



**City of Newport
Planning Commission Minutes
March 12, 2014**

1. CALL TO ORDER

Chairperson Lund called the meeting to order at 7:00 P.M.

2. ROLL CALL -

Commissioners present – Dan Lund, Anthony Mahmood, Susan Lindoo, Matt Prestegaard,

Commissioners absent – Kevin Haley

Also present – Deb Hill, City Administrator; Renee Helm, Executive Analyst; Sherri Buss, TKDA Planner; Jon Herdegen, City Engineer

3. APPROVAL OF PLANNING COMMISSION MINUTES

A. Planning Commission Minutes of February 13, 2014

Motion by Mahmood, seconded by Prestegaard, to approve the February 13, 2014 minutes as presented. With 4 Ayes, 0 Nays, 1 Absent, the motion carried.

4. APPOINTMENTS WITH COMMISSION

A. Public Hearing – To consider an application from David Sullivan for Approval of a Rezoning and Conditional Use Permit for Property Located on 7th Avenue between 2nd and 6th Streets

Sherri Buss, TKDA Planner, presented on this item as outlined in the March 12, 2014 Planning Commission Packet.

Chairperson Lund - We specifically exclude barbed wire fence. We just passed that within the last few months.

Executive Analyst Helm - It lists that barbed wire is allowed in the industrial districts but it doesn't list anything regarding barbed wire in any of the other districts.

Ms. Buss - We did look it up and it allows other materials as approved by the Zoning Administrator so that would be a discussion for you tonight.

Chairperson Lund - Can you look it up?

Executive Analyst Helm - Yes. What was approved was you had replaced barbed wire with electric fences in the residential and mixed-use districts but you don't say specifically that it is not allowed.

Chairperson Lund - What about Section 1330.05, Subd. 15, item C?

Executive Analyst Helm - That is for industrial districts, Subd. 21 is for residential and mixed-use districts and that does not say anything regarding barbed wire.

Ms. Buss - It has a list of allowed materials and says the City can approve other things.

Chairperson Lund - So it applies to the business district but not the mixed-use districts?

Executive Analyst Helm - Yes.

Susan Lindoo - So you can't have barbed wire in the B-1 District but you can in the mixed-use districts?

Chairperson Lund - We didn't look at it in the mixed-use.

Ms. Buss - Yes, and because there's that clause in there that says other materials can be approved you need to discuss if you want to recommend approving barbed wire.

The Public Hearing opened at 7:20 p.m.

Chairperson Lund read the below from Pauline Schottmuller, 97 10th Street. Ms. Schottmuller sent the attached emails to Admin. Hill to include during the public hearing.

Chairperson Lund - "Dear Planning Commission Members, I am out of town tonight but I wanted to get my 2 cents in about the rezoning request for the Knauff property. As most of you know, I was a Newport City councilmember for 12 years. I sat on the council that first rezoned this property to mixed use. I'd like you to know some of that history as it is pertinent to the discussion tonight.

The rezone of the 7th Ave. neighborhood to mixed use was very controversial with the residents of that neighborhood. We did a lot of rezoning at that time but the vast majority of my time was spent with the 7th Ave. neighborhood addressing their concerns. The reality is that 7th Ave. is both business and residential and MX was the only zone that addressed both uses. The residents' concerns were that 7th Ave. should be treated primarily as a residential neighborhood and any business needs to blend in and compliment. They would point to Kiss's and say that was an okay business. They would point to Bill's Auto Parts and say "look what we have to live with". They were not trusting that City Hall would make sure that any new business would be a better neighbor than Bill's Auto Parts. We promised that we would. Now it is up to you to make good on that promise.

I have looked over the proposal and recognize that there is much to recommend it. This property has been an eyesore for decades and is a brownfield. Mr. Sullivan is offering to clean this property up if Newport does not get grant money. That is a real plus.

So is the recommendation for curbing, the trees, how trash containers must be handled, the holding ponds, etc. That helps blend the business into this residential neighborhood. The CUP needs to go farther. Please keep in mind that Bill's Auto Parts operated under a CUP but that CUP was so poorly written that the business was an eyesore despite being in compliance. When residents would complain we could only sympathize. There was no compliance issues to enforce. CUPs need to be very well thought out, very detailed and, I believe, the burden needs to be on the business to be an asset, not on the neighborhood to adjust and put up with a business next door.

- The old warehouse needs to come down. Build a new cement block one with a brick facade. That would go a long way towards making the business an asset instead of an eyesore. It would also insure that this business generates some property taxes.
- Chain link fence with the slats always, always, always goes to hell. Nor does it block the view. Just look at the chain link fence with slats in front of the property now. You can see every bit of junk back there. How about the new no maintenance fencing panels? I'd personally love to see a 6 foot high brick wall. But the fence needs to truly be "a no see through it at all" type of fence. The barbed wire does not belong in a district with housing. No prison, this isn't a safe neighborhood feel to the fencing.
- Barbed wire is meant to keep people out so is Mr. Sullivan telling us criminals will be coming to Newport attempting to rob his business? If so, do we really want this business in Newport? Our police have enough on their plate. This concern is asked in all sincerity. When the check cashing business asked to locate to Newport we

had the police investigate to make sure we weren't inviting trouble into town. Have the police done the same type of investigation with impound lots?

