It is expected that a Quorum of the Board of Public Works, Park Board, Administration Committee, and/or Common Council may attend this meeting: (although it is not expected that any official action of any of those bodies will be taken)

CITY OF MENASHA
PLAN COMMISSION
Council Chambers
140 Main Street, Menasha

September 10, 2013
3:30 PM

AGENDA

A. CALL TO ORDER

B. ROLL CALL/EXCUSED ABSENCES

C. MINUTES TO APPROVE
   1. Minutes of the July 16, 2013 Plan Commission Meeting

D. PUBLIC COMMENT ON ANY ITEM OF CONCERN ON THIS AGENDA
   Five (5) minute time limit for each person

E. DISCUSSION
   1. Ordinance Requirements as Related to the Height of Fences at Intersections and Driveways
   2. Ordinance Requirements as Related to Setbacks from Drainage Easements for Structures

F. ACTION ITEMS
   1. None

G. ADJOURNMENT

Menasha is committed to its diverse population. Our Non-English speaking population or those with disabilities are invited to contact the Community Development Department at 967-3650 at least 24-hours in advance of the meeting so special accommodations can be made.

CITY OF MENASHA
Plan Commission
Council Chambers, City Hall – 140 Main Street
July 16, 2013
DRAFT MINUTES

A. CALL TO ORDER

The meeting was called to order at 3:36 PM by Mayor Merkes.

B. ROLL CALL/EXCUSED ABSENCES

PLAN COMMISSION MEMBERS PRESENT: Mayor Merkes, DPW Radtke, and Commissioners DeCoster, Sturm and Cruickshank.

PLAN COMMISSION MEMBERS EXCUSED: Commissioner Schmidt

PLAN COMMISSION MEMBERS ABSENT: Ald. Benner

OTHERS PRESENT: CDD Keil and PP Homan

C. MINUTES TO APPROVE

1. **Minutes of the July 2, 2013 Plan Commission Meeting**
Motion by Commissioner Cruickshank, seconded by Commissioner Sturm to approve the July 2, 2013 Plan Commission meeting minutes. The motion carried.

D. PUBLIC COMMENT ON ANY ITEM OF CONCERN ON THIS AGENDA

1. No one spoke.

E. DISCUSSION

1. Alternate Access to Shoreline Park area at Gilbert Site

CDD Keil provided commissioners with an overview of an alternative access route, which could be situated on the west end of the "duck pond". Currently the designated route runs along the berm on the west end of the East Central Planning site. This route was suggested by the owners of the East Central Planning Site, and the law office that maintains the pond.

Commissioners discussed the following:

- Potential for more direct access to the riverfront and added amenity of proximity to the duck pond.
- Potential grade issues with the alternative route, and need to maintain ADA accessibility.
- Situating the trail in a way so as not to prevent the development potential of the remaining vacant land.

It was the general consensus of the Plan Commission that Community Development staff further explore the feasibility of this alternative and present this information at a future meeting.

ACTION ITEMS

1. **Site Plan Amendment - United Paper Corporation, 1330 University Drive**
PP Homan provided an overview of the proposed expansion to United Paper. She indicated that the proposed site plan had several minor deficiencies that would need to be addressed in order for it to be in compliance with the City's site plan regulations. These included adding more information to the lighting plan, providing additional landscaping screening to the parking lot and along the foundation at east end of the building, and indicating what type of gate would enclose the new dumpster enclosure. She indicated that the existing vegetation along the south property line met the requirements for transitional areas.
Motion by Comm. Sturm, seconded by Commissioner Cruikshank to approve the Site Plan

Amendment for United Paper Corporation, with the following conditions:

- Final landscape plan, to include screening of parking lot and foundation planting, be submitted to and approved by Community Development Staff.
- Depiction of the proposed gate to the dumpster enclosure be submitted with the final site plan.
- Final Lighting Plan, to include cut sheets of light fixtures, be submitted to and approved by Community Development staff.
- Final Stormwater Plan approval by the Public Works Department.

