 CIRCULAR STORM SEWER MANHOLE W/ TYPE SW-603 TYPE 'E' CASTING RIM=945.90 FL(S)=941.30 EX FL(N)=939.11	ST#110 (PUBLIC) TYPE SW-601 CIRCULAR STORM SEWER MANHOLE W/ TYPE SW-603 TYPE 'E' CASTING RIM=948.50 FL(W)=944.00 FL(S)=944.00 FL(N)=943.90
ST#104 (PUBLIC-FUTURE) TYPE SW-505 DOUBLE GRATE INTAKE W/ TYPE SW-603 TYPE 'R' CASTING GRATE(W)=937.30 GRATE(E)=937.25 FL(S)=933.50	ST#111 (PUBLIC) TYPE SW-506 DOUBLE GRATE INTAKE W/ MANHOLE W/ TYPE SW-603 TYPE 'R' CASTING, AND TYPE SW-602 TYPE 'E' CASTING GRATE(W)=944.55 GRATE(E)=944.50 RIM(S)=945.05 FL(N)=940.40 FL(W)=940.40 FL(E)=940.30	
ST#105 (PUBLIC-FUTURE) TYPE SW-506 DOUBLE GRATE INTAKE W/ MANHOLE W/ TYPE SW-603 TYPE 'R' CASTING, AND TYPE SW-602 TYPE 'E' CASTING GRATE(W)=944.55 GRATE(E)=944.50 RIM(S)=945.05 FL(N)=940.40 FL(W)=940.40 FL(E)=940.30		

LEGAL DESCRIPTION

THAT PART OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 7, TOWNSHIP 77 NORTH, RANGE 24 WEST OF THE 5TH P.M. WARREN COUNTY, IOWA LYING SOUTH OF PARCEL E OF THE CORRECTED SURVEY OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 7, TOWNSHIP 77 NORTH, RANGE 24 WEST OF THE 5TH P.M., WARREN COUNTY, IOWA, AS SHOWN IN BOOK 2011, PAGE 5212.

APPLICANT

HY-VEE, INC.
5820 WESTOWN PARKWAY
WEST DES MOINES, IOWA 50266
(515) 267-2800
CONTACT: JEFF STEIN, P.E.

CIVIL ENGINEER

HY-VEE, INC.
5820 WESTOWN PARKWAY
WEST DES MOINES, IOWA 50266
(515) 267-2800
CONTACT: JEFF STEIN, PE

ZONING AND LAND USE

EXISTING ZONING:
GROCERY STORE AND OUTLOT PROPERTIES:
C-2, COMMUNITY COMMERCIAL DISTRICT
C-STORE PROPERTY:
C-3, HIGHWAY SERVICE COMMERCIAL DISTRICT
PROPOSED ZONING:
GROCERY STORE AND OUTLOT PROPERTIES:
C-2, COMMUNITY COMMERCIAL DISTRICT
C-STORE PROPERTY:
C-3, HIGHWAY SERVICE COMMERCIAL DISTRICT

PROPOSED BUILDING

C-STORE: 4,541 SF
GROCERY: 55,000 SF
GROCERY EXPANSION: 53,200 SF
TOTAL GROCERY WITH EXPANSION: 108,200 SF

OUTLOT B: 30' RIGHT-OF-WAY DEDICATION BY OTHERS
35,957 SF (0.82 AC±)

OUTLOT A: 30' RIGHT-OF-WAY DEDICATION
35,962 SF (0.83 AC±)

NOTES

- ACCESS FOR FUTURE PAD SITE (LOT 3) AND C-STORE (LOT 2) TO BE INTERNAL TO THE SUBDIVISION AND NOT FROM MARKET STREET OR HIGHWAY 28.
- 120' ROW EASEMENT RECORDED AT BK 2011 PG 4454 MUST BE VACATED PRIOR TO FINAL PLAT APPROVAL AND SITE PLAN APPROVAL.
- IDOT ACCESS PERMIT SHALL BE ISSUED AND APPROVED PRIOR TO PUBLIC IMPROVEMENT CONSTRUCTION DRAWING APPROVAL AND PRIOR TO SITE PLAN APPROVAL.

LOCATION:
**HY-VEE GROCERY STORE
NORWALK, IOWA**

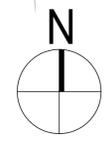
HY-VEE, INC.
5820 WESTOWN PARKWAY
WEST DES MOINES, IOWA 50266
TELEPHONE: (515) 267-2800
FAX: (515) 267-2935

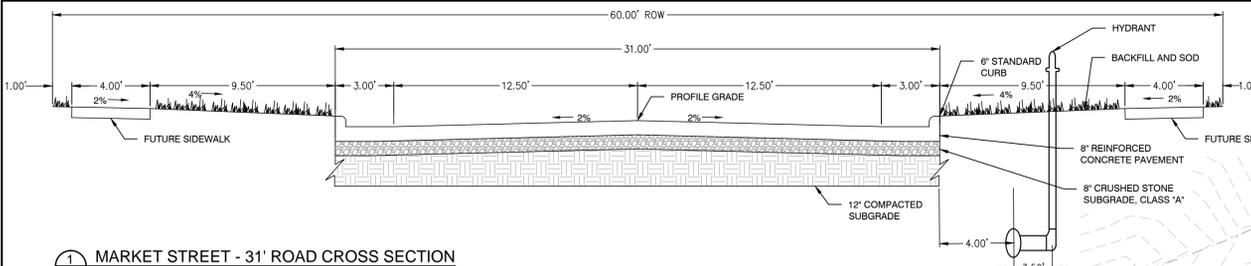
HyVee
EMPLOYEE OWNED

PRELIMINARY PLAT

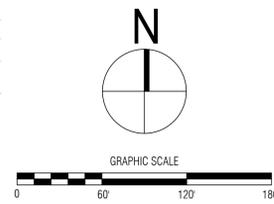
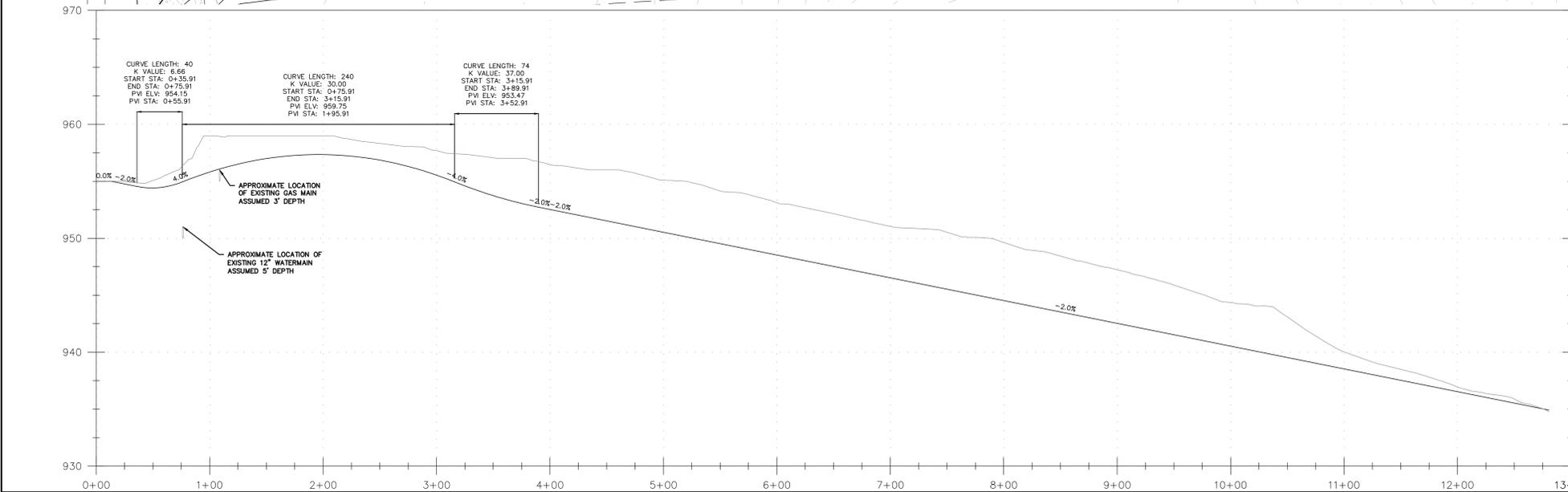
DRAWN: KLJ	DATE: 08/08/2014
SCALE: 1"=60'	JOB NUMBER: 007.025
SHEET:	

P1.0





1 MARKET STREET - 31' ROAD CROSS SECTION
NTS



REVISION	DATE BY

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LOCATION:
**HY-VEE GROCERY STORE
NORWALK, IOWA**

HY-VEE, INC.
5820 WESTOWN PARKWAY
WEST DES MOINES, IOWA 50266
TELEPHONE: (515) 267-2800
FAX: (515) 267-2935

HyVee
EMPLOYEE OWNED

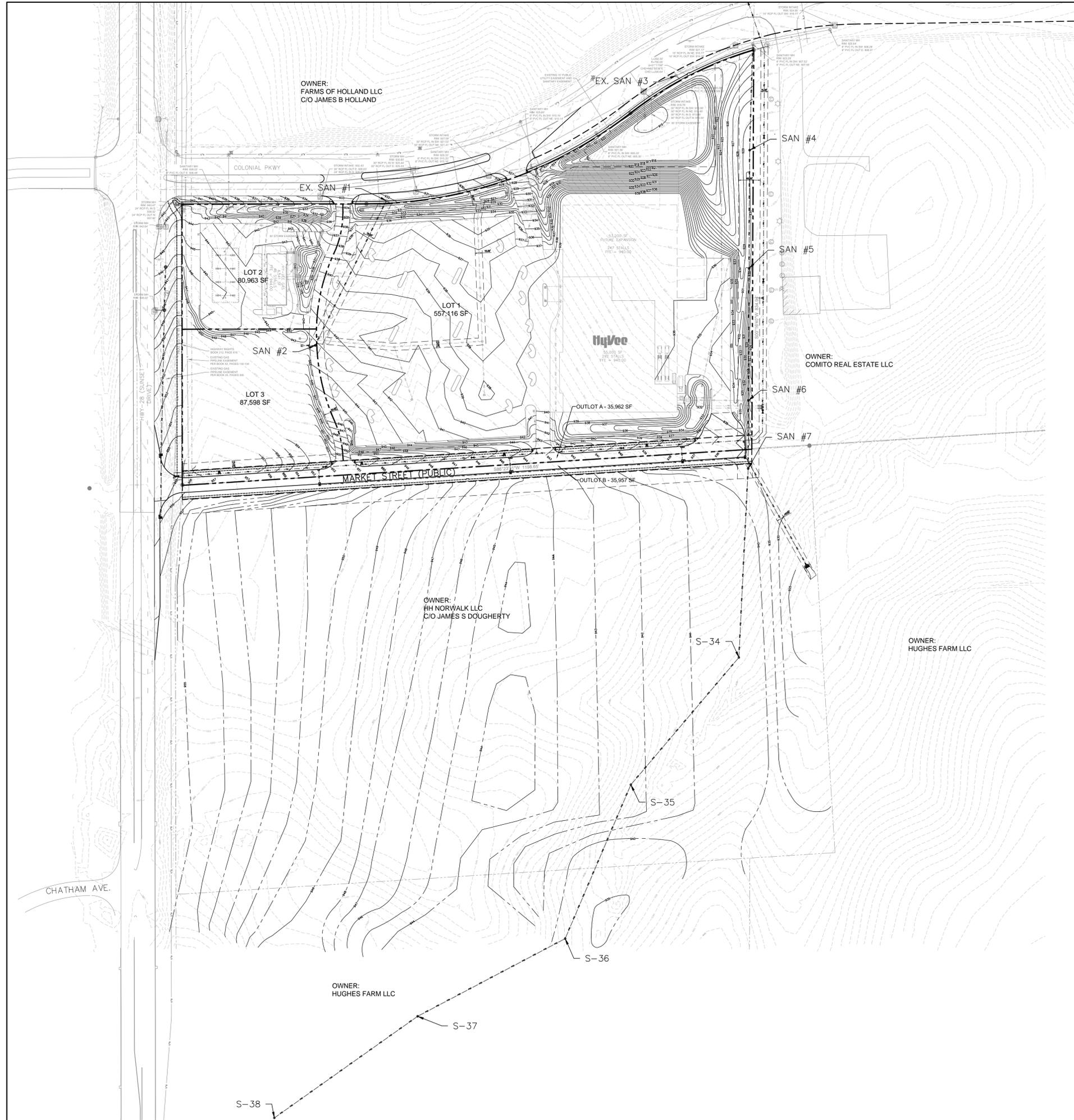
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PRELIMINARY
PLAT

DRAWN: KLJ	DATE: 08/08/2014
SCALE: 1"=60'	JOB NUMBER: 007.025

SHEET:
P2.0

REVISION	DATE BY



SANITARY SEWER PIPE DATA

Pipe Segment U/S	D/S	Public or Private	Pipe Material	Pipe Diameter (inches)	Pipe Length (feet)	Grate or Rim U/S	Invert U/S	Invert D/S	Slope	Proposed or Future
EAST OF HY-VEE GAS STATION										
SAN #2	EX SAN #1	Public	PVC	8	338	945.45	935.58	921.40	4.20%	Proposed
EAST OF HY-VEE GROCERY STORE										
SAN #4	EX SAN #3	Public	PVC	8	221	929.55	909.45	907.79	0.75%	Proposed
SAN #5	SAN #4	Public	PVC	8	247	930.50	911.55	909.70	0.75%	Proposed
SAN #6	SAN #5	Public	PVC	8	277	930.30	913.88	911.80	0.75%	Proposed
SAN #7	SAN #6	Public	PVC	8	142	935.24	915.19	914.13	0.75%	Proposed
S-34	SAN #7	Public	PVC	8	395	937.17	920.20	915.44	1.21%	Future
S-35	S-34	Public	PVC	8	350	932.80	923.70	919.80	1.11%	Future
S-36	S-35	Public	PVC	8	350	937.50	927.60	924.10	1.00%	Future
S-37	S-36	Public	PVC	8	350	945.00	931.50	928.00	1.00%	Future
S-38	S-37	Public	PVC	8	368	950.80	935.60	931.92	1.00%	Future