- When the city requires homeowners to clean up their properties it needs to have a leg to stand on. I wish I could play for you the hundreds of times a resident would point to Bill's Auto Parts and say to clean up that place before coming after them. And I believe that to be a valid point. By now the city administration and council should have some inkling as to how sick and tired residents are of yards full of derelict cars and other junk. But now we are entertaining letting in a business that deals with just that? If this request is approved the CUP better be written so that we don't have to look at 5 plus acres of cars and other stuff. A chain link fence doesn't fit the bill.
- So this begs the question: with all the clean land available in Cottage Grove. why is Mr. Sullivan looking to purchase a brownfield in Newport? Maybe other cities don't see his business as a desirable one.
- I think the city and Mr. Sullivan should explore having all traffic enter and exit off of 2nd Street. I know this will involve the refinery's property but since you are waiting through 2 grants cycles there is time to work a deal with the refinery. The 1997 or 1998 resolution to keep trucks off of 7th Ave. should be honored. Again this is mostly a residential neighborhood. I know there are drainage ponds in that area but drainage ponds can be moved while still in the drawing board phase.

Newport needs every available acre to be put to its highest use and to generate sufficient taxes to bring down our historically high property taxes. Newport needs to improve its image. We need to be a cleaner, neater city. I wonder what the chances would be of a B-1 appropriate business coming in if the city were to buy the Knauff property and offer it free to such a business. The city has certainly spent enough buying up homes on Cedar Lane and now the Johnson property (for \$130,000.00?). Buying the Knauff property should not be that much of a stretch.

I personally would not rezone. The second best position would be to write the CUP in such a way that this business will look and behave first class.

Thank-you for the opportunity to voice my concerns. I know that the fence around the Knauff property has 3 strands of barbed wire on the top. Some may argue that that sets a precedent or proves that barbed wire is okay for the neighborhood. Those people never had the conversations with all the people who have pointed at Bill's Auto Parts and said "clean that place up!" Whatever business is allowed to go in there must look better, much better, than Bill's Auto Parts. Chain link with barbed wire has to go. The old warehouse has to go. And if Mr. Sullivan is not willing to invest the money in aesthetics than he needs to go. Thanks Deb, Pauline."

David Sullivan, Applicant - We are asking to open a repossession company and store cars here. This business is not like something that you would have seen on television and it's not like what you would normally think of. The repossession business has become much more regulated and professionalized. Ourselves, we don't deal with the junk vehicles, these are newer models. I never saw what the Knauff's had, I understand that it was a salvage yard and it must have looked pretty bad. These cars will be parked for three to five days. About 25% of people that get their cars repossessed get them back so they would make an appointment to come pick them up at the old body shop. I appreciate some of the concerns that were read in the email and will be happy to answer any questions.

Chairperson Lund - We'll bring you back.

Ev Acker, 615 4th Street - I'm right down the street. A couple of things that I was looking at, they'll be using two acres for storage, how many vehicles and how long will they be there? There was some comment about the headlights going down 4th Street, I know when you look at the exit, the lights will go right down that street on to my house and when they turn on to 7th Avenue the lights will be going right into people's bedrooms. I understand there will be around 20 trucks running round trips with 50 cars, is that per day? The six foot fence, with five strands, will look like a gulag over there. I don't know if Newport needs that.

Ed Voss, 596 6th Street - I'm concerned about the trucks running 24 hours a day. Garbage trucks come on Friday and they wake everyone up. We did look at Bill's junk yard for 20 years and we're not looking forward to looking at another

lot full of cars. If they have to have a barbed wire fence what type of people will it be attracting that you need to keep them out. I'm not really happy about the extra noise. Plus is there any extra income for the City on this? Are we charging them a fee per car? Is there any limit as to how long the car can sit there? Are there any rules that you'll have on them or will it be another Bill's junk yard in a year? Is the special use permit a time-wise thing or will he get it for life or will it need to be reviewed in six months or a year to see if he's living up to it?

Ms. Buss - The Conditional Use Permit is ongoing, the City can have some requirements for an annual review. If he's not complying with any of the conditions, the City can start a process to take the permit away. It's a long process similar to this with public hearings. If he doesn't comply, the City has the ability to take it away, otherwise it is ongoing and runs with the land.

Mr. Voss - There's no way we can control what goes on over there?