The motion carried.

G. ADJOURNMENT

Motion by Comm. DeCoster, seconded by Comm. Sturm to adjourn at 4:15p.m. The motion carried.

Minutes respectfully submitted by PP Homan.

fourteen (14) feet. Such trimming may only be done by City employees or authorized persons under contract with the City. The City Forester may waive the provisions of this Section for newly planted trees if he determines that they do not interfere with public travel, obstruct the light of any street light or endanger public safety.

(b) The necessity of the pruning may be determined by the City Forester.

(c) Clearance from sidewalk to lower branches shall not be less than eight (8) feet. All trees standing upon private property in the City, the branches of which extend over the line of the street, shall be trimmed so that no branch shall grow or hang over the line of the sidewalk lower than eight (8) feet above the level of the sidewalk. No tree shall be permitted to grow in such a manner as to obstruct the proper diffusion of light from any public lamp. All private trees must maintain a minimum clearance of fourteen feet above any public street or any private road serviced by any municipal vehicles. Low growing trees, such as crabapples, shall be trimmed within the confines of the terrace.

SEC. 6-4-10 TREES AND SHRUBBERY OBSTRUCTING VIEW AT INTERSECTION OR VIEW OF TRAFFIC SIGNS.

(a) **OBSTRUCTION BY TREES, SHRUBS, FENCES, WALLS, SIGNS OR OTHER STRUCTURES.**

(1) Prohibited Obstructions. No person shall maintain trees, shrubs, fences, walls, signs, or other structures in the vision control area which obstruct the necessary view of the driver of a motor vehicle on a public street or private driveway or which interfere with the driver's control. The vision control area is defined as the minimum sight triangle for the appropriate intersection/driveway set of conditions, as established by the current effective AASHTO sign distance references. In said vision control area, fences, walls, signs, or other structures shall not exceed three (3) feet in height and shall be two-thirds (2/3) open to vision equally distributed throughout the vision control area. In the vision control area, trees and shrubs shall be maintained to provide unobstructed vision from two and one-half (2-1/2) feet above the centerline of the abutting pavement to ten (10) feet above the said centerline elevation.

(2) Duties of the Director of Public Works. It shall be the duty of the Director of Public Works or his representative to enforce this Section by appropriate order giving the offending party thirty (30) days to remove or correct the situation. Said order shall be served by certified mail. Where the home is in joint tenancy, service on one (1) of the homeowners shall be presumed service on the other.

(3) Appeals of Orders of the Director of Public Works. All appeals of orders issued by the Director of Public Works shall be made within fifteen (15) days of the service of the order and shall be addressed to the City Clerk and the matter heard by the Board of Public Works.

(b) **OTHER OBSTRUCTIONS.** It is unlawful for any person to plant, cause to grow, allow to grow or maintain any trees, bushes, shrubbery or vegetation of any kind which is an obstruction to the clear and complete vision of any traffic sign or driveway approach to a street in the City.

(c) Any shrub, tree or other plant which obstructs the view at an intersection or the view of a traffic sign shall be deemed to be dangerous to public travel and the City Forester may order, by written notice, the owner or occupant of any private place or premises on which there stands a tree or shrub which unreasonably interferes with or encroaches upon the street or sidewalk, to take such steps as are necessary to remove such interference. If such owner or

occupant fails, within ten (10) days of receipt of notice, to take such necessary steps, the Director of Public Works shall order the City employees to remove the interference. The cost of removing the interference shall be levied and collected as a special tax upon the property upon which or in front of which such tree or shrub stands.

(d) Any person who is an owner or occupant or firm or corporation failing to obey the written notice of the Director of Public Works as specified in Subsection (c) above shall, upon conviction thereof, be subject to a forfeiture as established in Section 1-1-7 of this Code of Ordinances.

SEC. 6-4-11 PROHIBITED ACTS.