SANITARY SEWER STRUCTURE DATA

EX. SAN#1 (PUBLIC)
CORE AND CONNECT TO EXISTING SANITARY MANHOLE
FL(S)=921.40

SAN#2 (PUBLIC)
TYPE SW-301 CIRCULAR
SANITARY SEWER MANHOLE W/
TYPE SW-601 CASTING
RIM=925.77
FL(SW)=920.20
FL(N)=919.80

EX. SAN#3 (PUBLIC)
CORE AND CONNECT TO EXISTING SANITARY MANHOLE
FL(S)=907.79

SAN#4 (PUBLIC)
TYPE SW-301 CIRCULAR
SANITARY SEWER MANHOLE W/
TYPE SW-601 CASTING
RIM=929.55
FL(S)=909.70
FL(N)=909.45

SAN#5 (PUBLIC)
TYPE SW-301 CIRCULAR
SANITARY SEWER MANHOLE W/
TYPE SW-601 CASTING
RIM=930.50
FL(S)=911.80
FL(N)=911.55

SAN#6 (PUBLIC)
TYPE SW-301 CIRCULAR
SANITARY SEWER MANHOLE W/
TYPE SW-601 CASTING AND
TYPE SW-307 DROP
CONNECTION FOR SANITARY SEWER MANHOLE
RIM=930.30
FL(W)=923.98
FL(S)=914.13
FL(N)=913.88

SAN#7 (PUBLIC)
TYPE SW-301 CIRCULAR
SANITARY SEWER MANHOLE W/
TYPE SW-601 CASTING
RIM=935.25
FL(S)=915.44
FL(N)=915.19

S-34 (PUBLIC-FUTURE)
TYPE SW-301 CIRCULAR
SANITARY SEWER MANHOLE W/
TYPE SW-601 CASTING
RIM=925.77
FL(SW)=920.20
FL(N)=919.80

S-35 (PUBLIC-FUTURE)
TYPE SW-301 CIRCULAR
SANITARY SEWER MANHOLE W/
TYPE SW-601 CASTING
RIM=932.80
FL(SW)=924.10
FL(NE)=923.70

S-36 (PUBLIC-FUTURE)
TYPE SW-301 CIRCULAR
SANITARY SEWER MANHOLE W/
TYPE SW-601 CASTING
RIM=937.50
FL(SW)=928.00
FL(NE)=927.60

S-37 (PUBLIC-FUTURE)
TYPE SW-301 CIRCULAR
SANITARY SEWER MANHOLE W/
TYPE SW-601 CASTING
RIM=945.00
FL(SW)=931.92
FL(NE)=931.50

S-38 (PUBLIC-FUTURE)
TYPE SW-301 CIRCULAR
SANITARY SEWER MANHOLE W/
TYPE SW-601 CASTING
RIM=950.80
FL(NE)=935.60

NOTE
ALL GRADING AND SANITARY SEWER STRUCTURE AND PIPING SHOWN TO THE SOUTH OF MARKET STREET IS SHOWN FOR INFORMATION ONLY AND WILL BE CONSTRUCTED IN THE FUTURE BY OTHERS.

LOCATION:
**HY-VEE GROCERY STORE
NORWALK, IOWA**

HY-VEE INC.
9620 WESTOWN PARKWAY
WEST DES MOINES, IOWA 50266
TELEPHONE: (515) 267-2800
FAX: (515) 267-2935

HyVee
EMPLOYEE OWNED

EXHIBIT



DRAWN: KLJ	DATE: 08/08/2014
SCALE: 1"=60'	JOB NUMBER: 007.025
SHEET: 1	

CITY OF NORWALK
REPORT TO THE NORWALK PLANNING & ZONING COMMISSION

ITEM: Zoning Amendment – Driveway Surfacing Requirements

MEETING DATE: August 25, 2014

INTRODUCTION & DISCUSSION:

On March 24, 2010, the Planning and Zoning Commission discussed an amendment to the Zoning Ordinance related to the surfacing requirements of off-street parking areas. The intent of the amendment was to update the surfacing requirements to reference the requirements of the Iowa Statewide Urban Design and Specifications (SUDAS).

In making this amendment, language was struck that required “all off street parking and loading areas and access roadways shall have a durable and dustless surface paved with asphaltic or Portland cement concrete pavement in accordance with specifications as herein set forth.”

The amended language stated “all off-street parking and loading areas and access roadways shall be designed and constructed in accordance with the latest published version of SUDAS.” In reviewing the latest version of SUDAS, staff could not find instances where a paved driveway was required. SUDAS only requires paved areas for off-street parking and loading. In most residential instances, this covers the entire driveway area. However, in rural areas, long driveways may not be able to be considered as off-street parking and loading areas.

Staff would like to begin discussion on an amendment to clarify the requirements for driveway surfacing for various uses in the City.

Amended Code Language:

All off-street parking and loading areas and access roadways shall be designed and constructed in accordance with the latest published version of the Statewide Urban Design Specifications (SUDAS). Off-street parking of automobiles, vans, construction equipment, and any other mobile vehicles equipped for street and highway travel shall be on an asphaltic or Portland cement concrete paved off-street parking area as required herein and not parked or stored within the landscaped open space area of the front yard between the building and public street right-of-way, except however, the storage of a recreational vehicle, a camper, and boat within the rear yard upon an unpaved area shall be permitted.

Paved driveways and any associated off-street parking areas within the front yard of a single-family detached residence shall not occupy greater than fifty

(50) percent of the area between the building setback line and public right-of-way, and shall not provide greater than one (1) parking space in addition to that provided in the traveled portion of the driveway. Driveways shall not be greater than 20 feet in width between the public street roadway and a point on private property which is setback five (5) feet from the street right-of-way. Driveways shall have a maximum flare of two (2) feet on each side. Driveways shall be so graded and drained to dispose of the surface water to the street or public designated storm water drainage easements or facilities.

Original Code Language:

Surfacing Requirements - All off-street parking and loading areas and access roadways shall have a durable and dustless surface paved with asphaltic or Portland cement concrete pavement in accordance with the specifications as herein set forth. Off-street parking of automobiles, vans, campers, trucks, trailers, tractors, recreational vehicles, boats, construction equipment, and any other mobile vehicles equipped for street and highway travel shall be on an asphaltic or Portland cement concrete paved off-street parking area as required herein and not parked or stored within the landscaped open space area of the front yard between the building and public street right-of-way, except, however, the storage of a recreational vehicle, a camper, and boat within the rear yard upon an unpaved area shall be permitted.

All off-street parking areas and associated driveways, access roadways and frontage roads, except driveways for single family residences, shall be constructed with permanent attached 6" high Portland Cement Concrete curbing or curbing of alternate height acceptable to the City (prefabricated portable curb stops shall not be considered an acceptable alternate), and shall be so graded and drained as to dispose of all surface water accumulation within the area; and shall be so arranged and marked as to provide for orderly and safe loading or unloading and parking and storage of self-propelled vehicles. The minimum thickness of pavement of the parking area shall be as follows:

- a. *Portland Cement Concrete shall have a minimum thickness of five (5) inches and the subgrade shall have a minimum modulus (k) of one hundred fifty (150). Additional thickness of Portland Cement Concrete may be utilized to create an equivalent subgrade modulus if the existing subgrade modulus is less than one hundred fifty (150).*
- b. *Asphaltic Cement Concrete shall have a minimum thickness of five and one-half (5-1/2) inches and the subgrade shall have a minimum CBR of five (5). Additional thickness of Asphaltic Cement Concrete may be utilized to create an equivalent CBR if the existing CBR is less than five (5). Pavement shall be designed in accordance with the Asphalt Institute's "Thickness Design Manual" (MS-1).*

Material utilized in the subgrade shall be well drained and not susceptible to frost boils. The part of the parking utilized for driveways, access roadways, and frontage roads shall be specifically designed to accommodate the type and load bearing of traffic that will be utilizing the access roadway. The subgrade under the pavement shall be compacted to not less than ninety-five percent (95%) maximum density; moisture content not less than two percent (2%) below optimum or more than three percent (3%) above optimum moisture content. Driveways for individual single family detached or attached townhouse style residences on private property shall be asphaltic concrete or Portland cement concrete with minimum thickness of four (4) inches with sufficiently compacted and well-drained subgrade base. Driveways shall not be greater than twenty (20) feet in width between the public street roadway and a point on private property which is set back five (5) feet from the street right-of-way. Paved driveways and any associated off-street parking areas within the front yard of a single-family detached residence shall not occupy greater than fifty (50) percent of the area between the building setback line and public right-of-way, and shall not provide greater than one (1) parking space in addition to that provided in the traveled portion of the driveway. Driveways shall be so graded and drained to dispose of surface water to the street or public designated storm water drainage easements or facilities.

**CITY OF NORWALK
REPORT TO THE NORWALK PLANNING & ZONING COMMISSION**

ITEM: Communication Antennas and Towers Ordinance

MEETING DATE: August 25, 2014

INTRODUCTION & DISCUSSION:

Staff has received a draft with revisions to the Communication Antennas and Towers ordinance from Chris Shires from Confluence. The draft provides several revisions to the original ordinance prepared by former staff. Approval of the Communication Antennas and Towers ordinance would likely occur during the full Zoning Code update approval.

Attachment "A" – Communications and Antenna Towers – 8-6-2014

COMMUNICATION ANTENNAS AND TOWERS**Chapter 17.90.060****A. PURPOSE AND GENERAL POLICY**

It is necessary for the City to establish uniform rules and policies in order to ensure public safety and provide efficient delivery of services by the City and others wishing to utilize wireless communication technologies and in order to protect public and private investments, ensure the health, safety and welfare of the population, to provide for the regulation and administration of the orderly location of antenna arrays and towers and to secure the rights of the City to a return on its investment on public property.

B. DEFINITIONS

For use in this chapter the following terms are defined:

1. "Antenna height" means the vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure. If the support structure is on a sloped grade, then the average between the highest and lowest grades of the cell site shall be used in calculating the antenna height.
2. "Antenna support structure" means any tower or any other structure which supports a device used in the transmitting or receiving telecommunication signals.
3. "Cell site" means a tract or parcel of land that contains the wireless communication antenna, its support structure, accessory building(s), and parking, and may include other uses associated with and necessary for wireless communication transmission.
4. "Communications tower" means a tower, pole, or similar structure which supports a telecommunications antenna operated for commercial purposes above ground in a fixed location, free standing, guyed or on a building.
5. "Telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

C. LOCAL REGULATION AND COMPLIANCE WITH THE TELECOMMUNICATIONS ACT OF 1996

The Telecommunications Act of 1996 prohibits the City from establishing policies that discriminate against one or a group of providers in favor of another or another group of providers or potential providers. The following objectives shall be applied consistently to all telecommunications providers that request a location on City property for their communications towers and antennas.

1. In order to reduce the number of antenna support structures needed in the community in the future, the proposed support structure shall be required to accommodate other users, including other wireless communications companies, local law enforcement, fire and ambulance services.
2. To ensure that new towers will be safe and blend into the environment, a full site plan shall be required for all cell sites, showing the antenna, antenna support structure, building, landscaping, fencing, buffering and access.
3. To minimize placement of wireless equipment in highly populated areas, residential locations will be considered as a last resort. Mono-poles shall be required with respect to any cell site other than industrial zoning districts. All lattice or guyed towers are prohibited in all zoning districts except industrial zoning districts.

4. To assure revenues from site leases of City-owned and -controlled land and structures reflect fair compensation for use of City property and administration of this chapter.

D. PRIORITIES AND PLACEMENT REQUIREMENTS

1. Priority. Priority of the use of City-owned land for communications antennas and towers will be given to the following entities in descending order of priority:
 - a. All functions of the City.
 - b. Public safety agencies that are not a part of the City, including law enforcement, fire and ambulance services.
 - c. Other governmental agencies for uses which are not related to public safety.
 - d. Entities providing licensed commercial communications services, including cellular, personal communications services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging and similar services that are marketed to the general public for business and/or personal use.
2. Placement. The placement of communications antennas or towers on City-owned property must comply with the following requirements:
 - a. The antenna or tower will not interfere with the purpose for which the City-owned property is intended.
 - b. The antenna or tower will have **no adverse impact (City Attorney Dougherty will be available to assist and answer questions)** on surrounding private property.
 - c. The applicant will produce proof of adequate liability insurance for potential damage antennas or towers could reasonably cause to City property and facilities. The applicant will also submit a letter of credit, performance bond, or other security acceptable to the City to cover the cost of antenna or tower removal. At the sole discretion of the City, failure to provide annually proof of insurance or loss of the required surety for antenna or tower removal shall be cause for revocation of the Special Use Permit and/or lease agreement.
 - d. The antenna or tower will not interfere with other uses which have a higher priority as discussed in the paragraphs above.
 - e. The applicant must reimburse the City for any costs **that the City** incurs because of the presence of the applicant's antenna or tower.

E. LEASE REQUIRED

No person or other entity shall use any public property without first obtaining a lease from the City.

F. FEE REQUIRED

No lease for the use of public property shall be granted without requiring the lessee thereof to pay a reasonable and competitively neutral fee for the use of public property.

G. LIMIT ON TERM

No lease for the use of public property shall be granted for a term of more than five (5) years.

H. APPLICATION PROCESS

All applicants who wish to locate a communications antenna or tower on City-owned or private property must submit to the Planning & Building Department, a completed application accompanied by a fee of \$200.00 and the following documents:

Comment [CS1]: If they pay this do they also need to pay the \$100 special use permit fee if a special use permit is required?