Ms. Buss - The only way to do that is by having strong conditions and monitoring it and if he's not abiding by it then the Council can take action to take it away.

Mr. Voss - I think it should be controlled very closely so we don't have another Bill's junk yard. I'm not crazy about the noise 24 hours, it is a residential area.

Fred Leimbek, 603 7th Avenue - My concern is the truck business. I think if this permit is required, the City should up the fines on trucks that are overweight and going the wrong way. I don't want to pay for another paving job on this road. I think the last one should last longer.

Tim Little, KW Commercial Real Estate - I worked with the Knauff's for a while trying to market their property for them. It was a difficult sell and during the time that we were trying to sell they had to keep paying taxes without having a business there to generate an income from. We worked very hard on this to get Dave here, to take the property in the condition it's in, and to be put under the strict conditions by the City to clean it up or he'll have to leave. I've been around junk yards for a while, I've been in places like Bill's and it was bad. Dave's operation will not resemble that any way, shape or form. He will be bringing in cars that will be whole and in excellent condition. They won't be taking apart cars. We won't have that eyesore that Bill had over there for many years. From that perspective, that will be a clean operation. There is a picture on the screens of one of Dave's partner's operations in Texas. They run a clean operation. The insurance companies have strict rules that he'll need to abide by. Let's try to give Dave a chance to bring some business to Newport.

The Public Hearing closed at 7:38 p.m.

Chairperson Lund - I think, to be frank, the reason they want MX-4 is because our Code is unclear. In B-1 we list auto storage as a non-permitted use and I think it contradicts the purpose of MX-4 to be more permissive along those lines and it was probably a mistake when we were looking at the Zoning Code to not specifically list auto storage as permitted or not permitted in MX-4. If we had considered it we would have said no because we don't even allow it in B-1 which is supposed to be more industrial than MX-4. If we are going to let this go forward, I think we should talk about making it I-1 because I don't think this use is even close to consistent with what we intended for MX-4. That's my view on it, does anyone else feel the same? I think MX-4 is supposed to be more restrictive as far as businesses go than B-1 and it's a quirk in the way the Code is written that we didn't specifically list auto storage either way and I don't think auto specialty was intended to encompass auto storage.

Ms. Buss - Do we allow auto sales in MX-4?

Executive Analyst Helm - Auto sales is only allowed with a conditional use permit in MX-1.

Chairperson Lund - So MX-4 was not intended to be so open-ended that it included large industrial style businesses. Does anyone else think that that was the purpose of MX-4? If we are going to move forward I would suggest that we clean up the MX-4 code and talk about this from the angle of making it I-1 but I'm not so inclined to do that either. I don't think it makes logical sense to make it MX-4.

Matt Prestegaard - I would be interested to know what the summary statement is for MX-4.

Executive Analyst Helm - The Code says "The specific intent of the MX-General Mixed Use District is to provide for a mix of residential and commercial uses that provide for a long-term transition from the auto-oriented uses that exist in the district based on past frontage on Highway 61, to uses that are compatible with adjacent Mixed-Use Districts and development of the Downtown character of Hastings Avenue. The City anticipates that commercial uses will cluster on and near Hastings Avenue and the Glen Road interchange, and that over the long-term, residential uses may become more dense in this zone."

Matt Prestegaard - The statement that stuck out to me was the transition from auto uses.

Ms. Buss - From a staff perspective, the question about making it an industrial district is that then you're opening up that district to any of the uses that we allow in the industrial district.

Chairperson Lund - My point was that this proposed use is only consistent with an industrial district, it's not even allowed in B-1. I think that's a better representation for the character of the business but I wouldn't really support that either. This isn't what MX-4 was intended for and I think the evidence of that is that it's not even allowed in B-1.

Vice-Chair Mahmood - What are the car sales across the highway zoned?

Ms. Buss - MX-1.

Vice-Chair Mahmood - I think his site will look like a car lot with newer cars that will be parked nice and neat. If the car sales lot is MX-1 why can't we make this MX-1. You will eventually sell them right?

Mr. Sullivan - Yes, but not here. We bring it to an auction. The difference between this lot and Newport Auto Sales is the fencing, you won't see the cars on this lot. The fence will be six feet high. The barbed wire is an insurance requirement. It's there now and Deb and the staff weren't even aware that there was barbed wire there right now. Those slats in the fence now look like they have been there a long time so they'll be freshened up and maintained. When they are new, they are difficult to see through. There are other ways to screen it but I think the slats are better.

Susan Lindoo - Out of curiosity, in the MX-1, where we can have car sales, do we have any conditions on the size of businesses?

Ms. Buss - No and they are allowed there because they're an existing use and when you zoned, you didn't want to make them non-conforming. The difference with this business is the overnight factor. In terms of how this site would look is similar to an auto sales business except there won't be a lot of customers and they won't be visible. We don't have any MX-1 on this side so then it starts to be spot zoning. There was this unidentified use, auto specialty services, so this is a question as to whether or not it fits.