(a) **DAMAGE TO PUBLIC TREES.** No person shall, without the consent of the owner in the case of a private tree or shrub, or without written permits from the City Forester in the case of a terrace-area tree, public tree or shrub, perform or cause to be performed by others any of the following acts:

(1) Secure, fasten or run any rope, wire sign, unprotected electrical installation or other device or material to, around or through a tree or shrub.

(2) Break, injure, mutilate, deface, kill or destroy any tree or shrub or permit any fire to burn where it will injure any tree or shrub.

(3) Permit any toxic chemical, gas, smoke, oil or other injurious substance to seep, drain or be emptied upon or about any tree or shrub or place cement or other solid substance around the base of the same.

(4) Remove any guard, stake or other device or material intended for the protection of a public tree or shrub, or close or obstruct any open space about the base of a public tree or shrub designed to permit access of air, water and fertilizer.

(5) Attach any sign, poster, notice or other object on any tree, or fasten any guy wire, cable, rope, nails, screws or other device to any tree; except that the City may tie temporary "no parking" signs to trees when necessary in conjunction with street improvement work, tree maintenance work or parades.

(6) Cause or encourage any fire or burning near or around any tree.

(b) **EXCAVATIONS.** All trees on any parkway or other publicly owned property near any excavation or construction of any building structure or street work shall be sufficiently guarded and protected by those responsible for such work as to prevent any injury to said trees. No person shall excavate any ditches, tunnels or trenches, or install pavement within a radius of ten (10) feet from any public tree without a permit from the City Forester.

(c) **REFUSAL TO ABATE NUISANCE.** Permits any public nuisance to remain on any premises owned or controlled by him when ordered by the Forester to abate such nuisance.

SEC. 6-4-12 APPEAL FROM DETERMINATIONS OR ORDERS.

Except as provided in Section 6-4-10, any person who receives a determination or order under this Chapter from the City Forester and objects to all or any part thereof shall have the right to appeal such determination or order, pursuant to the provisions of Title 4 of this Code of Ordinances and Chapter 68, Wis. Stats., to the Common Council within seven (7) days of receipt of the order and the Common Council shall hear such appeal within thirty (30) days of receipt of written notice of the appeal. After such hearing, the Common Council may reverse, affirm or modify the order or determination appealed from and the grounds for its decision shall be stated in writing. The

SEC. 13-1-88 FENCES AND HEDGES.

(a) **FENCES DEFINED.** For the purpose of this Section, a fence is herein defined as an enclosed barrier consisting of vegetation, wood stone or metal intended to prevent ingress or egress. For the purpose of this Section, the term "fence" shall include plantings such as hedges and shrubbery.

(b) **FENCES CATEGORIZED.** Fences shall be categorized into three (3) classifications:

(1) Boundary Fence. A fence placed on or within three (3) feet of the property lines of adjacent properties.

(2) Protective Fence. A fence constructed to enclose a hazard to the public health, safety and welfare.

(3) Architectural or Aesthetic Fence. A fence constructed to enhance the appearance of the structure or the landscape.

(c) **HEIGHT OF FENCES REGULATED.** Except for corner lots or through lots, boundary or aesthetic fences including hedges or row plantings placed in an area within twenty (20) feet of the street right-of-way shall be not more than three (3) feet in height, with the exception that such fences may be a maximum of four feet, six inches (4'6") in height if two-thirds (2/3) of the area is open to vision. Upon application and issuance of a permit, boundary or aesthetic fences including hedges or row plantings within twenty (20) feet of the street right-of-way may be permitted on corner lots or through lots. Application shall be made on a form available from the Community Development Department and shall specify the height and location of the fence to be installed with respect to the street right-of-way and sidewalk (if present), driveway openings, and existing structures on the subject and adjacent properties. The application shall also specify the type of fencing and/or plant material to be used in constructing or installing the fence or hedge. The Community Development Director shall confer with the Public Works Director concerning the applicability of vision control area standards and any other safety concerns that may be related to the installation of the proposed fence or hedge. Upon consulting with the Director of Public Works, and upon consideration of any other relevant factors including, but not limited to the compatibility of the proposed fence or hedge with the adjacent properties, the Community Development Director may issue a permit. Such permit may include limitations on the location, height, or materials used in constructing or installing any fence or hedge as may be necessary to protect public safety or community aesthetics. Such permit may be revoked at any time by the Community Development Director if the relevant factors change such that the continued use of the fence is inappropriate.