1. Identification of the owners of all antennas and equipment to be located on the site.
2. Written authorization from the site owner for the application.
3. Proof shall be provided that the applicant is licensed by the Federal Communications Commission.
4. A copy of typical specifications for proposed structures and antennas, including description of design characteristics and material.
5. A current map showing locations of any existing antennas, facilities, existing towers and proposed towers currently serving any property within the City.
6. A report from a structural engineer showing the tower antenna capacity by type and number, and a certification that the tower is designed to withstand winds in accordance with ANS/EI4/T14 222, latest revision, standards.
7. Applicant must provide the names, addresses and telephone numbers of all owners of other towers or usable antenna support structures within a one-half mile radius of the proposed new tower site, including City owned property, and written documentation that the applicant (1) made diligent but unsuccessful efforts for a minimum of forty (40) days prior to the submission of the application to install or co-locate the applicant's telecommunications facilities on towers or useable antenna support structures owned by the City and other persons located within a one-half mile radius for the proposed tower site, or (2) written technical evidence from an engineer that the proposed tower or facilities cannot be installed or co-located on another person's tower or support structure.
8. Applicant must show that a new tower is designed to accommodate additional antennas equal in number to applicant's present and future requirements.
9. A line of sight analysis showing the potential visual and aesthetic impacts on adjacent residential districts.
10. Applicant must provide a written indemnification of the municipality and proof of liability insurance and financial ability to respond to claims up to \$1,000,000.00 in the aggregate which may arise from operation of the facility during its life at no cost to the municipality. At the sole discretion of the City, failure to provide annually proof of insurance shall be cause for revocation of the Special Use Permit or administrative approval for said antenna or tower.
11. A written agreement to remove the tower and/or antenna within 180 days after cessation of use. If the antenna or tower is located on private property, the property owner shall provide a petition and waiver to the City requesting the City specially assess the property owner the full cost of the removal of the antenna or tower should the antenna or tower not be removed within 180 days after cessation of use.

I. SPECIAL USE PERMIT NOT REQUIRED

A cell site with an antenna that is attached to an existing communications tower, smoke stack, water tower, or other structure of sufficient height, is permitted in all zoning districts. The height of the antenna shall not exceed the height of the existing structure by more ~~that than ten twenty~~ (210) feet. If the antenna is to be mounted on an existing structure, a site plan shall not be required but the following conditions must be met where applicable:

1. Water Tower Sites. The City's water tower(s) represent a large public investment in water pressure stabilization and peak capacity reserves. Therefore, its protection is of utmost importance. As access to the City's water storage system increases, so does the potential for contamination of the public water supply. For these reasons, the placement of communications towers or antennas on the water tower(s) will be allowed only when the following requirements are met:
 - a. The applicant must have approval from the Public Works Director each time access to the facility is desired. This will minimize the risk of contamination to the water supply.
 - b. It is determined by the Public Works Director that there is sufficient room on the structure and/or the grounds to accommodate the applicant's facility.
 - c. It is determined that the presence of the facility will not increase the water tower(s) maintenance cost to the City.
 - d. It is determined that the presence of the facility will not be harmful to the health or safety of the workers maintaining the water tower(s).
 - e. A monthly lease fee of ~~\$500.00 per month~~ will be charged for the placement of an antenna/tower on a City water tower, at an amount negotiated between the applicant and the City.
2. All Other Existing Structure Sites other than Water Tower Sites. Any communications facilities located on the roof of ~~an antenna support structure~~ structure building must be ~~set back at least one foot from the edge of the roof of the structure. This setback requirement shall not apply to (1) communications facilities located above the roof of the structure if the facilities are appropriately completely screened from view through the use of panels, walls, fences or other screening techniques approved by the City, or, (2) camouflage antennas~~ Antennas that are mounted to the ~~side exterior of the antenna support structures of a building must be flush mounted, below the roof, but do not protrude more than 24 inches from the side of such an antenna support structure the building, and must be designed and colored to blend in with the support structure or building as approved by the City.~~

J. SPECIAL USE PERMIT IS REQUIRED

A cell site with new antenna support structure or new communications towers or an antenna that is either not mounted on an existing structure or is not fully screened as defined in Section 17.90.060 (1-2) hereinabove or is otherwise more than 10 feet higher than the structure on which it is to be mounted more than 20 feet higher than the structure on which it is to be mounted shall not be permitted except pursuant to a special use permit issued by the Zoning Board of Adjustments.

K. STANDARDS FOR SPECIAL USE PERMIT

The following standards and procedures shall apply to the issuance of a special use permit for a cell site with an antenna:

1. Necessity. The wireless communications company shall demonstrate, using technological evidence, that the antenna must be located where it is proposed in order to satisfy the antenna's function in the company's grid system.
2. Co-location Effort. If the wireless communications company proposes to build a tower as opposed to mounting the antenna on an existing structure, it shall demonstrate that it has contacted the owners of structures with adequate height within a one-quarter mile radius of the proposed site, asked for permission to install the antenna on those structures, and was denied for reasons other than failure to agree on compensation. The Board of Adjustment may deny a

request for a special use permit if it concludes that the applicant has not made a good faith effort to mount the antenna on an existing structure.

3. Antenna Height. The applicant shall demonstrate, to the reasonable satisfaction of the Board of Adjustment, that the antenna is the minimum height required to function satisfactorily. No antenna that is taller than this minimum height shall be approved.
4. Antenna Support Structure Safety. The applicant shall demonstrate, to the reasonable satisfaction of the Board of Adjustment, that the proposed antenna and support structure are safe and the surrounding areas will not be negatively affected by support structure failure, falling ice or other debris, or radio frequency interference. All support structures shall be fitted with anti-climbing devices.
5. Co-location. In order to reduce the number of antenna support structures needed in the community in the future, the proposed support structure shall be required to accommodate others users, including other wireless communications companies, local law enforcement, fire and ambulance services.
6. Parks. Communications antennas or towers will only be considered in any of the parks in the City in the following situations:
 - a. In a public park of sufficient size, scale and character that is adjacent to an existing commercial or industrial use.
 - b. Commercial recreational areas and major ball fields.
 - c. Park maintenance facilities.
 - d. A monthly lease fee of ~~\$1000.00~~ negotiated between the City and the applicant ~~per month~~ will be charged for an antenna/tower located in park areas.

7. Painting. Antenna support structures shall be uniformly painted in such a manner as to reduce the visual impact and create a harmonious appearance with its surroundings. No signage, graphics or lettering shall be permitted on the antennas or structures unless legally required by a specific safety regulation.

~~7.8.~~ Tower. All communication towers shall be self-supporting, monopole style structures. All antennas mounted on said monopoles shall be stealth style (internal to the monopole) and screened. Lattice tower and guy wire supported type towers and structures shall be prohibited unless the applicant can prove to the satisfaction of the Board of Adjustment that said stealth style monopole is not feasible to provide service as necessary for a specified area.

~~8.9.~~ Building Mounted Antennas. All building mounted antennas that are not fully screened in compliance with Section 17.90.060 (I-2) hereinabove shall be prohibited unless the applicant can prove to the satisfaction of the Board of Adjustment that such full screening method is not feasible to provide service, as necessary for a specified area. An alternate method of minimizing the visual impact of the antennas shall be utilized to the satisfaction of the Board of Adjustment.

~~9.10.~~ Site Plan. A full site plan shall be required for all cell sites, not on an existing structure, showing the antenna, antenna support structure, building, fencing, landscaping, buffering and access and shall include the following information:

- a. Plan. A plan drawn to scale showing property lines, tower location, tower height, guy wires and anchors, existing structures, photographs or elevation drawings depicting typical design of the proposed structure.

- b. Parking Spaces. If the cell site is fully automated, adequate parking shall be required for maintenance personnel. If the cell site is not automated, the number of parking spaces shall be equal to the number of personnel on the largest work shift.
- c. Fencing. An opaque fence shall be installed around the antenna support structure and other equipment unless the antenna is mounted on an existing structure. The fence shall be a maximum of six (6) feet in height and serve to screen the base of the structure and to ensure safety.
- d. Setbacks from Base. The minimum distance between the base of the support structure and guy anchors and any property line shall be the largest of the following:
 - (1) Fifty (50) percent of the antenna height.
 - ~~(2)~~ One Hundred and Five (105) percent of the height of the tower if located within any "R" zoning district.
 - ~~(2)~~~~(3)~~ One Hundred and Five (105) percent of the height of the tower from any property line that is adjoining or adjacent to any residentially zoned property or residential use.
 - ~~(3)~~~~(4)~~ The minimum setback in the underlying zoning district.
 - ~~(4)~~~~(5)~~ Sixty (60) feet.

- 11. Air Safety. Support structures 200 feet in height or taller shall meet all Federal Aviation Administration regulations. All communication towers and antennas shall comply with the height and other restrictions contained within the Airport Hazard, Height and Noise Mitigation Overlay Zoning Regulations, Section 17.20.050 of the City Code.
- 10.12. Filing Fees. The party or parties submitting an application for a Special use Permit shall pay to the City a filing fee of \$100.00. This fee is in addition to the \$200.00 as noted in Subsection 17.90.060(H) hereinabove.

L. CELL SITES ON PRIVATE PROPERTY

Prior to a special use permit being issued by the Board of Adjustments for the location of an antenna or tower on private property, the applicant must show that available publicly owned sites and available privately owned sites occupied by a compatible use, are unsuitable for operation of the facility.

M. NOISE AND EMISSION STANDARDS

- 1. Noise. No equipment shall be operated at towers and telecommunications facilities so as to produce noise ~~that is plainly audible beyond the property on which said equipment is located in excess of applicable noise standards under WAC 173-60,~~ except during emergencies or periodic routine maintenance which requires the use of a back-up generator, where the noise standards may be exceeded temporarily.
- 2. Emissions. The Federal Telecommunications Act of 1996 gives the FCC sole jurisdiction to regulate radio frequency emissions. Facilities that meet the FCC standards shall not be conditioned or denied on the basis of emissions impacts. Applicants for tower sites shall be required to provide information on the projected power density of the facility and how this meets the FCC standards.

N. ABANDONMENT

In the event the use of any communications tower has been discontinued for a period of 180 consecutive days, the tower shall be deemed to be abandoned. Determination of the date of

Comment [CS2]: This appears to be referencing a Washing State noise statute. This brings up the question does Norwalk want to create a noise ordinance with dB standards?

abandonment shall be made by the City Manager who shall have the right to request documentation and/or affidavits from the communications tower owner/operator regarding the issue of tower usage. Upon such abandonment, the owner/operator of the tower shall have an additional 180 days within which to: (1) reactivate the use of the tower or transfer the tower to another owner/operator who makes actual use of the tower, or (2) dismantle and remove the tower and return the site to its condition prior to development. At the earliest, 181 days from the date of abandonment, without reactivating or upon completion of dismantling and removal, any special exception, variance and/or special use permit for the tower shall automatically expire.

O. TERMINATION

The Council may terminate any lease if it is determined that any of the following condition(s) exist:

1. A user's frequency broadcast unreasonably interferes with other users of higher priority, regardless of whether or not this interference was adequately predicted in the technical analysis.
2. A user violates any of the standards in this chapter or the conditions attached to the City's lease agreement.

Before taking action, the City will provide notice to the user of the intended termination and the reasons for it, and provide an opportunity for a hearing before the Council regarding the proposed action. This procedure need not be followed in emergency situations.

P. HOME RULE

This chapter is intended to be and shall be construed as consistent with the reservation of local authority contained in the 25th Amendment to the Iowa Constitution granting cities Home Rule powers. To such end, any limitation on the power of the City contained herein is to be strictly construed and the City reserves to itself the right to exercise all power and authority to regulate and control its local affairs and all ordinances and regulations of the City shall be enforced against the holders of any lease.

Q. NEW TECHNOLOGIES

Should, within the term of any lease, developments within the field for which the grant was made to the holder of the lease, present the opportunity to the holder of the lease to be more effective, efficient and economical through the use of a substance or material other than those for which the lease was originally made, the holder of the lease may petition the Council which, with such requirements or limitations as it deems necessary to protect public health, safety and welfare, may allow the use of such substances under the terms and conditions of the lease.

Comment [CS3]: I'd also recommend we add a Section 17.90.070 for Wind Generators (Wind Energy Conversion Systems). We can base it off the MAC model ord.

**CITY OF NORWALK
REPORT TO THE NORWALK PLANNING & ZONING COMMISSION**

ITEM: Zoning Code Definitions Update

MEETING DATE: August 25, 2014

INTRODUCTION & DISCUSSION:

Staff has received a draft definitions section of the Zoning Code from Chris Shires from Confluence. The draft provides changes and additions to the definitions used in the Zoning Code.

Attachment "A" – Definitions 8-12-2014

DEFINITIONS

17.04.040 Definitions. For the purpose of this ordinance certain terms and words are hereby defined. Words used in the present tense shall include the future, the singular number shall include the plural and plural number includes the singular; the word "shall" is mandatory, the word "may" is permissive; the word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual; the words "used" or "occupied" include the words intended, designed, or arranged to be used or occupied.

Access: The place, means or way by which pedestrians or vehicles shall have ingress and egress to a property or parking area.

Accessory Living Quarters: A separate dwelling unit wholly enclosed within a principal building, or a detached dwelling, for the sole use of persons fully employed on the premises.

Accessory Use or Structure: A use or structure on the same lot with the principal use or structure, and serving a purpose customarily incidental and subordinate to the principal use or structure. An accessory use shall not encompass more floor area or use a greater part of the lot than the principal permitted use(s).

Acquisition Plat: The graphical representation of the division of land or rights in land, created as the result of a conveyance or condemnation for right-of-way purposes by an agency of the government or other persons having the power of eminent domain.

Addition: An extension or increase in floor area or height of a building or structure.

Adult: As used in this ordinance, refers to a person who has attained the age of eighteen (18) years.