Susan Lindoo - What we seem to be hearing is that the trucks would make noise and damage the road. The other thing is appearance and questions about the barbed wire.

Vice-Chair Mahmood - How heavy are the trucks?

Mr. Sullivan - The trucks with a single vehicle are between 6,000 and 7,000 pounds depending on the vehicle. If you have a flatbed with two vehicles, that would be 10,000 pounds. If you have one with four cars, you'll be up in the 14,000 to 16,000 pound range.

Susan Lindoo - Isn't that above the limit?

Ms. Buss - We need to know if it's a seven or ten ton road.

Admin. Hill - Bruce said that it was increased to a ten ton road when the highway was done because all of the trucks would use this road.

Susan Lindoo - How frequently would trucks be coming in?

Mr. Sullivan - I talked about probably 50 trips per day and that includes employees and myself. I think there would be 20 trucks per day.

Vice-Chair Mahmood - And most of those would be during the day?

Mr. Sullivan - Yes and it depends during the night. Some nights you might have none and some you might have six or seven. To answer your question about going north on 7th Avenue, I definitely agree that there should be monitoring to prevent our people from driving trucks north on 7th Avenue. It is so easy and logical to come in from the south. It's pretty easy to route our trucks in there.

Ms. Buss - Part of the requirement would be for you to instruct your drivers of that.

Mr. Sullivan - Yes and we would give those same directions to people that are coming in to pick up their vehicle. We would have trucks come in at the entrance south of the pole building and they would exit across from 4th Street. Any individual that is coming to pick up a vehicle or personal property out of their vehicle would park in front of the pole building or at the body shop. The number of 50 includes employees, myself, debtors, and trucks.

Susan Lindoo - How many cars would you estimate you would have at any one time?

Mr. Sullivan - It will start out slow. I have estimated that we'll average 150 cars per month for the first three months.

Susan Lindoo - How many do you expect to have on the lot in a year's time?

Mr. Sullivan - I would estimate that we'll be repossessing three to four hundred cars per month.

Susan Lindoo - What's the average time they would stay on the lot?

Mr. Sullivan - About five days. I've had people get it within hours of it being repossessed. They could sit there for three weeks. Some banks prefer to wait for a person's rights to lapse before they send them to the auction and that's 15 days in Minnesota.

Vice-Chair Mahmood - The first phase you'll put one parking lot in and then the other one in a year later?

Mr. Sullivan - I would anticipate that we would bring a fence halfway down. We would only expand if we got that big, I personally don't think we'll get that big. There is some thought that I would sell off these northern lots to the City. For right now, we'll put a fence up.

Chairperson Lund - Just to be clear, you plan to keep the fence and current buildings?

Mr. Sullivan - Yes. The fences are in need of repair in terms of the slats and barbed wire. The buildings, for my purposes, work just fine. I'll be fixing them up but I wouldn't want to tear them down.

Vice-Chair Mahmood - So you're parking the cars on grass now? You can't pave over it until it's cleaned up right? How long are the cycles for?

Admin. Hill - Two years.

Vice-Chair Mahmood - So potentially, you may not even do anything for two years until you find out about grant.

Mr. Sullivan - It's my understanding that we would be able to start operating until that process runs its course. We can park cars on there now and will store some vehicles and motorcycles in the warehouse.

Vice-Chair Mahmood - You're not concerned that the vehicles will get stuck?

Mr. Sullivan - No.

Ms. Buss - It's compacted dirt there now. Before they can put down any permanent surface it does need to be cleaned up so they'll use the compacted dirt until they can do that. They'll put in the stormwater facilities right up front.

Mr. Sullivan - I would like to point out that there will be a lot of jobs generated from this, clerical, lot attendants, drivers, etc. I would estimate that in three years we'll be employing between 40 and 50 people.

Susan Lindoo - Will they be new jobs?

Mr. Sullivan - Yes.

Susan Lindoo - Can I ask questions about the impervious stuff? What will you pave over?

Mr. Sullivan - I think we would pave half of it right up to that fence. We would pave

Susan Lindoo - When you have a situation like that and all that run-off, do those ponds capture enough of that rainwater so that they prevent flooding and regenerate the water?

Engineer Herdegen - Yes, the applicant has shown the stormwater modeling for the site. The typical standard is that you want to limit the amount of run-off from the existing conditions to the proposed conditions for a storm period and they have shown that with these ponds, the run-off will be limited to that.

Susan Lindoo - So as much water that would have gone into the ground will go into the basins and will get back into the ground?

Engineer Herdegen - Rate control will be at the peak of when the water is running off the site, that's the comparison. As far as recharging the aquifer, these ponds are proposed to be wet ponds and treatment basins so infiltration is not necessarily one to one. It may increase the volume that is discharged from the site so we're not getting as much infiltration because the ponds are wet.