(d) **MATERIALS PROHIBITED.** In the residential-zoned districts, barbed wire fences, electrical fences and single, double and triple strand fences are prohibited.

(e) **EXCEPTIONS.** Protective fences on industrial or publicly owned lands or semi-public lands such as schools, churches, educational institutions, utility substations, etc., are excluded from the provisions of this Section, except that where such fences incorporate the use of barbed wire, then such barbed wire shall not be less than seven (7) feet above the ground level and shall be constructed to be two-thirds (2/3) open to vision, equally distributed throughout the fence length and height located within the vision corner as defined in Sec. 13-1-90.

SEC. 13-1-89 SWIMMING POOLS.

(a) **SWIMMING POOL REGULATIONS.** This Section shall apply to all new, remodeled,

g. Boat or snowmobile trailer means a vehicle on which a boat or snowmobile may be transported and is towable by a motor vehicle. When removed from the trailer, a boat or snowmobile, for purposes of this Article, is termed an unmounted boat or snowmobile.

(3) Boat. Boat means every description of watercraft used or capable of being used as a means of transportation on water.

(4) Yard, Front, means that part of a lot between the front lot line and front(s) of the principal building on the lot and extended to both side lot lines.

(5) Yard, Rear, means that part of a lot between the rear lot line and the back(s) of the principal building on the lot and extended to both side lot lines.

(6) Yard, Side, means that part of a lot not surrounded by a building and not in the front or rear yard.

(b) **PERMITTED PARKING OR STORAGE OF RECREATIONAL VEHICLES.** In all residential and commercial districts provided for in this Zoning Code, it is permissible to park or store a recreational vehicle or boat and boat trailer on private property in the following manner:

(1) Parking is permitted inside any enclosed structure, which structure otherwise conforms to the zoning requirements of the particular zoning district where located.

(2) Parking is permitted outside in the side yard or rear yard provided it is not nearer than five (5) feet to the lot line.

(3) Parking is permitted in the front setback area on a driveway during loading or unloading [no more than three (3) consecutive days], provided the body of a vehicle is at least fifteen (15) feet from the face of any street curb. On corner lots or through lots, parking is permitted in the front setback area on one street frontage where a fence or hedge has been approved and installed pursuant to Section 13-1-88(c). The boat or recreational vehicle shall be substantially screened from the adjoining street by such fence or hedge.

(4) The body of the recreational vehicle or boat must be at least fifteen (15) feet from the face of any curb.

(5) No part of the unit may extend over the public sidewalk or public right-of-way.

(6) Parking is permitted only for storage purposes. Recreational vehicles or boats shall not be:

a. Used for dwelling purposes, except for overnight sleeping for a maximum of fourteen (14) days in anyone (1) calendar year. Cooking is not permitted at any time.

b. Permanently connected to sewer lines, water lines or electricity. The recreational vehicle may be connected to electricity temporarily for charging batteries and other purposes.

c. Use for storage of goods, materials or equipment other than those items considered to be part of the unit or essential for its immediate use.

(7) The recreational vehicle or boat shall be owned by the resident on whose property the unit is parked for storage.

State Law Reference: Sec. 30.50, Wis. Stats., and HSS 177 and 177, Wis. Adm. Code.

SEC. 13-1-53 VISION CLEARANCE AT INTERSECTIONS.