Adult Entertainment Facilities: Any one of or any combination of the following, which are customarily not open to persons who have not attained the age of eighteen (18) years.

- A. Adult Art or Adult Modeling Studio: An establishment or business which provides the services of modeling for the purpose of viewing and/or reproducing the human body wholly or partially in the nude by means of photography, painting, sketching, drawing, or otherwise; provided entrance to such establishment and such services are available only to adults.
- B. Adult Artist - Body Painting Studio: An establishment or business which provides the services of applying paint or other substance whether transparent or nontransparent to or on the human body when such body is wholly or partially nude; provided entrance to such establishment and such services are available only to adults.
- C. Adult Bath House: An establishment or business which provides the services of baths, including all forms and methods of hydrotherapy; provided entrance to such establishment and such services are available only to adults; and not including such services provided by a medical practitioner or professional physical therapist licensed by the State of Iowa.
- D. Adult Book Store: An establishment having as the primary portion of its stock in trade, books, magazines, and other periodicals which are substantially devoted to the depiction of "specified sexual activities" and "specified anatomical areas."
- E. Adult Business: Any business or establishment where a "specified sexual activity" or a "specified anatomical area" is displayed.
- F. Adult Motel: A motel or similar establishment offering public accommodations for any form of

- consideration which provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas."
- G. Adult Movie Theater: Any theater, arcade or similar establishment where an enclosed building or open-air facility is used for presenting material in the form of motion picture film, video tape, or other similar means which is substantially devoted to the depiction of "specified sexual activities" and "specified anatomical areas" for observation by persons therein.
- H. Adult News racks: Any coin-operated machine or device which dispenses material substantially devoted to the depiction of "specified sexual activities" and "specified anatomical areas."
- I. Adult Nightclub: Any club, cabaret, nightclub, bar, restaurant or similar establishment where an enclosed building or open-air facility is used for live performances which are characterized by the exposure of "specified sexual activities" and "specified anatomical areas" for observation by persons therein.
- J. Sexual Encounter Center: A place provided by any business, agency or person where, for any form of consideration or gratuity, persons who are not all members of the same household, may congregate, assemble or associate for the purpose of engaging in sex act(s) or exposing "specified anatomical areas."

After Hours Business: Any business open during any time between the hours of two o'clock (2:00) A.M. to six o'clock (6:00) A.M. any day of the week and where patrons are allowed to bring their own beer and wine onto the business premises.

Agriculture: The use of land for agricultural purposes, including animal husbandry, apiculture, dairying, farming, floriculture, forestry, groves, horticulture, orchards, poultry husbandry, ranching, viticulture, and the necessary accessory uses for packing, treating or storing the produce; however, the operation of the accessory uses shall be subordinate to that of the normal agricultural activities.

Airport: The Des Moines International Airport.

Airport Elevation: The reference point of an airport's usable landing area measured in feet above mean sea level, which elevation is established to be 957.2 feet for the Des Moines International Airport.

Airport Hazard: Any structure, tree, or use of land which would exceed the federal obstruction standards as contained in 14 Code of Federal Regulations sections 77.21, 77.23, and 77.25 as revised March 4, 1972, and which obstruct the air space required for the flight of aircraft and landing or takeoff at an airport, or is otherwise hazardous to such landing or taking off of an aircraft.

Airspace Height: For the purpose of determining the height limits in all zones set forth in Section 17.20.050 and shown on the zoning map, the datum shall be mean sea level (M.S.L.) elevation unless otherwise specified.

Aliquot Part: A fractional part of a section within the United States public land survey system. Only the fractional parts one-half, one-quarter, one-half of one-quarter, or one-quarter of one quarter shall be considered an aliquot part of a section.

Alley: A private or public way, other than a street, twenty (20) feet or less in right-of-way width affording a secondary means of access to abutting property.

Amendment: A change in wording, context or substance of this ordinance, or a change in the zoning or district boundaries of the "Official Zoning Map", which is a part of this ordinance when adopted by ordinance passed by the City Council in the manner prescribed by law.

Amusement Arcade: A building or part of building in which five or more pinball machines, video games, or other similar player-operated amusement devices are maintained.

Antenna: (See also "Satellite Dish Antenna" and "Tower") Any system of wires, poles, rods, reflecting discs, or similar devices used for the transmission or reception of electromagnetic waves external to or attached to the exterior of any building.

Apartment Hotel: A building designed for or containing both individual guest rooms or suites of rooms and rooms or suites or rooms for dwelling units. (See "Dwelling, Multiple Family")

Apartment House or Building: Any building or portion thereof, which is designed, built, rented, leased, let or hired out to be occupied, or which is occupied as the home or residence of three or more families living independently of each other and doing their own cooking in the said building, and shall include flats and apartments.

Aquaculture: Land devoted to the hatching, raising, and breeding of fish or other aquatic plants or animals for sale or personal use.

Aquifer: A geological stratification in which porous and permeable conditions exist and thus are capable of yielding usable amounts of underground water.

Aquifer Recharge Area: An area that has soils and geological features that are conducive to allowing significant amounts of surface water to percolate into groundwater aquifers.

Assisted Living Residential Facility: A building consisting of individual dwelling units where meals and assistance for daily living activities are provided to the residents, who are primarily elderly persons. Such facility must be licensed as a Residential Care Facility, Intermediate Care Facility or Skilled Nursing Facility under Chapter 135C, Code of Iowa.

Auditor's Plat: A subdivision plat required by either the auditor or the assessor, prepared by a surveyor under the direction of the auditor, and in accordance with the City of Norwalk subdivision regulations.

Automobile Sales and Storage Lot: An open off-street area where two or more operable motor vehicles are stored or offered or displayed for sale or advertising purposes.

Automobile Wrecking: (Also see "Junk Yard") The dismantling or wrecking of motor vehicles or trailers, or the storage, sale or dumping of dismantled or wrecked vehicles or their parts. The presence on any lot, parcel or tract of land, of five (5) or more vehicles which for a period exceeding thirty (30) days have not been capable of operating under their own power, and from which parts have been removed or are to be removed for re-use, salvage or sale, shall constitute prima facie evidence of an automobile wrecking yard.

Awning: Any structure made of cloth or other non-rigid material with a metal or other rigid material for a frame and attached to a building and projecting outward from the building. (See "Canopy")

Balcony: An unroofed platform, unenclosed except by a railing, which cantilevers from the outer wall of a building above ground level without support other than the building.

Bar: Any establishment devoted primarily to the selling, serving or dispensing and drinking of

malt, vinous, or other alcoholic beverage by 50% or more of total gross sales, or any place where any sign is exhibited or displayed indicating that alcoholic beverages are obtainable within or thereon, and where such beverages are consumed on the premises. (May also be referred to as "Cocktail Lounge," "Tavern," or "Saloon")

Basement: The lower part of a building having more than one-half (½) of its height between its floor and the floor of the story above is below the adjacent ground elevation.

Basement, Walkout: A basement which has more than one-half (½) the horizontal dimension of an exterior wall above the adjacent ground elevation permitting access to the exterior through a doorway with its base at floor level.

Bed and Breakfast Inn: An owner-occupied dwelling unit that contains no more than five guest rooms where lodging, with or without meals, is provided for compensation.

Bedroom: Any room intended for sleeping purposes, provided that no room having less ~~that than~~ one hundred (100) square feet of floor area shall be considered a bedroom.

Billboard: All signs, regardless of material used in the construction of the same, that are erected, maintained, or used for public display of poster, painted signs, wall signs, whether the structure be placed on the wall itself, pictures, or other pictorial reading matter which advertise a business, a commodity sold, service, or attraction which is not carried on or manufactured in or upon the premises upon which said signs or billboards are located.

Block: A block shall be deemed to be all that property frontage along one public thoroughfare lying between the two nearest intersecting or intercepting streets, railroad right-of-way, waterway, golf course, campus, park or other similar space.

Board: Norwalk Board of Adjustment.

Boarding House: An establishment with lodging for five (5) or more unrelated persons for compensation, where meals are regularly prepared and served upon a table family style, without service or ordering of individual portions from a menu, but shall not include assisted living residential facilities.

Body Piercing Studio: Any establishment or business wherein body piercing is practiced. Specifically excluded from this definition are retail jewelry businesses offering ear piercing as a complimentary service. (See "Tattoo Studio")

Borrow Pit: Any place or premises where dirt, soil, sand, gravel, or other material is removed below the grade of surrounding land for any purpose other than that necessary and incidental to site grading or building construction.

Buffer: (Also see "Screening") A landscaped area, wall, or other structure intended to separate or partially obstruct the view between two adjacent zoning districts, land uses or properties from one another.

Buffer Zone: An area reserved for the establishment, construction and continued maintenance of a buffer.

Buildable Area: The area remaining on a lot after the minimum open-space requirement for yards has been met.

Building: Any structure having a roof supported by walls or by columns intended for enclosure, shelter or housing of persons, animals, or chattel. When any portion thereof is entirely separated by walls in which there are no common walls, connecting doors or windows, or any similar

opening, each portions so separated shall be deemed a separate building.

Building Frontage: That wall or side of a building which is adjacent and most nearly parallel to a street.

Building, Height of: The vertical distance from the average ground elevation at the building lines, to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the average height of the highest gable of a pitch or hip roof.

Building Line: The extreme overall dimensions of a building as determined from its exterior walls or any part of a structural support or component which is nearest to the property line, other than usual uncovered steps, patios and decks. Horizontally projecting roof overhangs and chimneys into the setback up to two (2) feet shall be permitted, provided no part of a side of a building for residential occupancy which is not attached to another building shall be closer than five (5) feet to a lot line or within 10 feet of another building.

Building Plot or Site: The ground area of one (1) lot, or the ground area of two (2) or more lots which have been combined for the use of one building or permitted group of buildings, together with all open spaces required by this Ordinance. (See "Lot")

Building Sign: A sign which is wholly supported by the building wall, parallel to the plane thereof and which does not extend beyond the surface of said building wall more than twelve (12) inches. This sign may be painted on, incorporated in, or affixed to the building wall, or any sign consisting of cut-out letters or devices affixed to the building wall with no background defined on the building wall.

Bulk or Tank Stations: Distributing stations, commonly known as bulk or tank stations, used for the storage and distribution of flammable liquids or liquefied petroleum products, where the aggregate capacity of all storage tanks is more than twelve thousand (12,000) gallons.

Caliper, Tree Trunk: a tree trunks diameter as measured three (3) feet above grade.

Campground: An area or tract of land on which accommodations for temporary occupancy are located or may be placed, including cabins, tents, and major recreational equipment, and which is primarily used for recreational purposes and retains an open air or natural character.

Canopy: A permanent roofed structure, including marquees and awnings, attached to and supported by a building and projecting over private property, or over public property.

Car wash: An area of land and/or a structure with machine-or hand-operated facilities used principally for the cleaning, washing, polishing, or waxing of motor vehicles.

Carport: A roofed structure providing space for the parking of motor vehicles and enclosed on not more than two (2) sides. For the purpose of this ordinance a carport attached to a principal building shall be considered as part of the principal building and subject to all yard requirements herein.

Cemetery: Land used or intended to be used for the burial of the dead, including mausoleums, columbariums and crematoriums when operated in conjunction with and within the boundary of such cemetery.

Centerline, Public Thoroughfare: The line running parallel with the thoroughfare right-of-way boundaries and which is half the distance between the extreme edges of the official right-of-way width.

Certificate of Occupancy: A document issued by the City to permit the use of a building which has

been determined to have fulfilled City Zoning and building code requirements to permit occupancy.

Certified Survey: A sketch, plan, map or other exhibit bearing a written statement of its accuracy of conformity to specified surveying standards which is signed and sealed by a registered surveyor.

Channel: A natural or artificial watercourse of perceptible extent, with a definite bed and definite banks to confine and to conduct continuously or periodically flowing water.

Child: A person under eighteen years of age.

Child Care Center: ~~(Also see Day Care Home)~~ A facility providing child day care for seven or more children at one time, except when the facility is registered as a group care facility **or when licensed by the State of Iowa as a Child Development Home.**

Child Day Care: (See Chapter 237A of the State Code of Iowa) The care, supervision, or guidance of a child by a person other than the parent, guardian, relative, or custodian for periods of two hours or more, and less than twenty-four hours per day per child, on a regular basis, in a place other than the child's home, but does not have:

- A. An institutional program administered by a public or non-public school system approved by the Iowa State Department of Public Instruction or the Iowa State Board of Regents.
- B. A religious-related instructional program of not more than one day per week.
- C. Short-term classes held between school terms.
- D. A program administered by a political subdivision of the State which is primarily for recreational or social purposes, and is limited to children who are five years of age or older and attending school.

Child Care Home: **A private residence where care, protection and supervision are provided, for a fee, at least twice a week to five (5) or fewer children at one time.**

Child Development Home: **A private residence, licensed by the State of Iowa, to provide child day care to with a maximum of eight (8) full time children (category A and B as defined by the Iowa department of human services and category C with one provider (C-1)). In no case shall an in home childcare service exceed twelve (12) children, with no more than six (6) eight (8) being considered full time.**

Church or Place of Religious Worship: An institution that people regularly attend to participate in or hold religious services, meetings, and other activities. The term "church" shall not carry a secular connotation and shall include buildings in which the religious services of any denomination are held.

Clear-Cutting: The indiscriminate removal of tree, shrubs, or undergrowth with the intention of preparing real property for development purposes. This definition shall not include the selective removal of non-native tree and shrub species when the soil is left relatively undisturbed; removal of dead trees; or normal mowing operations.

Clinic, Medical or Dental: A building or buildings in which physicians, dentists, or allied professional assistants are associated for the purpose of carrying on their professions.

Club: An organization of persons for special purposes or for the promulgation of sports, arts,

literature, politics, fitness, or the like but not operated for profit, excluding churches, or other houses of worship.

Cluster Development: A development design technique that concentrates buildings in specific areas on a site to allow the remaining land to be used for recreation, common open space, and preservation of environmentally sensitive areas.