Susan Lindoo - Longer time for evaporation to occur basically?

Engineer Herdegen - Yes but we will be discharging from these ponds.

Ms. Buss - There isn't a requirement for groundwater recharge. There's a certain amount of a storm event that you need to infiltrate but you don't need to do 100% of what it would have been pre-development. The dirt is pretty packed down from the previous use.

Susan Lindoo - Are the infiltration ponds relying on biological processes to remove the contaminants?

Engineer Herdegen - The idea on these ponds would be settlement. They are also using some overland swales that will remove some of those pollutants. The two ponds are connected through the swale. The larger pond on the lower half would be the primary location for most of the run-off and the site discharge will occur in the smaller pond near the entrance.

Susan Lindoo - This area is already contaminated because cars were sitting on it for ages. I'm assuming that if he has cars sitting on the impervious surface, a certain amount of oil from the cars will go onto it and go into the ponds. Is there ever a point when the ponds need to be cleaned?

Engineer Herdegen - Yes, we would recommend that the City enter into a maintenance agreement with the applicant on these ponds to ensure that they do get cleaned periodically.

Ms. Buss - That would be part of the developer's agreement.

Admin. Hill - I do believe the cars that he gets will only be there for five days.

Susan Lindoo - But there's always going to be cars.

Vice-Chair Mahmood - But they're not junk cars and won't be leaking or getting smashed.

Susan Lindoo - But you still have that issue with any car lot. The other question has to do with curbing and I know there's a difference of opinion regarding it. You made a reference suggesting that it's better not to have curbs. Could you expand on that?

Dan Tilsen, G-Cubed Engineering - Sure. I would like to step back one moment. I think Jon has done a great job explaining the stormwater plans. I would also like to say that Anthony is correct, we won't be taking apart cars and draining oil. Part of the cleanup process is digging out the dirt and hauling it to a different site. A lot of the pond material will be used to put back where the contaminated soils were. There was a mention that the ponds should get built first but the real idea is to use it as is for now. If we were to build the ponds, the water wouldn't get there anyways because it's not graded correctly. The cleanup needs to happen first and then we can build the ponds. I wanted to clarify the sequencing. In regards to curbs, I sent a response to the Engineer (see attached). There are several schools of thought and one of them is that the old ditches without curbs did a better treatment of water than the ones with curbing. The curbing concentrates the flow and we're looking at a sheet flow system where we get some filtration in the vegetation before it gets to the bottom of the pond.

Susan Lindoo - So you wouldn't want to have curbs on the east side of the lot because you would want the water to be sheeting off into the vegetation but I assume you would want curb on the west side because you want the water to be directing towards the pond, am I right?

Mr. Tilsen - When you're talking about curb and gutter, you're talking about collecting the water. You're not really collecting water on the high side. It would only serve a purpose if you like the look aesthetically, if you like to spend a lot of money. It does serve a purpose to protect the edge of the bituminous but in this case, we're paving up to a fence so they would need to run through the fence to get over the edge of the bituminous. There's really no need to have curb for this project.

Ms. Buss - Would the parking lot be graded so it flows towards the pond?

Mr. Tilsen - Yes.

Engineer Herdegen - I can comment on our opinion regarding the curb. The purpose of the curb is two-fold. One is to protect that pavement edge. Also in a typical commercial project where there is not fencing around the entire property, parking lots begin to grow if they don't have curb. Mr. Tilsen is correct in that the fence line protects that. We put that in our memo for discussion, it is a City requirement but it can be waived. They will also have snow storage somewhere on this site and I'm not sure what they'll do with it but it could be pushed up to the fence.

Mr. Sullivan - We could put the snow in the northern half where we won't have cars parked.

Engineer Herdegen - I do think this is an unusual lot since there will be a fence but we can't make the decision about curbing, that's your recommendation to make. Mr. Tilsen's response does outline good reasons for not having the curb.

Mr. Sullivan - It's about \$40,000 to do that curbing and no one would see it because of the fencing. To me it serves no purpose.

Susan Lindoo - One thought I have is that if we were to waive the curbing, could that be a trade-off for building a more attractive fence along 7th Avenue? I don't know if that would mean anything to the residents but it's a thought. That could make it look less like an industrial site.

Mr. Sullivan - My thoughts are that that's what I've seen for fencing. I'm on a national trade association and that's what you see. Every once in a while, you'll see a solid wall.

Susan Lindoo - I'm just thinking of fences that look a little more attractive because this is a mixed-use and is across the street from residences. I'm still trying to make sense of how this fits into a residential area and how it can be less jarring to the people that live there. I'm just thinking of the area that faces 7th Avenue.

Mr. Sullivan - We could maybe put up landscaping in front of the fence. We just put up arborvitaes at our house to block a fence that our neighbors put up, it wasn't cheap but it serves a purpose. I think they would meet your requirements.