(a) **OBSTRUCTION BY TREES, SHRUBS, FENCES, WALLS, SIGNS OR OTHER STRUCTURES.** No person shall maintain trees, shrubs, fences, walls, signs, or other structures in the vision control area which obstruct the necessary view of the driver of a motor vehicle on a public street or private driveway or which interfere with the driver's control. The vision control area is defined as the minimum sight triangle for the appropriate intersection/driveway set of conditions, as established by the current effective AASHTO

sign distance references. In said vision control area, fences, walls, signs, or other structures shall not exceed three (3) feet in height and shall be two-thirds (2/3) open to vision equally distributed throughout the vision control area. In the vision control area, trees and shrubs shall be maintained to provide unobstructed vision from two and one-half (2-1/2) feet above the centerline of the abutting pavement to ten (10) feet above the said centerline elevation.

(b) **DUTIES OF THE DIRECTOR OF PUBLIC WORKS.** It shall be the duty of the Director of Public Works or his representative to enforce this Section by appropriate order giving the offending party thirty (30) days to remove or correct the situation. Said order shall be served by certified mail. Where the home is in joint tenancy, service on one (1) of the homeowners shall be presumed service on the other.

(c) **APPEALS OF ORDERS OF THE DIRECTOR OF PUBLIC WORKS.** All appeals of orders of the Director of Public Works shall be made within fifteen (15) days of the service of the order and shall be addressed to the City Clerk and the matter heard by the Board of Public Works.

SEC. 13-1-54 THROUGH SEC. 13-1-59 RESERVED FOR FUTURE USE.

fourteen (14) feet. Such trimming may only be done by City employees or authorized persons under contract with the City. The City Forester may waive the provisions of this Section for newly planted trees if he determines that they do not interfere with public travel, obstruct the light of any street light or endanger public safety.

(b) The necessity of the pruning may be determined by the City Forester.

(c) Clearance from sidewalk to lower branches shall not be less than eight (8) feet. All trees standing upon private property in the City, the branches of which extend over the line of the street, shall be trimmed so that no branch shall grow or hang over the line of the sidewalk lower than eight (8) feet above the level of the sidewalk. No tree shall be permitted to grow in such a manner as to obstruct the proper diffusion of light from any public lamp. All private trees must maintain a minimum clearance of fourteen feet above any public street or any private road serviced by any municipal vehicles. Low growing trees, such as crabapples, shall be trimmed within the confines of the terrace.

SEC. 6-4-10 TREES AND SHRUBBERY OBSTRUCTING VIEW AT INTERSECTION OR VIEW OF TRAFFIC SIGNS.

(a) **OBSTRUCTION BY TREES, SHRUBS, FENCES, WALLS, SIGNS OR OTHER STRUCTURES.**

(1) Prohibited Obstructions. No person shall maintain trees, shrubs, fences, walls, signs, or other structures in the vision control area which obstruct the necessary view of the driver of a motor vehicle on a public street or private driveway or which interfere with the driver's control. The vision control area is defined as the minimum sight triangle for the appropriate intersection/driveway set of conditions, as established by the current effective AASHTO sign distance references. In said vision control area, fences, walls, signs, or other structures shall not exceed three (3) feet in height and shall be two-thirds (2/3) open to vision equally distributed throughout the vision control area. In the vision control area, trees and shrubs shall be maintained to provide unobstructed vision from two and one-half (2-1/2) feet above the centerline of the abutting pavement to ten (10) feet above the said centerline elevation.

(2) Duties of the Director of Public Works. It shall be the duty of the Director of Public Works or his representative to enforce this Section by appropriate order giving the offending party thirty (30) days to remove or correct the situation. Said order shall be served by certified mail. Where the home is in joint tenancy, service on one (1) of the homeowners shall be presumed service on the other.

(3) Appeals of Orders of the Director of Public Works. All appeals of orders issued by the Director of Public Works shall be made within fifteen (15) days of the service of the order and shall be addressed to the City Clerk and the matter heard by the Board of Public Works.