Cocktail Lounge: Any place of business, other than a "night club", located in and accessory to a hotel, motel, or restaurant, where liquor, beer or wine is sold for consumption on the premises, where music or other entertainment is limited to a piano bar or other one person performance.

Commercial Use: The barter, exchange, sale, service or trade of goods, materials, or services, either tangible or intangible for financial, material or monetary gain.

Commission: The Planning and Zoning Commission of Norwalk.

Complex: A planned, coordinated development of a tract of land with two or more separate buildings. Such development is planned, designed, and constructed on an integrated and coordinated basis with special attention given to the master planning of on-site vehicular circulation, parking, utility needs, building design and orientation, and open space.

Comprehensive Plan: The Comprehensive Plan for the City of Norwalk which sets forth the City's long range plans for land use, transportation, municipal utilities, city expansion, management and development policies to guide the city's growth and from which the City's zoning regulations shall be based.

Communications Tower: (Also see "Antenna") A structure that is intended for transmitting or receiving television, radio, or telephone communications.

Conditional Use: (See "Special Use")

Condominium: An estate in real property as regulated by Chapter 499B of the Code of Iowa consisting of an undivided interest in common with other purchasers in a portion of a parcel of real property, together with a separate interest in space in a building, such as an apartment. A condominium may include, in addition, a separate interest in other portions of such real property.

Conservation Easement: An easement granting a right or interest in real property that is appropriate to retaining land or water areas predominately in their natural, scenic, open, wooded, or topographic condition, retaining such areas as suitable habitat for fish, plants, or wildlife; or maintaining existing slopes and land use.

Control Zone: Airspace extending upward from the surface of the earth which may include one or more airports and is normally a circular area of five (5) statute miles in radius, with extensions where necessary to include instrument approach and departure paths.

Convenience Store: Any retail establishment offering for sale food products, household items and other goods commonly found in grocery stores, and having a gross floor area of less than ~~5,000~~ 6,000 square feet. **Any such business with 50% or more of its gross sales in alcohol and/or tobacco shall be considered a liquor store or a tobacco store.**

Conversion: Any change of one principal use to another principal use.

Corridor Preservation: To preserve a right-of-way through the transfer of ownership, by easement or by an agreement, for a future public use as planned by the City of Norwalk or other public jurisdiction.

Council: The City Council of Norwalk.

Court Yard: A space, open and unobstructed to the sky, located at or above grade level on a lot and bounded on three or more sides by walls or a building.

Cul-De-Sac: A local street, one end of which is closed and consists of a circular turn around.

Curb Level: The top level of the established curb in front of a lot. Where no curb has been established, the City Engineer may establish such curb level or its equivalent.

~~Day Care Home: A private residence where care, protection and supervision are provided, for a fee, at least twice a week to less than seven (7) children at one time.~~

Dead-End Street: A street with one end closed, and has only one location for entry and exit.

Deciduous: Plants which shed their foliage after a growing season.

Decision Height: The height at which a decision must be made, during an ILS instrument approach, to either continue the approach or to execute a missed approach.

Delayed Deposit Services Business: A person or individual, group of individuals, partnership, association, corporation, or any other business unit or legal entity who for a fee does either of the following:

- A. Accepts a check, draft, share draft, or other instrument for the payment of money dated subsequent to the date it was written.
- B. Accepts a check, draft, share draft, or other instrument for the payment of money dated on the date it was written and holds it for a period of time prior to deposit or presentment pursuant to an agreement with, or any representation made to, the maker of the check, draft, or other instrument whether express or implied.

The above are typically referred to as Check Cashing, Payday Lending, or Car Title Loan establishments.

Density, Gross: The number of dwelling units permitted per gross acre of land within a defined area including public streets and open spaces.

Density, Net: The number of dwelling units permitted per net acre of land being developed exclusive of public streets and open spaces.

Development: Any subdivision of land or man-made change to improved or unimproved real estate, including but not limited to the construction of buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

Directory Sign: Any sign that does not advertise a product or place of business, but exists solely to direct vehicular or pedestrian traffic to a location of a business or part of a business. A directory sign shall not contain names or logos. Any such sign shall not be more than eight (8) square feet per face, more than three (3) feet in height, and must be five (5) feet or more from public right-of-way. All directory signs must be located on the same property that the business or firm is located on. No more than five (5) directory signs shall be allowed per property.

Dump: A premises used for illegal discarding of trash, garbage, junk or other refuse; but not including legally operating landfills or junk yards.

Duplex: (See "Dwelling, Two Family")

Drive-in Facility: An establishment that, by design of physical facilities or by service or packaging procedures, permits customers to receive a service or obtain a product while remaining in a motor vehicle or to be entertained while remaining in a motor vehicle.

Driveway: A privately owned roadway giving access from a public street to a building plat or abutting property.

Dwelling: Any building or portion thereof which is designed or used exclusively for residential purposes, but not including a tent, cabin, trailer, or mobile home, shall be designed to be placed on, supported by and attached to a continuous perimeter foundation, which shall be permanent and constructed in accordance with the Norwalk Building Code for site built housing.

Dwelling, Single Family: A detached residence designed for or occupied by one family only, with the minimum width of twenty (20) feet or more than 65% of the length of the building exclusive of garages.

Dwelling, Two Family: A residence designed for or occupied by two (2) families only, with separate housekeeping and cooking facilities for each, with a minimum width of twenty (20) feet for more than 65% of the length of the building, exclusive of garages.

Dwelling, Multiple Family: A residence designed for or occupied by three (3) or more families, with separate housekeeping and cooking facilities for each.

Dwelling, Row: Any one (1) of two (2) or more horizontally attached dwelling units in a continuous row.

Dwelling Unit: A room or group of rooms which are arranged, designed, or used as a dwelling for the occupancy of one (1) family containing sleeping, bathroom, and kitchen facilities.

Easement: A granted right by a land owner to a person, government agency, or public utility company to use land owned by another for a specific purpose.

Evergreen: Plants which maintain their green foliage throughout the year, including the winter season in temperate climates.

Existing Use or Structure: Any use or structure which exists as of January 1, 1998, or exists at the time of an amendment to this ordinance subsequent to its original adoption.

FAA: Federal Aviation Agency.

FEMA: Federal Emergency Management Agency.

Factory-Built Home: Any structure, designed for residential use, which is wholly or in substantial part; made, fabricated, formed, or assembled in manufacturing facilities for installation or assembly and installation, on a building site. For the purpose of this ordinance, factory-built homes include mobile homes, manufactured homes, and modular homes; and also include park trailers, travel trailers, and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days.

Factory-Built Home Park: A parcel or contiguous parcels of land divided into two (2) or more factory-built home lots for rent or sale.

Family: ~~An individual or two or more persons related by blood or marriage or a group of not more than four persons (excluding servants) who need not be related by blood or marriage, living together in a dwelling unit.~~

A person living alone or any of the following groups living together as a single nonprofit housekeeping unit and sharing common living, sleeping, cooking, and eating facilities:

- A. Any number of people related by blood, marriage, adoption, guardianship or other duly authorized custodial relationship;
- B. No more than four (4) unrelated people and any children related to any of them;
- C. Not more than eight (8) people who are:
 - 1. Residents of a "family home" as defined in section 414.22 of the Iowa Code and this section; or
 - 2. "Handicapped" as defined in the fair housing act, 42 USC Section 3602(h). This definition does not include those persons currently illegally using or addicted to a "controlled substance" as defined in the controlled substances act, 21 USC Section 802(6).
- D. The definition of a "family" does not include:
 - 1. Any society, club, fraternity, sorority, association, lodge, combine, federation, coterie, or like organization;
 - 2. Any group of individuals whose association is temporary or seasonal in nature; and,
 - 3. Any group of individuals who are in a group living arrangement as a result of criminal offenses.

Family Home: A community based residential home which is licensed as a residential care facility under Chapter 135C of the Iowa Code or as a child foster care facility under Chapter 237 of the Iowa Code to provide room and board, personal care, habilitation services, and supervision in a family environment exclusively for not more than eight (8) persons with a developmental disability or brain injury and any necessary support personnel. However, family home does not mean an individual foster care family home licensed under chapter 237 of the Iowa Code.

Farm: Land area comprising ten (10) acres or more which is used for agriculture.

Farmstead: a grouping of buildings within a farm utilized for the storage and housing of equipment, agricultural products and livestock, and associated residence.

Feedlot: Any tract of land or structure, pen, or corral, wherein cattle, horses, sheep, goats, or swine are maintained in close quarters for the purpose of fattening such livestock for final shipment to market.

Fill: To raise the grade of land with the depositing of earth.

Flashing Lights: A sudden or transient outburst of bright light(s); a flood of light briefly appearing and disappearing. A single flash at regular intervals, the duration of light always being less than the duration of darkness.

Flea Market: An occasional or periodic sales activity held within a building, structure, or open area where groups of individual sellers offer goods for sale to the public, not to include private garage sales.

Flood: A general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of

surface waters from any source.

Flood Elevation: The elevation floodwater reaches at a particular site during the occurrence of a specific flood. For instance, the one hundred (100) year flood elevation is the elevation of flood waters related to the occurrence of the one hundred (100) year flood.

Flood Insurance Rate Map (Firm): The official map prepared by the Federal Insurance Administration as part of (but published separately from) the Flood Insurance Study which delineates both the flood hazard areas and the risk premium zones applicable to the community.

Flood Insurance Study: A study initiated, funded, and published by the Federal Insurance Administration for the purpose of evaluating in detail the existence and severity of flood hazards; providing the City with the necessary information for adopting a flood plain management program; and establishing actuarial flood insurance rates.

Flood Plain: A land area susceptible to being inundated by water as a result of a flood.

Flood Plain Basement: Any enclosed area of a building which has its floor or lowest level (subgrade) on all sides. (Also see "Lowest Floor")

Flood Plain Management: An overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of flood plains, including but not limited to emergency preparedness plans, flood control works, floodproofing and flood plain management regulations.

Flood Profile: A graph showing longitudinal sections of a designed waterway and the relationship of the water surface elevation of a flood event to any location along the watercourse.

Floodproofing: Any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities, which will reduce or eliminate flood damage to such structures.

Floodway: The channel of a river stream or other water course and those portions of the flood plain adjoining the channel, which are required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not result in substantially higher flood levels or flow velocities.

Floodway Fringe: Those portions of the flood plain, other than the floodway, which can be filled, levee, or otherwise obstructed without causing substantially higher flood levels or flood velocities.

Floor: The lower horizontal surface of a hollow structure, story or room, or the horizontal structure which separates stories in a building.

Floor Area: The total area of all floors of a building or portion thereof measured to the outside surface of exterior walls or the centerline of walls to attached buildings or uses. It does not include garages, porches, balconies and other appurtenances. Space in the basement or cellar and all other space shall be included as floor area if habitable and used for a principal or accessory use permitted in the zone in which the building is located.

Floor Area Ratio: The square footage of floor area on all floors divided by the land area within the property lines.

Freeboard: A safety factor indicating the height above a projected flood occurrence level to which a levy or floodwall is constructed.

Frontage: The lot line adjoining a public street as measured along the street.

Funeral Home: A Building or part thereof used for human funeral services. Such building may contain space and facilities for: a) embalming and the performance of other services used in preparation of the dead for burial; b) the performance of autopsies and other surgical procedures; c) the storage of caskets, urns, and other related funeral supplies; d) the storage of funeral vehicles; and e) facilities for cremation. Where a funeral home is permitted, a funeral chapel shall also be permitted.

Garage, Private: A building for the private use of the owner or occupant of a principal building situated on the same lot of the principal building for the storage of motor vehicles with no facilities for mechanical service or repair of a commercial or public nature.

Garage, Public: A building designed and used for the storage of automotive vehicles operated as a business enterprise with a service charge or fee being paid to the owner or operator for the parking or storage of privately owned vehicles.

Garage, Repair: Any building, premises, or land in which or upon which a business, service, or industry involving the maintenance, servicing, repair, or painting of motor vehicles is conducted or rendered.

Gas or Service Station: Any building or premises used for the retail sale of liquefied petroleum products for the propulsion of motor vehicles, and including such products as kerosene, fuel oil, gasoline, diesel fuel, packaged naphtha, lubricants, tires, batteries, antifreeze, motor vehicle accessories, and other items customarily associated with the sale of such products. The rendering of accessory services is permitted including automatic car wash for one vehicle at a time, and making of repairs to motor vehicles except those of a major type. Repairs of a major type are defined to be spray painting; body, fender, differential, axle, spring, and frame repairs; major overhauling of engines requiring the removal of engine cylinder head or crankcase pan; repairs to radiators requiring the removal thereof; or complete recapping or retreading of tires.

Grade: The average of the finished ground level at the center of all walls of a building. In case walls are parallel to and within five (5) feet of a sidewalk, alley or other public way, the above ground level shall be measured at the elevation of the sidewalk, alley or public way.

Grandfathered: A use, or structure which exists at the time of the passage of an ordinance or regulation, and is permitted to continue to exist, although the use, or structure does not comply with the new ordinance or regulation.

Greenhouse: A building or accessory structure constructed chiefly of glass or other translucent material, which is devoted to the protection or cultivation of flowers or other tender plants.

Group Care facility: A government licensed or approved facility which provides resident services in a dwelling to more than eight (8) individuals not including resident staff, but not exceeding 30 individuals. These individuals are developmentally disabled, aged or undergoing rehabilitation; are in need of adult supervision; and are provided services in accordance with their individual needs. Group care facilities shall not include nursing homes.

Habitable room: Any room meeting the requirements of the City's adopted Building Code and used for sleeping, living or dining purposes excluding such enclosed spaces as closets, pantries, bath or toilet rooms, service rooms, connecting corridors, laundries, unfinished attics, foyers, storage spaces, cellars, utility rooms and similar space.