Ms. Buss - That would be part of the question for you, instead of trees, you could ask for some screening vegetation.

Mr. Sullivan - I was also concerned about people climbing the trees if they were too close to the fencing but you can't climb an arborvitae. It would solve a couple problems here.

Matt Prestegaard - I'm trying to decompose this because we're talking about both the zoning and conditional use. I think there's a sequence for us to consider. There's the B-1 to MX-4 question first. I'll start that conversation off. I heard the statement about trying to transition from auto and that's a compelling statement. It makes me wonder if we can make this work as B-1 still. On the positive side of this equation, we have a vacant site that's unattractive and this seems to be an improvement to that. I feel that it's disingenuous of us to say that we're trying to transition from auto uses in the MX-4 district and then put in an auto use.

Chairperson Lund - I mentioned this before but I think it's an ambiguity at best and a mistake on our part at worst that we didn't specifically address auto storage in the MX-4 district and if we did address, it I can't imagine we would have allowed it since we don't in the B-1 district. I don't think specialty auto is the right use. If we said no in B-1, I can't imagine how we can say yes in MX-4.

Ms. Buss - You need to look at what B-1 is about and it's about warehousing, office...

Chairperson Lund - But MX-4 is supposed to be more compatible with residential uses and this use is not.

Ms. Buss - I don't know if we've said that specifically. We've said that MX-4 is a mix of residential and commercial. I think B-1 was assumed for areas in the City that might result in some office, warehouse, manufacturing sort of use and the idea was to not have a lot of small commercial sites. I wasn't here for B-1 but I think that was the thought. There's no reason to beat yourself up for not thinking about this. It's inevitable that you don't think of every use that might happen in every district. Your points are well taken. It's a question of whether or not you think this is an appropriate use in a mixed-use district. Given that we haven't defined that auto specialty use you do have the freedom to decide if you think this really fits or not. We could argue that this particular use is a good use for the B-1 district because it does use a lot of space. It's your question tonight, is this the right district or not. If it's not, you could decide that you want to amend the B-1 district to allow this use. My sense is that your hesitation is more about whether this is a good site for it right?

Matt Prestegaard - My hesitation is in regards to the statement about MX-4, it doesn't seem like it fits. I haven't gotten to the point about how I feel about the site in general other than it seems to be an improvement.

Chairperson Lund - I agree that it's an improvement. I don't think it's a reach if I say that the majority of citizens would be disappointed that it's going to keep the same fence and building. I don't think it's consistent with either B-1 or MX-4.

Ms. Buss - You could decide to rezone this to I-1 too.

Admin. Hill - Just to give you some background on this. This has been for sale for some time. Originally, they wanted residential uses here but the cleanup to residential standards is astronomical.

Ms. Buss - Plus the railroad doesn't work for residential uses. The City brought developers here to look at the site for residential uses. The brokers could tell you the stories of all the folks they brought here too. It's really difficult to find someone for this site with the railroad. It's not compatible for retail or office uses. The railroad and former use makes it real difficult.

Admin. Hill - It's also difficult to find someone to buy a brownfield. In order to get the grants, you need a project. If nothing happens, it will stay the way it is.

Vice-Chair Mahmood - That's what makes me excited. There's someone that's willing to come here and clean it up and make it viable. We should try to do something. Right now, it looks like our code isn't written to conform to them and that's our job to figure out what we can do to get this cleaned up.

Susan Lindoo - I think I'm where Matt is. It made sense to me when it went to B-1. That area is not going to be residential. I'm a little disappointed that this doesn't fit in B-1. It doesn't feel right in MX-4 and I would have expected it to fit in B-1. I like the idea that something would finally be happening to this land and it would be cleaned up. How can we make this business be compatible with the residential area? When we rezoned it last summer, we figured there would be some kind of a warehouse there and it would have some of the same things as this project like noise and lighting. It would have changed the nature of the area. I don't think we can let it stay how it is now though either.

Ms. Buss - If you want to make this an allowed use in the B-1 district then we would need to table this application, hold a hearing next month for making auto storage as an allowed use in B-1, and if that was approved than we could move forward with the application.

Susan Lindoo - B-1 is down there and not in the middle of other residential areas.

Admin. Hill - I would assume that the Knauff's could sell it to another salvage yard or car repair place because they are still using it as that.

Ms. Buss - Yes, they could continue the non-conforming use if they have truly not ended it.

Admin. Hill - I'd just like to make a comment on the traffics and lights. This is a Police Station also and they're going all night so that's already happening.

Susan Lindoo - I still think it's worth talking about how we can minimize those impacts.

Chairperson Lund - I wouldn't be in favor of allowing it in B-1 either. We have grand hopes for the east side of 61. Changing all of the uses seems to be a big leap versus granting a variance.