(b) **OTHER OBSTRUCTIONS.** It is unlawful for any person to plant, cause to grow, allow to grow or maintain any trees, bushes, shrubbery or vegetation of any kind which is an obstruction to the clear and complete vision of any traffic sign or driveway approach to a street in the City.

(c) Any shrub, tree or other plant which obstructs the view at an intersection or the view of a traffic sign shall be deemed to be dangerous to public travel and the City Forester may order, by written notice, the owner or occupant of any private place or premises on which there stands a tree or shrub which unreasonably interferes with or encroaches upon the street or sidewalk, to take such steps as are necessary to remove such interference. If such owner or

The regulations contained herein relating to the height of buildings and the size of yards and other open spaces shall be subject to the following exceptions:

(a) Churches, schools, hospitals, sanitoriums and other public and quasi-public buildings may be erected to a height not exceeding sixty (60) feet nor five (5) stories, provided the front, side and rear yards required in the district in which such building is to be located are each increased at least one (1) foot for each foot of additional building height above the height limit otherwise established for the district in which such building is to be located.

(b) Chimneys, cooling towers, elevator bulkheads, fire towers, monuments, penthouses, stacks, scenery lofts, tanks, water towers, ornamental towers, steeples, radio and television towers, telephone, telegraph and power poles and lines, and necessary mechanical appurtenances are excepted from the height regulations of this ordinance and may be erected in accordance with other regulations or codes of the City of Menasha.

(c) Residences in the residence district may be increased in height by not more than ten (10) feet when all yards and other required open spaces are increased by one (1) foot for each foot when such building exceeds the height limit of the district in which it is located.

(d) Where a lot abuts on two (2) or more streets or alleys having different average established grades, the higher of such grades shall control only for a depth of one hundred twenty (120) feet from the line of the higher average established grade.

(e) Buildings on through lots and extending from street to street may have waived the requirements for a rear yard by furnishing an equivalent open space on the same lot in lieu of the required rear yard provided that the setback requirements on both streets be complied with.

(f) Where a lot has an area less than the minimum number of square feet per family required for the district in which it is located and was of record as such at the time of the passage of this Code, such lot may be occupied by one (1) family.

(g) In front yards, balconies may extend a distance of four (4) feet or less, provided they are seven (7) feet or more above the grade at the building line. Steps, stoops, uncovered porches, decks and patios may extend a distance of eight (8) feet or less into the front yard.

(h) Open or enclosed fire escapes and fire towers may project into a required yard not more than five (5) feet and into a required court not more than three and one-half (3-1/2) feet, provided it be so located as not to obstruct light and ventilation.

(i) In the C-1, C-2, C-3 and C-4 zoning districts, the Plan Commission may waive or modify the rear yard and/or side yard setback when internal traffic flow, parking and/or ingress/egress are shared by contiguous, commercial uses allowed in the C-1, C-2, C-3 and C-4 districts and that will benefit the overall development of the site(s). The property owner shall provide and equivalent open space on the same lot in lieu of the require rear yard or side yard setback. This exception does not apply, however, when the adjoining use or zoning district is residential.

(j) In the C-1, C-2, C-3 districts, and Special Uses in the R-1, R-2, R-3, and R-4 districts, covered canopies shall be allowed to extend into the front yard setback up to the right-of-way. Such canopies shall have a seven (7) foot minimum clearance at all points. Any portion of the canopy proposed to be extended into the right-of-way shall be subject to review and approval from the Director of Public Works and issuance of a revocable occupancy permit.

(k) No principal structure or accessory structure erected after June 1, 2009 shall be placed within ten (10) feet of a dedicated drainage easement.

SEC. 13-1-15 REDUCTION OR JOINT USE.

No lot, yard, parking area, building area or other space shall be reduced in area or dimensions so as

ARTICLE M

Definitions

SEC. 13-1-160 DEFINITIONS.