Half-Story: A story with at least two (2) of its opposite sides situated in a sloping roof, the floor area of which does not exceed two-thirds (2/3) of the floor area of the floor immediately below it.

Hazardous Materials: Any substances or materials that, by reason of their toxic, caustic, corrosive, abrasive, or otherwise injurious properties, may be detrimental or deleterious to the

health of any person handling or otherwise coming into contact with such material or substance.

Health Club: An establishment providing physical fitness facilities and services to the public for a fee, including but not limited to; game courts, exercise equipment, exercise areas, running tracks, swimming pools, physical fitness maintenance and weight control services and instructors, locker rooms, saunas and associated retail shop intended for members of club only.

Home Occupation: A home occupation is a business, profession, occupation or trade conducted for gain or support as an accessory use entirely within a dwelling, or a structure, which is incidental and secondary to the use of such building for dwelling purposes and which does not change the essential residential character of such building. (See Section 17.04.290, General Regulations).

Homeowners or Property Owners Association: A formally constituted non-profit association or corporation made up of the property owners and/or residents of a definitive area; who collectively may take permanent responsibility for costs and upkeep of commonly owned or designated community property.

Hookah Lounge: An establishment where patrons are provided shisha (flavored tobacco) in a hookah or nargile water smoking pipe. (See "Smoking Lounge" or "Smoking Den")

Hospital: An institution licensed by state law providing health services primarily for human in-patient medical or surgical care for the sick or injured and including related facilities such as laboratories, out-patient departments, training facilities, central services facilities, and staff offices that are an integral part of the facilities.

Hotel or Motel: A building containing guest rooms in which lodging is provided and offered to the public on a temporary basis for compensation, and which is open to transient guests, in contrast to a bed and breakfast inn, boarding house, or rooming house. **For establishments to be considered a hotel or motel, versus an apartment hotel or apartment house/building, all rooms must be available for rent for as little as one (1) night and no more than 30 days, no rental contract or similar agreement is involved, and the establishment must be licensed as a hotel by the State of Iowa and collect and pay to the State hotel/motel tax.**

Impervious Surface: A surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water. It includes surfaces such as compacted sand, lime rock, or clay, as well as most conventionally surfaced streets, roofs, sidewalks, parking lots, and other similar structures.

Inoperable Vehicle: Any motor vehicle, recreational vehicle, boat, trailer or semi-trailer which lacks a current registration or component part which renders the vehicle unfit for legal use.

Insignias and Flags: Insignias, flags and emblems of the United States, the State of Iowa, municipal and other bodies of established government, or flags which display the recognized symbol of a non-profit or non-commercial organization.

Instrument Runway: A runway having an existing instrument approach procedure utilizing air navigation facilities or area type navigation equipment, for which an instrument approach procedure has been approved or planned.

Junk: Old, wrecked, inoperable, or discarded automobiles, trucks, tractors and other such vehicles and parts thereof, wagons and other kinds of vehicles and parts thereof, scrap, used building materials, scrap contractor's equipment, tanks, cans, barrels, boxes, drums, piping, bottles, glass, old iron, machinery, rags, paper excelsior, hair, mattresses, beds or bedding or any other kind of scrap or waste material which is stored, kept, handled or displayed for barter, resale, reuse, salvage, stripping, or trade.

Junk Yard: Any area where junk is stored, bought, sold, exchanged, baled or packed, disassembled or handled, including house wrecking yards, used lumber yards and places or yards for storage of salvaged house wrecking or structural steel materials and equipment; but not including areas where such uses are conducted entirely within a completely enclosed building, and not including the processing of used, discarded or salvaged materials necessary as a part of manufacturing operations.

Kennel: Facility housing dogs, cats or other household pets and where grooming, breeding, boarding, training, or selling of animals is conducted as a business.

Kennel, Private: Any building or buildings, any land containing, or any housing, designed for the care of, or actually containing four (4) or more dogs, six (6) months of age or older. (ORD. (01-16)

Kitchen: Any room or portion of a building used, intended or designed to be used for cooking and other preparation of food.

Landfill: A disposal site employing an engineering method of disposing of solid wastes in a manner that minimizes environmental hazards by spreading, compacting to the smallest volume, and applying cover material over all exposed waste at the end of each operating day.

Lawful Lot, Structure, or Use: A lot, structure, or use which complies with the zoning regulations within this Title or any other city, federal, or state law or regulation, or is grandfathered under the terms and conditions of this Title and is permitted to exist.

Livestock: Animals kept, or raised for use or pleasure including cattle, horses, sheep, goats, swine and similar hoofed animals.

Laundry, Self-Service: A business that provides home-type washing, drying and/or ironing machines for hire to be used by customers on the premises.

Loading Space: Any off-street space or berth on the same lot with a building or contiguous to a group of building, for the temporary parking(less than twenty-four hours) for a commercial vehicle while loading or unloading merchandise or materials.

Lot: For the purpose of this ordinance, a lot is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area and to provide such yards and other open space as are herein required. Such lot shall have a frontage on a public street unless it is part of a townhouse complex or mobile home park, and may consist of: (a) a single lot of record; (b) a portion of a lot of record; (c) a combination of complete lots of record; of complete lots of record and portions of lots of record; or of portions of lots of record; and (d) a parcel of land described by metes and bounds; provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this ordinance.

Lot Line: A line dividing one lot from another lot or from a street or alley.

Lot Lines:

- A. Front: The lot line which adjoins a public street right of way.
- B. Rear: The rear lot line is that boundary which is opposite and most distant from the front lot line. In the case of a corner lot, either of the lot lines opposite the front lot line may be selected as the rear lot line. In case of an interior triangular or gore-shaped lot, it shall mean a straight line ten (10) feet in length which:
 1. Is parallel to the front lot line or its cord.

2. Intersects the two (2) other lot lines at points most distant from the front lot line.
- C. Side: Any lot line not a front lot line or a rear lot line.

Lot Measurements:

- A. Area. The gross area, exclusive of streets or other public rights-of-way, within the boundary lines of a lot.
- B. Depth. The mean horizontal distance between the front and rear lot lines as measured perpendicular to the midpoint of the mean front lot line. In the case of an interior triangular or gore-shaped lot, the depth shall be the horizontal distance between the midpoints at the front lot line and rear lot lines.
- C. Width. The horizontal distance between the side lot lines as measured perpendicular to the line comprising the lot depth at its point of intersection with the required minimum front yard setback.

Lot of Record: A lot which is part of a subdivision recorded in the Office of the County Recorder or a lot or parcel described by metes and bounds, the description of which has been so recorded. For purposes of this Title, an existing contract of purchase at the time of the effective date of this ordinance also constitutes a lot of record.

Lot, Substandard: A lot that has less than the required minimum area or width as required by the zone in which it is located.

Lot Types:

- A. Corner Lot: A lot located at the intersection of two (2) or more streets, and having the street right-of-way abut the front lot lines of the lot.
- B. Double Frontage or Through Lot: A lot, other than a corner lot, with frontage on more than one (1) street or public thoroughfare which does not intersect one another.
- C. Flag Lot: A lot with access provided to the bulk of the lot by means of a narrow corridor which does not meet the minimum permitted lot width requirements at the minimum setback distance from the public street.
- D. Interior Lot: A lot, other than a corner lot, having frontage on but one (1) street or public thoroughfare.
- E. Key Lot: A key lot is a lot so subdivided as to have its side lines coincide with the rear lot lines of adjacent lots on either or both sides of the aforesaid key lots.

Lowest Floor: The floor of the lowest enclosed area in a building, including a basement, except when all the following criteria are met:

- A. The enclosed area is designed to flood to equalize hydrostatic pressure during floods with walls or openings that satisfy the provisions of Section 17.20.030.2.E.
- B. The enclosed area is unfinished (not carpeted, dry walled, etc.) and used solely for low damage potential uses such as building access, parking or storage, and
- C. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one (1) foot above the 100-year flood level, and

- D. The enclosed area is not a "basement" as defined in this ordinance.
- E. In cases where the lowest enclosed area satisfied criteria a, b, c, and d above, the lowest floor is the floor of the next highest enclosed area that does not satisfy the criteria above.
- F. Exception to the forgoing is a building basement which has been designed in accordance with Section 17.20.030.2.B. or 17.20.030.2.C. of this ordinance.

Liquor Store: A retail shop or establishment that primarily sells prepackaged alcoholic beverages, including wine, beer, and alcoholic liquors, intended to be consumed off the store's premises, and where 50% or more of total gross sales are derived from the sale of alcohol and tobacco.

Maintenance Guarantee: A guarantee of facilities or work to ensure the correction of any failures of any improvements required pursuant to this ordinance and regulations, or to maintain same.

Manufactured Home: A factory built home which is used as a single-family dwelling and is manufactured or constructed under the authority of 42 U.S.C. Sec. 5403, Federal Manufactured Home Construction and Safety Standards, and is to be used as a place for human habitation, but which is not constructed with a permanent hitch or other device allowing it to be moved other than for the purpose of moving it to a permanent site, and which does not have a permanently attached to its body or frame any wheels or axles. A mobile home is not a manufactured home unless it has been converted to real property as provided by the state code of Iowa, and is taxed as a site-built dwelling. For the purposes of these regulations, a manufactured home shall be considered the same as any site-built single-family detached dwelling.

Marina: A facility for storing, servicing, fueling, berthing, and securing and launching of private pleasure water craft that may include the sale of fuel and incidental supplies for the boat owners, crews, and guests.

Marquee: A canopy with rigid material of permanent construction projecting from and supported only by the wall of a building.

Massage: Any method of treating the external parts of the human body by rubbing, stroking, kneading, tapping or vibrating with the hand, other parts of the body, or any instrument, for any form of consideration or gratuity.

Massage Establishment: Any establishment having a fixed place of business where massages are administered for any form of consideration or gratuity, including but not limited to, massage parlors, health clubs, sauna baths, and steam baths. This definition shall not be construed to include an establishment employing (1) person(s) licensed by the State of Iowa under the provisions of Chapters 148, 148A, 148B, 150, 150A, 151, 152, 157, or 158 of the Code of Iowa, when performing massage services as a part of the profession or trade for which licensed; (2) persons performing massage therapy or massage services under the direction of a person licensed as described in (1) above; (3) persons performing massage therapy or massage services upon a person pursuant to the written instruction or order of a licensed physician; (4) nurses, aides, technicians and attendants at any hospital or health care facility licensed pursuant to Chapter 135B, 135C, or 145A of the Code of Iowa, in the course of their employment and under the supervision of the administrator thereof or of a person licensed as described in (1) above; and (5) an athletic coach or trainer (i) in any accredited public or private secondary school, junior college, college or university, or (ii) employed by a professional or semi-professional athletic team or organization, in the course of his/her employment as such coach or trainer. This definition shall not be construed to include a volunteer fire department, a volunteer rescue squad, or a non-profit organization operating a community center; swimming pool, tennis court, or other educational, cultural, recreational, and athletic facilities; and facilities for the welfare of the residents of the area.

Master Plan: A schematic plan for a unified, coordinated development of a tract of contiguous land which is designed in an integrated and coordinated basis showing streets, water lines and appurtenances, sanitary sewers and appurtenances, storm water management facilities and appurtenances, lot boundaries, building locations, parking and loading areas, access drives, landscaping, existing and proposed grades, buffers, and other information as required to properly depict and communicate the proposed utilization and improvement of the property.

Metes and Bounds Description: A description of land that uses distances and angles, or distances and bearings, or describes the boundaries of the parcel by reference to physical features of the land.

Mini-Warehouse: A building or group of buildings, no more than twenty-five (25) feet in height and not having any dimension greater than two hundred fifty (250) feet per building, containing varying sizes of individualized, compartmentalized, and controlled stalls or lockers for the dead storage of customers' goods or wares, excluding junk, explosive, or flammable materials, and other noxious or dangerous materials. No business activities other than rental of storage units shall be conducted on the premises.

Minimum Descent Altitude: The lowest altitude, expressed in feet above mean sea level, to which descent is authorized on final approach or during circle-to-land maneuvering in execution of a standard instrument approach procedure, where no electronic glide slope is provided.

Minimum En Route Altitude: The altitude in effect between radio fixes which assures acceptable navigational signal coverage and meets obstruction clearance requirements between those fixes.

Minimum Obstruction Clearance Altitude: The specified altitude in effect between radio fixes on VOR airways, off-airway routes, or route segments which meet obstruction clearance requirements for the entire route segment and which assures acceptable navigational signal coverage only within 22 miles of a VOR.

Mobile Home: A factory built home without motive power and built on a chassis for conveyance upon highways or public streets, or waterways; so designed and so constructed as to permit occupancy thereof as a place of human habitation for one (1) or more persons.

A mobile home shall not be construed to be a travel trailer or other form of recreational vehicle. A mobile home shall remain a mobile home, subject to all regulations applying thereto, whether or not wheels, axles, hitch, or other appurtenances of mobility are removed and regardless of the nature of the foundation provided, if such mobile home has not been converted to property tax assessable real estate in accordance with Chapter 135D.26 of the Code of Iowa. Nothing in this ordinance shall be construed as permitting a mobile home in other than an approved mobile home park.

Mobile Home Park: Any lot or portion of lot upon which one or more mobile homes, modular homes, or trailers occupied for dwelling or sleeping purposes are located regardless of whether or not a charge is made for such accommodations.

Modular Home: A factory-built home which is manufactured or constructed to be used as a place for human habitation, but which is not constructed or equipped with a permanent hitch or other device allowing it to be attached or towed behind a motor vehicle, and which does not have permanently attached to its body or frame any wheels or axles.

Motel: (See "Hotel")

Multiple Use: The occupancy of a defined area of land or a building by more than one type of use, i.e., single-family residential, multi-family residential, commercial, office, or industrial.

New Construction: Those structures or development for which the start of construction or installation commenced on or after the effective date of this ordinance.