Ms. Buss - You cannot give a use variance per State Law.

Susan Lindoo - So we create another business district?

Ms. Buss - Is a use like this allowed in MX-2?

Executive Analyst Helm - The auto specialty services is allowed with a CUP and auto sales or body repair are not allowed. The specific intent of the MX-2 Commercial Mixed Use District shall be to provide areas that integrate diverse commercial and residential uses. Minimum lot sizes are larger than those in the Downtown District. Development is intended to be compatible with the scale of surrounding areas. Parking areas are restricted in this zone in order to limit the impact on the neighborhood and on areas that are visual gateways to the City.

Ms. Buss - Part of the issue for these is that there wasn't a lot of market information available when we did the comp plan to understand what was going to redevelop. What we're doing now is testing the waters when people come in like this. I think your decisions are: do we keep it in B-1 and try to change the allowed uses to allow this; do we change it to MX-4 and allow it under auto specialty services; do we rezone it to an industrial district; or do we create a B-2 district?

Matt Prestegaard - I have a feeling we all think MX-4 is the least palatable. The uses may be slightly more palatable in B-1 but not enough so it seems to leave us with creating a new district. Do we agree with that?

Susan Lindoo - Yes. There's no perfect answer for this but I think that would work best.

Chairperson Lund - It sounds like the options won't resolve it this month. Right now, I'm very skeptical of the idea but since we decided it doesn't fit in MX-4 and don't want to revamp B-1. The biggest concern is that by and large, people in Newport know that property and know that it's ugly so having a specific plan might go a long way. I'd wait to hear from the citizens again once we have that plan. Not having the same fence visible from the road and the barbed wire is offensive. We intended to address barbed wire in those areas but apparently we were only dealing with the industrial areas. It's against our intent.

Mr. Sullivan - Barbed wire could be a deal breaker because of the insurance.

Chairperson Lund - Your best hope would be to cover up that fence.

Mr. Sullivan - Yes, I offered the arborvitae and thought that was a good solution. I don't know what other kind of fencing.

Susan Lindoo - I like the idea of the arborvitae.

Ms. Buss - If staff brought back to you a proposed B-2 district that would allow this use and other commercial uses next month and Mr. Sullivan can bring back a revised plan for the planting idea, is that getting somewhere?

Chairperson Lund - I want to hear from neighbors once that's public.

Matt Prestegaard - I would like to ask the residents next time if they had the choice between what's there now and what's being proposed, is that an improvement?

Ms. Buss - I think a follow-up would be if they are willing to wait several years for another possible buyer.

Matt Prestegaard - Also to receive advise about the conditional use permit and constraints.

Susan Lindoo - Could they continue to use the Knauff property as it's being used now?

Admin. Hill - They're doing car repair now.

Ms. Buss - They could continue the car repair.

Chairperson Lund - I would say if we're coming back next month then we should look at a B-2 district. I think it could be identical to B-1 with the addition of auto storage.

Vice-Chair Mahmood - Could you email us what B-2 used to be as well?

Ms. Buss - Yes. You can send individual comments to Renee.

Scott Miller, KW Commercial Real Estate - Mr. Chair, when we initially met with the staff we asked them about the zoning and it was a suggestion to do MX-4 because it provided the best flexibility and because there are two homes, one of which Dave is buying now. The houses will be non-conforming if you make it B-2 and we can't do much to them then.

I think the conditions under the developer's agreement and the conditional use permit will address any type of specialty designation of this use. There's significant investment from Dave and his partner for this property. I think once they are done it will probably be \$600,000 to \$800,000. If they have to do the cleanup, that'll add an extra \$250,000. They're going to make sure that it's a nice looking site. I don't think they can put up new buildings at this time. I think you should work with him and be happy that he wants to come to this site. It's not going to be what it was. I think you have an opportunity to get someone in here that will create jobs and contribute to the tax base. They'll also be cleaning it up. There's a huge investment going in here. Obviously, time is of the essence so if you could come to an agreement tonight that would be great.

Matt Prestegaard - I appreciate that time is of the essence but I'm in no position to make a decision tonight and if asked the answer would be no.

Chairperson Lund - Yes, I think practically speaking, MX-4 doesn't make sense and the only way I would vote yes is if there were cosmetic changes to the plan. I would still reserve judgment to hear from citizens next month. I would like to give them the chance to review the new plan.

Ms. Buss - Other than the fencing and potential landscaping, can you accept barbed wire because if that's a deal breaker they should know that now.

Chairperson Lund - I don't know, I'm going to wait to hear from people next month.

Susan Lindoo - I remember being shocked to hear that people had barbed wire in downtown Newport. I think if there are arborvitae in front, I could probably accept it but I want to wait.