(a) The following words and terms, wherever they occur in this Chapter, shall be construed as herein defined. Words not defined shall be interpreted in accordance with definitions found in any standard dictionary:

(1) **ABUTTING.** Making contact with or separated only by public thoroughfare, railroad or public utility right-of-way.

(2) **ACCESSORY BUILDING.** A subordinate building or a portion of the main building which is located on the same lot or parcel as the main building and the use of which is clearly incidental to that of the main building or to the use of the premises. This definition excludes a private garage.

(3) **ACCESSORY USE.** A use on the same lot with and of a nature customarily incidental and subordinate to the principal building or use.

(4) **AIRPORT OR HELIPORT.** Any land or structure which is used or intended for use, for the landing and takeoff of aircraft and any appurtenant land or structure used or intended for use by port buildings or other port structures or rights-of-way.

(5) **ALLEY.** A public right-of-way not less than twenty-four (24) feet in width which has been dedicated or deeded to the public for public use and designed to provide secondary access to abutting property.

(6) **ANIMALS - DOMESTIC.** Dogs, cats, birds and other commonly known house pets.

(7) **ADULT ESTABLISHMENTS.** Establishments which include bookstores, motion picture theaters, mini-motion picture theaters, bath houses, massage parlors, modeling and body painting studios and cabarets whose principal use is to depict, describe, engage in or relate to "specified anatomical areas" or "specified sexual activities." Escort services and escorts as regulated in Sec. 7-13 shall be considered adult establishments.

(8) **APARTMENT.** A room or suite of rooms rented, leased or granted similar tenancy, with cooking facilities available which is occupied as a residence by a single family or a group of individuals living together as a single-family unit. This includes any unit in buildings with more than two (2) dwelling units.

(9) **APARTMENT BUILDING.** Three (3) or more dwelling units or apartments grouped in one (1) building.

(10) **AUTOMOBILE/TRUCK WASH.** A building, or portion thereof, containing facilities for washing automobiles or trucks, using production line methods, including, but not limited to, steam cleaning devices or other mechanical devices.

(11) **AUTOMOBILE WRECKING.** The dismantling or wrecking of used motor vehicles or trailers or the storage, sale or dumping of dismantled, partially dismantled, or wrecked vehicles or their parts. (See also junk yard.)

(12) **BASEMENT.** A portion of a building located partly underground, but having half or more of its floor to ceiling height below the average grade of the

area, as defined within the Code, to be considered a buildable lot.

(92) **PARKING SPACE.** A suitable surfaced and permanently maintained area either within or outside of a building of sufficient size to store one (1) automobile.

(93) **PEDESTRIAN WAY.** A public or private right-of-way across or within a block to be used by pedestrians.

(94) **PERSON.** An individual, firm, partnership, association, corporation or organization of any kind.

(95) **PLAN, COMPREHENSIVE.** Comprehensive plan shall mean a compilation of policy statements, goals, standards and maps for guiding the physical, social and economic development, both private and public, of the municipality and its environs and may include, but is not limited to, the following: statements of policies, goals, standards, a land use plan, a community facilities plan, a transportation plan and recommendations for plan implementation. A comprehensive plan represents the planning agency's recommendations for the future development of the community.

(96) **PLAN, SITE.** A map or graphics prepared to scale depicting the development of a tract of land, including, but not limited to, the location and relationship of the structures, streets, driveways, recreation areas, parking areas, utilities, landscaping, existing and proposed grading, walkways and other site development information as related to a proposed development.

(97) **PLANNED UNIT DEVELOPMENT.** A development having two (2) or more principal uses or structures on a single tract or tracts of land, developed according to a plan approved by the City, under single ownership or unified control. A planned unit development allows for flexibility not available under normal zoning district requirements. A planned unit development may include a combination of land uses.

(98) **PREVAILING.** The predominant or most frequent occurrence.

(99) **PRINCIPAL STRUCTURE OR USE.** One which determines the predominant use as contrasted to accessory use or structure.

(100) **PROPERTY LINE.** The legal boundaries of a parcel of property which may also coincide with the right-of-way of a road or ordinary high water mark.