Night Club: Any place of business located within any building or establishment, established and operated for the purpose of supplying entertainment or music and a dance floor and providing meals and/or refreshments prepared for consumption on the premises.

Noise and Aviation Easement: An easement granted by a land owner to the Des Moines International Airport and all aircraft landing at the airport to use the air space above the described area of the easement, and to emit noise associated with the operation of the aircraft.

Non-conforming Lot: A lot which lawfully existed prior to the adoption, revision, or amendment of this ordinance, but which fails by reason of such adoption, revision, or amendment to conform to the new district regulation in which it is located.

Non-conforming Structures: A building or structure exists at the effective date of adoption or amendment of this ordinance which is allowed to lawfully exist, but does not comply with the terms of this ordinance by reason of restrictions on area, lot coverage, height, setbacks, architecture, or other characteristics of the structure or its location on the lot.

Non-conforming Use: A lawful use of land that does not comply with the use regulations for its zoning district but which complied with applicable regulations at the time the use was established.

Non-Profit Institution: A non-profit establishment maintained and operated by a society, corporation, individual, foundation or public agency for the purpose of providing charitable, social, education or similar services to the public, groups, or individuals. Cooperative non-profit associations, performing a service normally associated with retail sales or trade such as cooperative groceries, granaries, equipment sales, etc., shall not be considered a non-profit institution under this ordinance.

Nursing or Convalescent Home: A building or structure having accommodations and where care is provided for invalid, infirm, aged, convalescent, or physically disabled, or injured persons; not including mentally insane, mental deficiency or deterioration, inebriate, or contagious cases.

~~Occulting Occulating~~ Light(s): Light which is totally eclipsed at regular intervals; the duration of light is always greater than the duration of darkness (such as an electronic information display).

Off-Premises: As used in this ordinance shall mean the purpose is to advertise, identify and/or direct attention to a profession, business, service, activity, product, campaign or attraction which is not carried on, sold, offered, or manufactured in or upon the premises.

Official Plat: Either an auditor's plat or a subdivision plat that meets the requirements of the State Code of Iowa and City subdivision regulations, and has been filed for record in the offices of the County recorder, auditor, and assessor.

On-Premises: As used in this ordinance shall mean the primary purpose is to advertise, identify, and/or direct attention to a profession, business, service, activity, product, campaign or attraction which is carried on, sold, offered or manufactured in or upon the premises.

One Hundred (100) Year Flood: A flood, the magnitude of which has a one (1) percent chance of being equaled or exceeded in any given year or which, on the average, will be equaled or exceeded at least once every one hundred (100) years.

Open Space: An area that is intended to provide light and air, and is designed for either environmental, scenic, or recreational purposes. Open space may include, but is not limited to,

lawns, decorative planting, walkways, active and passive recreation areas, playgrounds, fountains, swimming pools, wooded areas, and water courses. Open space shall not be deemed to include buildings, driveways, parking lots, display areas for retail sales of merchandise, loading areas, outdoor storage areas, or other surfaces designed or intended for vehicular travel.

Ornamental Tree: Small deciduous trees which normally have colorful flowers and leaves, and are generally less than thirty (30) feet in height at maturity.

Outdoor Storage: The keeping, in an unroofed area, of any goods, junk, material, merchandise, or vehicles in the same place for more than twenty-four (24) hours.

Over-story Tree: A deciduous shade tree which grows to a sufficient height to establish an overhead canopy, and is generally greater than thirty (30) feet in height at maturity.

Parcel: A part of a tract of land.

Park: Any public or private land reserved for active and passive recreation to include such facilities playgrounds, swimming pools, tennis courts, trails, shelters, and other similar uses associated with a designed recreation area. The term park is not intended to include private or public amusement parks, permanent carnivals, or similar type activities.

Parking Area, Joint Use: An off-street parking area which is used commonly by two or more buildings or properties which are under different ownership.

Parking Area, Satellite: Off-street parking spaces located on a separate lot not adjoining the principal use for which they are required or associated with, whether in the same ownership as the property occupied by the principal use or leased from a separate owner.

Parking Space: An area on a lot and/or within a building intended for the use of parking of a personal vehicle. This term is used interchangeably with parking stall.

Patron: Customer who purchases a commodity or service.

Pawnshop: An establishment wherein the business of a pawnbroker is conducted. A pawnbroker shall be any person who lends or advances money or other things for profit on the pledge and possession of personal property, or other valuable things, other than securities or written or printed evidences of indebtedness; or, who deals in the purchasing of personal property or other valuable things on condition of selling the same back to the seller at a stipulated price. A pawnshop shall not be deemed a retail sales establishment except for the purposes of determining off-street parking.

Performance Guarantee: Any security accepted by the City in the form of cash, certified check, performance bond, surety bond, or certificate of deposit endorsed to the City, to assure the completion of improvements within a subdivision or site-planned development.

Permitted Use: Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

Person: A natural person, his or her executors, administrators, or assigns, and also includes a firm, partnership, or corporation, its or their successors or assigns, or the agent of any of the aforesaid.

Place of Business: Any vehicle, building, structure, yard, area, lot, premises, or part thereof, or any other place in which or on which one or more persons engage in a gainful occupation.

Planned Unit Development (PUD): Any development in which the proposed land use,

transportation elements, population densities, building arrangement and types are set out in a unified, contiguous plan.

Planning Commission: The Planning and Zoning Commission of the City of Norwalk.

Plant Nursery: Any land used to raise trees, shrubs, flowers, and other plants for transplanting.

Plat of Survey: The Graphical representation of a survey of one or more parcels of land, including a complete and accurate description of each parcel within the plat, prepared by a registered land surveyor.

Porch, Unenclosed: A roofed projection which has no more than fifty (50) percent of each outside wall area enclosed by a building or siding material other than meshed screens.

Post-Secondary Schools: A public or non-public educational institution such as colleges, universities, professional business training schools, and technical training schools, established to provide curriculum, academic instruction, or training to persons who have completed their high school education.

Premises: Any lot, plot, parcel or tract of land, building or buildings, structure or structures, used publicly or privately as a place of business, dwelling or meeting place.

Primary Surface: A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway. The width of the primary surface of a runway will be that width established in Part 77 of the Federal Aviation Regulations (FAR) for the most precise approach existing or planned for either end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

Principal Building: A building in which the principal use of the lot on which the building is located is conducted.

Principal Use: The primary use of land or structures as distinguished from an accessory use.

Print Shop: A retail establishment that provides duplicating services using photocopy, blueprint, and offset printing equipment, including collating of booklets and reports.

Proprietor: A person who has a recorded interest in land, including a person selling or buying land pursuant to a contract, but excluding persons holding a mortgage, easement, or lien interest.

Public Thoroughfare: Any right-of-way under the jurisdiction and maintenance of the governmental agencies of the Federal, State or Municipal government; which may be used by the public in general, and which may or may not serve as a frontage street to the abutting property. (See "Street")

Public View: Visible to the general populace from public streets, alleys, parks or other public property, adjoining privately-owned properties, and on-premise parking lots and other facilities accessible to the general populace including patrons and visitors.

Recreation Vehicle (RV): A vehicle which is: (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) designed to be self-propelled or permanently towable by a light duty vehicle; and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Recreational Vehicle (RV) Park: Any parcel of land upon which two or more recreational vehicle

sites are located, established, or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreation or vacation purposes.

Recycling Center: A building in which used material is separated and processed prior to shipment to others who will use those materials to manufacture new products.

Recycling Collection Point: An incidental use that serves as a neighborhood drop-off point for temporary storage of recoverable resources. No processing of such items would be allowed. This facility would generally be located in a shopping center parking lot or in other public/quasi-public areas, such as in churches and schools.

Research Laboratory: A building or group of buildings in which are located facilities for scientific research, investigation, testing, or experimentation, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.

Residential (Residence): Any lot, plot, parcel, tract, area, or place of land or any building used exclusively for family dwelling purposes or intended to be used, including accessory uses specified herein.

Restaurant: An establishment that prepares and serves food and beverages to persons for immediate consumption. **Any establishment with 50% or more of total gross sales in alcoholic beverages shall be defined as and considered a bar and not a restaurant.**

- A. Dine-in: A restaurant where the patron consumes foods and beverages while seated at tables or counters located on the premises.
- B. Drive-in: A restaurant that delivers prepared food and/or beverages to patrons in motor vehicles, regardless of whether or not it also serves prepared food and/or beverages to customers who are not in motor vehicles, for consumption on or off the premises. **This definition includes coffee shops, ice cream parlors, and any other business that serves food or drinks to patrons in a motor vehicle.**
- C. Carry-out: A restaurant which prepares food and/or beverages which are packaged and delivered to the patrons or are picked-up at the establishment by the customer; there is no consumption of food or beverages on the premises by patrons.

Re-subdivision: Any change in the shape or size of any lot, tract or parcel of land previously platted for the purpose, whether immediate or future, of sale, rent, lease, building development, or other use. Any change in the shape or size of any lot, tract or parcel of land previously approved for building purpose whether immediate or future and regardless whether or not the same is vacant or improved in whole or in part, for sale, rent, lease, building development or other use.

Right-of-Way: A strip of land occupied or intended to be occupied by a street, highway, walkway, drainageway, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer, trail, or other public use.

Road, Private: A right-of-way open to vehicular ingress and egress established as a separate tract for the common use and benefit of certain, adjacent properties. This definition shall not apply to individual driveways.

Rooming House: A residential structure that provides lodging with or without meals, is available for permanent occupancy only, and which makes no provision for cooking in any of the rooms occupied by paying guests.

Runway: A defined area on an airport prepared for landing and takeoff of aircraft along its length.

Satellite Dish Antenna: A device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn, or cornucopia. Such device shall be used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based uses. This definition is meant to include but not be limited to what are commonly referred to as satellite earth stations, TVROs (television reception only satellite dish antennas), and satellite microwave antennas.

School: A facility that provides a curriculum of elementary and secondary academic instruction, including kindergartens, elementary schools, junior high schools, middle schools and high schools.

School, Business Training: School, which specializes in business, commercial and industrial training courses and is operated for commercial gain.

Scenic Corridor: A strip of land on each side of a stream or roadway that is generally visible to the public traveling on such route.

Scenic Easement: An easement, the purpose of which is to limit development in order to preserve a view or scenic area.

Screening: (Also see "Buffer") The method by which a view of one site from another adjacent site is shielded, concealed, or hidden. Screening techniques include fences, walls, hedges, berms, or other features.

Seating Capacity: The actual seating capacity of an area based upon the number of fixed seats or one seat per eighteen (18) inches of bench or pew length. For other areas where seats are not fixed, the seating capacity shall be determined as indicated by the Uniform Building Code.

Section: Shall mean a section of this ordinance unless some other ordinance, code or statute is indicated.

Self-Service Storage Facility: (See "Mini-Warehouse")

Servant's Quarters: A secondary dwelling unit occupied by a domestic employee of the principal residential building and conforming to the restrictions of this ordinance including those for accessory buildings.

Setback: The required minimum horizontal distance permitted between the building line and the related front, side, or rear property line.

Shopping Center: A grouping of retail business and service uses within a single Master Planned Complex of one or more buildings with common parking facilities, access and open space.

Side Yard: (See "Yard, Side")

Sidewalk Cafe: An area which is part of and adjacent to and directly in front of a street-level restaurant and located within the sidewalk area of the public right-of-way exclusively for dining, drinking, and pedestrian circulation. The encroachment area of a sidewalk cafe may be separated from the remainder of the sidewalk by railings, fencing, or landscaping planter boxes or a combination thereof as required by the City Council.

Sign: Any device fixed to, painted on, or incorporated into the building surface or displayed from or with a building or structure, or free standing upon the site and which is visible from the public right-of-way and designed to convey or direct a message to the public concerning the identification of the premises, to advertise or promote the interests of any private or public firm, person, organization, or other entity, or to draw attention to the use on the premises.

Sign, Awning: A sign painted on or incorporated into an awning. The area of an awning sign shall be the area of the inscription or message incorporated into the awning, provided the awning is not internally illuminated. For an awning sign incorporated on an awning internally illuminated, the area of the entire awning shall be considered the sign area.

Sign, Building: A sign which is wholly supported by the building wall, parallel to the plane thereof and which does not extend beyond the surface of said building wall more than twelve (12) inches. A building sign may be painted on, incorporated in, or affixed to the building wall, or any sign consisting of cut-out letters or devices affixed to the building wall with no background defined on the building wall.

Sign, Bulletin Board: A sign containing a surface area upon which is displayed the name of a religious institution, charitable organization, school, library, community center or similar institution and the announcement of its services or activities.

Sign, Changeable Copy: The graphic content, in letter or alphabetical form, of a sign, which can be changed or altered through mechanical or electrical means. (ORD. 02-04)

Sign, Construction: Such signs identifying the architects, engineers, contractors and other individuals involved in the construction of a building and such signs announcing the character of the building enterprise or the purpose for the building is intended but not including product advertising.

Sign, Directory: Any sign that does not advertise a product or place of business, but exists solely to direct vehicular or pedestrian traffic to a location of a business or part of a business. A directory sign shall not contain names or logos. Any such sign shall not be more than eight (8) square feet per face, more than three (3) feet in height, and must be five (5) feet or more from public right-of-way. All directory signs must be located on the same property that the business or firm is located on. No more than five (5) directory signs shall be allowed per property.

Sign, Free Standing: Free standing signs including pole and ground signs, as regulated by this chapter, shall include any sign which is supported by one or more uprights or braces in or upon the ground and not attached to any building or wall.

Sign, Identification: An on-premises sign that displays no more than the name, address, crest or insignia, occupation or profession of an occupant of the premises, name of any building on the premises or the trademark of the occupant.

Sign, Illuminated: Illuminated sign shall mean any sign which has characters, letters, figures, designs or outline illuminated by electric lights or luminous tubes as part of the sign proper.