(101) **PUBLIC LAND.** Land owned or operated by a municipality, school district, county, state, federal or other governmental unit.

(102) **PUBLIC BUILDING.** A building owned and operated by a governmental unit including, but not limited to, fire stations, wells, city hall, public works, senior citizen facility and police facilities.

(103) **RECREATION, COMMERCIAL.** Includes all uses such as bowling alleys, driving ranges and movie theaters that are privately owned and operated with the intention of earning a profit by providing entertainment for the public.

(104) **RECREATION, PUBLIC.** Includes all uses such as tennis courts, ball fields, picnic areas and the like that are commonly provided for the public at parks, playgrounds, community centers and other sites owned and operated by a unit of government for the purpose of providing recreation.

(105) **RECREATIONAL VEHICLE.** Any vehicle less than thirty (30) feet in overall length that is mounted on wheels used for convenience on highways and streets and propelled or drawn by its own motor power.

(106) **RESTAURANTS, TRADITIONAL.** Restaurant where food is served by a waitress or waiter to a customer and consumed while seated at a counter or a table. Food is served on non-disposable containers.

(107) **RESTAURANTS, DRIVE-IN.** Restaurants in which the customers are served food

at a carry-out counter or service window.

(108) **ROAD.** Right-of-way affording primary access by pedestrians and vehicles to abutting property whether designated as a street, highway, thoroughfare, parkway, road, avenue, boulevard, land, place or however otherwise designated. Egress and ingress easements shall not be considered roads.

(109) **ROOM.** A space within a building completely enclosed, except for openings for light, ventilation, ingress and egress.

(110) **SHORE YARD SETBACK.** The minimum horizontal distance between the structure and the ordinary high water mark (see diagram).

(111) **SIGN.** A name, identification, description, display, illustration or device which is affixed to or represented directly or indirectly on a building, structure or land in view of the general public and which directs attention to a product, place, activity, person, institution or business.

(112) **SOLAR STRUCTURE.** A structure designed to utilize solar energy as an alternative for, or supplement to, a conventional energy system.

(113) **SPECIFIED ANATOMICAL AREAS.** Less than completely and opaquely covered human genitals, pubic region, buttocks, female breast below a point immediately above the top of the areola and human male genitals in a discernibly turgid state even if completely or opaquely covered.

(114) **SPECIFIED SEXUAL ACTIVITIES.** Activities where human genitals are in a state of sexual stimulation or arousal; acts of masturbation, sexual intercourse or sodomy; and fondling or other erotic touching of the human genitals, pubic region, buttocks or female breast.

(115) **STREET.** A public right-of-way which affords primarily means of access to abutting property and shall also include avenue, highway, road or way.

(116) **STRUCTURE.** Anything constructed, the use of which requires more or less permanent location on the ground, or attached to something having a permanent location on the ground.

(117) **UNDUE HARDSHIP.** Undue hardship as used in connection with the recommending of the granting of a variance means the property in question cannot be put to a reasonable use if used under conditions allowed by the official controls; the plight of the landowner is due to circumstances unique to his property not created by the landowner; and the variance, if recommended, will not alter the essential character of the locality. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of this Code.

(118) **USE, ACCESSORY.** A use subordinate to and serving the principal use or structure on the same lot and customarily incidental thereto.

(119) **USE, PERMITTED.** A public private use which of itself conforms with the purposes, objectives, requirements, regulations and performance standards of a particular district.

(120) **USE, PRINCIPAL.** The main use of land or buildings as distinguished from subordinate or accessory uses.

(121) **USE, SPECIAL.** A public or private use which possesses unique characteristics that may affect the community or the surrounding area and, therefore, deserves special consideration and permission before being established.

(122) **VARIANCE.** A modification or variation of the provisions of this Code where it is determined that, by reason of special and unusual circumstances relating to a specific lot, strict application of the Code would cause an undue hardship.