Sign, Interstate High Rise: An on-premise pole sign which is constructed to attract the attention of interstate travelers and is located within six hundred (600) feet of the centerline of Highway 5 and identifies or advertises the use of the principal building(s). (ORD. 02-04)

Sign, Memorial: Memorial signs or tablets, names of buildings and date of erection when engraved into any masonry surface or when constructed of bronze or other incombustible materials. Memorial signs shall not contrast in color from the material of which said sign is constructed.

Sign, Monument: An on-premises free standing identification sign identifying the name of a development or principal tenant(s) of said development, which is anchored to the ground. The sign has a monolithic or columnar line and which maintains essentially the same contour from grade to top. The standards listed in sections 17.60 and 17.70. apply to the design of monument signs. (ORD. 02-04)

Signs, Obsolete: Such signs that advertise an activity, business, product or service no longer conducted on the premises on which the sign is located.

Sign, Panel: A message, inscription or logo which is painted or affixed to a panel of wood, plastic, cloth, fiberglass, or other material which is not part of the building's exterior materials, is of greater area than the message, inscription or logo, and provides a background for the message, inscription or logo.

Sign, Pole: An on-premise free standing sign that is supported by one or more uprights not attached to, or braced by, any other structure. Pole signs shall have a clear open space of not less than ten (10) feet between the base line of said sign and the ground level.

Sign, Political Campaign: A sign, either on or off-premise, announcing candidates seeking public political office in a forthcoming election or signs announcing political issues, for or against, to be considered in a forthcoming election.

Sign, Portable: A freestanding sign not permanently anchored or secured to the ground or any building or wall.

Sign, Projecting: A sign, other than an awning sign, canopy sign, building sign, or marquee which projects from and is supported by a wall of a building or structure, and whose message is on a plane which is generally perpendicular to the supporting wall.

Sign, Public: Such signs of a non-commercial nature and in the public interest, erected by or upon the order of a public officer in the performance of his public duty, such as safety signs, danger signs, trespassing signs, traffic signs, memorial plaques, signs of historical interest and all other similar signs, including signs designating City entry, hospitals, libraries, schools, airports and other institutions or places of public interest or concern.

Sign, Real Estate: Such signs advertising the sale, rental or lease of the premises or part of the premises on which the signs are displayed.

Sign, Roof: A sign erected upon or above a roof or parapet of a building.

Sign, Service: A sign identifying rest rooms, public telephone facilities, first aid stations, emergency shelters and other similar public service facilities.

Sign, Vehicle: A message, inscription or logo painted, attached, or incorporated on a motor vehicle which advertises or promotes the interest of any private or public firm, person, organization, or other entity, or to draw attention to the use on the premises.

Sign Area: The sign area shall be that area of a sign's exposed facing determined by the Zoning Administrator using actual dimensions where practical, or approximate dimensions when irregularity of a sign shape warrants. Such area shall be measured from the extreme points or edges of the painted background, panel sign, or the peripheral encasement or structural trim which forms part of the sign proper, or the display, provided however, the area of a sign composed of characters or words attached directly to a wall surface shall be of the smallest rectangle which enclosed the whole group of characters or words.

Sign Perimeter: The external boundary of a sign at its widest point per plan view .

Site Improvements: Site improvements shall include all improvements to a site plan in addition to proposed buildings, and including but not limited to utilities, storm water management, parking, loading areas, landscaping, buffers, and free standing signs.

Site Plan: A plan, prepared to scale, showing accurately and with complete dimensions, the boundaries of a site and the location of all buildings, structures, uses, and principal site development features proposed for a specific parcel of land. (See Chapter 17.80 for regulations.)

Slope: The change in ground elevation between two points.

Smoking Lounge or Smoking Den: An establishment where patrons can purchase and consume tobacco products on site.

Special Use: A use of land, water or building which is allowable only after the issuance of a special use permit by the Board of Adjustment under conditions specified in this ordinance.

Specified Anatomical Areas: As used in this ordinance, are defined as: (1) less than completely and opaquely covered human genitals, human pubic region, mature human buttocks, and mature human female breasts, below a point, immediately above the top of the areola; and (2) human male genitals in a discernable turgid state, even if completely and opaquely covered.

Specified Sexual Activities: As used in this ordinance, are defined as (1) human genitals in the state of sexual stimulation or arousal; (2) acts of masturbation, sexual intercourse or sodomy; (3) fondling or other touching of human genitals, pubic region, buttocks, or female breasts; and (4) minors engaged in a prohibited sexual act or simulation of a prohibited sexual activity.

Stable, Private: An accessory building in which horses are kept for private use and not for remuneration, hire or sale.

Stable, Public: An accessory building in which horses are kept for commercial use including boarding, hire, instructions, and sale.

Stable, Riding Club: A building or structure used or intended to be used, for the housing only of horses by a group of persons for non-commercial purposes.

Start of Construction: Actual start occurs when footings or structural support columns are installed or constructed. For a "Factory-built home", actual start will occur when it is placed on a site or foundation is constructed.

State Plane Coordinates: All runway edges and height limitation boundary surfaces are located within the airport's survey foot coordinate system which is closed to the calculated point in the National Geodetic Survey's state plane coordinate system of 1983 at the quarter section corner near Fleur Drive and Army Post Road. The calculated U.S. survey foot coordinates for this quarter section corner are:

Northing-	556,209.5724
Easting-	1,600,720.5140

Within the closed airport coordinate system the ultimate runway end coordinates for each of the runway ends are located as follows:

13L:	Northing-	563,308.61
	Easting-	1,592,510.75
	Elevation-	911.27
31R:	Northing-	556,960.54
	Easting-	1,599,451.27
	Elevation-	957.23
13R:	Northing-	561,694.69
	Easting-	1,587,904.08
	Elevation	899.0
31L:	Northing-	555,346.62
	Easting-	1,594,844.60

	Elevation-	938.1
5:	Northing-	554,950.26
	Easting-	1,591,755.30
	Elevation-	915.8
23:	Northing-	560,484.49
	Easting-	1,599,354.71
	Elevation-	934.5

(Those coordinates must be verified from the City of Des Moines Engineering Department and used when calculating the heights and distances around the airport. These coordinates are the official centers of each end of the runway surfaces, and must be used in all calculations, zoning requirements, and plans around the airport.)

Story: That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the top most story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a walkout basement is more than five (5) feet above grade such basement shall be considered a story.

Street: A public or private thoroughfare with a right-of-way not less than twenty (20) feet which is used, or intended to be used, for passage or travel by motor vehicles.

Street Line: A dividing line between a lot, tract or parcel of land and a contiguous street. (See "Lot Line, Front")

Structural Alterations: Any replacement or changes in the type of construction or in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, beyond ordinary repairs and maintenance.

Structural Trim: Structural trim shall mean the molding, battens, capping, nailing strips, laticing, and platforms, which are attached to the sign structure.

Structure: Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, antenna, smoke stacks, mobile homes, billboards, signs, poster panels, factories, sheds, cabins, factory-built homes, overhead transmission lines, poles, satellite dish antenna, storage tanks, towers, and other similar uses.

Subdivision: A division of a lot, tract, or parcel of land into two (2) or more lots, building plots or sites, or other subdivisions of land for the purpose, whether immediate or future, of sale, transfer for building development, right-of-way dedication, or other use, provided, however, this definition of a subdivision shall not include divisions of land into aliquot parts or more for agricultural purposes.

Subdivision Plat: The graphical representation of the subdivision of land, prepared by a registered land surveyor, having a number or letter designation for each lot within the plat and a succinct name or title that is unique for the county and city where the land is located.

Substantial Damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

Substantial Improvement: Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the improvement.

This includes structures, which have incurred "substantial damage" regardless of the actual repair work performed. The term does not, however, include either (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement officer and which are the minimum necessary to assure safe living conditions or (2) any alteration will not preclude the structure's continued designation as a "historic structure."

Surveyor: A registered land surveyor who engages in the practice of land surveying pursuant to the State Code of Iowa.

Swimming Pool: All outdoor artificial or semi-artificial receptacles of either temporary or permanent construction, whether above or below ground, capable of containing water of a depth of eighteen (18) inches or more, whether used for swimming or aesthetic purposes, but shall exclude man-made lakes or ponds created through the collection of storm water or drainage runoff.

Tabaco Store: A retail shop or establishment primarily engaged in the sale of tobacco and tobacco related products for off premise consumption only, and where 50% or more of total gross sales are derived from the sale of tobacco and alcohol.

Tattoo Studio: Any establishment in which tattooing is carried out professionally and may or may not include ear and body piercing. (See "Body Piercing Studio")

Body Piercing Shop: Any establishment or business engaged in the business or practice of dyeing, staining, or producing scars in, on, or under the living human skin. (See "Tattoo Shop")

Tavern: (See "Bar")

Temporary Sale: (See "Flea Market")

Temporary Use: A use intended for a limited duration which may or may not be permitted in the zoning district in which it is proposed to be located, and which is permitted subject to the approval of a temporary use permit by the City Council.

Tent: Any structure or enclosure, the roof or one-half or more of the sides of which are of silk, cotton, canvas, or any light material, either attached to a building or structure, or unattached.

Tourist, Cabin: A small single family dwelling of simple construction used as one of the units of a tourist park.

Tourist Park: Any lot or plot of real property upon which two (2) or more tourist cabins or two (2) or more recreational vehicles, camp sites, travel trailers or any combination of tourist cabins, recreational vehicles, camp sites, are located and maintained for seasonal temporary occupancy.

Tower: A tall free-standing framework or structure, other than a building, used for television, radio, telephone, and personal communication transmitters or antennas, as well as observation, liquid storage, or wind generation, and not including utility wire poles.

Townhouse: A dwelling unit which is attached horizontally, and not vertically to one or more other dwelling units, wherein the land or lot beneath each dwelling is individually owned by the owner of the dwelling. A townhouse subdivision shall have common elements which are specified in or determined under the rules and regulations set forth by recorded covenants. Covenants for a townhouse subdivision shall establish the guidelines for maintenance of common elements and permit free movement through common areas by members of the homeowners association (council of co-owners) to assure access to the structural exterior of each townhouse unit by the individual unit owner.

Tract: An Aliquot part of a section, a lot within an official plat, or a government lot.

Trail: A pedestrian walk way or bikeway designated with a paved surfaced pathway for travel by means other than by motorized vehicles.

Trailer Park: (See "Mobile Home Park")

Transfer of Development Rights: The conveyance of development rights to another parcel of land by legal instrument authorized by local law.

Transitional Use: A permitted use or structure that by nature or level and scale of activity acts as a transition or buffer between two or more incompatible uses.

Trash: Cuttings from vegetation, refuse, paper, bottles, rags. (Also see "Junk")

Travel Trailer: A recreational vehicle, with or without motive power; designed as a temporary habitation, not exceeding eight (8) feet in width and forty (40) feet in length, exclusive of separate towing unit. Such vehicles are used for travel or recreational purposes and not used for permanent habitation.

Travel Trailer Park: (See "Tourist Park")

Truck Stop: A service station which is designed principally for the servicing and temporary parking of trucks.

Truck Terminal: Land and buildings used as a relay station for the transfer of a load from one vehicle to another or one party to another. The terminal cannot be used for permanent or long-term storage. The terminal facility may include storage areas for trucks, and buildings or areas for the repair of trucks associated with the terminal.

Unlawful Lot, Structure, or Use: A lot, structure, or use which does not comply with the zoning regulations within this Title or any other city, federal, or state law or regulation, is not grandfathered under the terms and conditions of this chapter, and is not permitted to exist.

VOR: Very high frequency omnidirectional range station. A ground based electronic navigation aid transmitting very high frequency navigation signals, 360 degrees in azimuth, oriented from magnetic north. Used as the basis for navigation in the National Airspace System.

Variance: A modification of the specific regulations of this ordinance granted by resolution of the Board of Adjustment in accordance with the terms of this ordinance for the purpose of assuring that no property, because of special circumstances and hardships applicable to it, shall be deprived of privileges commonly enjoyed by other properties in the same vicinity and zoning district.

Visual Runway: A runway intended solely for the operation of aircraft using visual approach procedures with no straight-in instrument approach procedure and no instrument designation indicated on a Federal Aviation Administration (FAA) approved airport layout plan, a military services approved military airport layout plan, or by any planning document submitted to the FAA by competent authority.

Warehouse: A building used primarily for the storage of goods and materials.

Waterfront: Any site shall be considered as waterfront premises providing any of its lot lines abut on or are contiguous to any body of water, including a creek, canal, lake, river or any other body of water, natural or artificial, not including a swimming pool, whether said lot line is front, rear or

side.

Yard: An open space on the same lot with a building or structure unoccupied and unobstructed by any portion of a structure from thirty (30) inches above the general ground level of the graded lot upward, provided however that fences, walls, signs, poles, post, and other customary yard accessories, ornaments, and furniture more than thirty (30) inches in height may be permitted in any yard subject to requirements limiting obstruction of visibility and other provisions of this ordinance. In measuring a yard for the purpose of determining the depth of a yard, the minimum setbacks shall be used.

Yard, Front: A yard extending across the full width of the lot and measured between the front lot line and the building line or any projection thereof, other than the projection of the usual uncovered steps, patios or decks.

Yard, Rear: A yard extending across the full width of the lot and measured between the rear lot line and the building or any projections other than steps, unenclosed balconies or unenclosed porches.

Yard, Side: A yard extending from the front yard to the rear yard and measured between the side lot lines and the building line.

Zero Lot Line: The location of a building on a lot in such a manner that one or more of the building's sides rests directly on a lot line.

Zone: Any one of the classes of districts established by this ordinance which is designated by area upon the Official Zoning Map of the City of Norwalk.

Zoning Administrator: The administrative officer designated or appointed by the City to administer and enforce the regulations contained in this ordinance.

Zoning Certificate: Written statement issued by the Zoning Administrator authorizing buildings, structures, or uses consistent with the terms of this ordinance and for the purpose of carrying out and enforcing the provisions of this ordinance.