Vice-Chair Mahmood - It's not a deal breaker for me. They want to come in and cleanup an unsightly spot and who knows how many years it will be before we can do that. I know some residents won't like it but it's a polluted area and we can't do it on our own.

Ms. Buss - Do you want to re-notice the public hearing for this project? If we just send out the notice for the change in zoning, we won't be noticing this project.

Chairperson Lund - The CUP will hopefully be amended to talk about screening.

Ms. Buss - You had a public hearing tonight for the project.

Chairperson Lund - It would be a different zoning change.

Executive Analyst Helm - No, that public hearing for the rezoning and CUP already opened and closed.

Chairperson Lund - But it's a different rezoning.

Ms. Buss - Anyone reading that will only see that we're thinking of rezoning it from B-1 to B-2, they won't know about the project. If the intent is to hear from people for this particular use, we need to know that for the public hearing notice.

Chairperson Lund - Yes and you could say that it's to add auto storage as a use.

Executive Analyst Helm - I just want to clarify when you say auto storage because that's a different use than what we were recommending it be classified as tonight.

Chairperson Lund - You don't think auto storage is a better classification than auto specialty use?

Executive Analyst Helm - I'm not saying that, I just want to clarify that we're changing the use that it's being classified as.

Motion by Prestegaard, seconded by Lindoo, to table Resolutions No. P.C. 2014-1 and No. P.C. 2014-2 until April 10, 2014. With 4 Ayes, 0 Nays, 1 Absent, the motion carried.

Ms. Buss - Other than a screening plan, is there anything else you want them to change for next time?

Chairperson Lund - I thought the water plan was well done so no.

Susan Lindoo - If they could tell us more about the trucks coming in.

Chairperson Lund - Yes, maybe we can limit the number of trucks coming in at night in the conditional use permit.

Ms. Buss - You can certainly do that.

Chairperson Lund - That's up to you Mr. Sullivan, you tell us what's acceptable and that will be published.

Mr. Sullivan - It does vary each night.

Chairperson Lund - Maybe we can put a monthly limit in there.

Ms. Buss - We can do that if you want to think about your monthly averages and let us know.

Chairperson Lund - I think it would be helpful if that was available for people to view prior to the meeting.

Executive Analyst Helm - The packet is online a week before the meeting.

Matt Prestegaard - We can appreciate the flexibility that you're demonstrating. I think it's a reason that there's some optimism here.

Ms. Buss - Thanks for the good discussion. There have been several meetings on this site and we've been working to get a viable use for this site.

Susan Lindoo - Thank you for trying to make a bad situation better.

B. Public Hearing – To consider amendments to the Zoning Code, Chapter 1300, Section 1300 General, Section 1310 Administration and Enforcement, Section 1340 Residential Districts, and Section 1350 Nonresidential Districts

Executive Analyst Helm and Sherri Buss, TKDA Planner, presented on this item as outlined in the March 12, 2014 Planning Commission Packet. Ms. Buss spoke with other cities regarding the requirement of a conditional use permit for brew pubs. Other cities recommend a conditional use permit for brew pubs so that a condition regarding special events can be listed.

The Public Hearing opened at 9:12 p.m.

Ms. Buss read the below from Autumn and Derrick Lehrke. The Lehrke's sent the attached letter to the Planning Commission.

Ms. Buss - "Dear Planning Commission, We have reviewed the packet for this evenings meeting and would like to provide a few comments.

From viewing the information provided, we respectfully request that the planning commission follow the direction of St. Paul regarding brewery ordinances. As you can see, St. Paul's ordinance states "a small brewery accessory to a bar or restaurant, or brew pub, is allowed wherever restaurants or bars are allowed, including T2-4.....districts... A conditional use permit is required to exceed a floor area of 15,000 square feet."

Per page 34 of your packet (pg 7 of St. Paul's report), table 2 "Breweries in commercial or mixed use districts" this table lists seven cities (Mpls, Duluth, Dallas, Denver, Portland, Seattle, and St Paul) and only one (Dallas) requires a CUP for bars and sometimes for brew pubs or restaurants.

As you know, the site we have chosen is already doing business as a bar/restaurant and the use is not changing with the change of ownership. We plan on still serving food and liquor as the previous owners have done for decades. Changing our occupancy or CUPs can have adverse effects on building and operating requirements. Our current project cannot afford these additional, unnecessary expenses.

Another concern with the staff recommendation is the size limitations. Due to the bowling alley on site, our facility is over 12,000 sf. As a result, this recommended ordinance wouldn't even allow for our location to be sited for a brewery. Please adopt St. Paul's direction that allows breweries the flexibility to grow in Newport.

We understand there is a certain comfort level with requiring a CUP when sighting a NEW establishment that serves liquor to ensure it is in line with the city's plans. However, this is an EXISTING establishment where a CUP should not be needed. Please consider St Paul's approach to business friendly policies that encourage businesses to come in and redevelop."

Susan Lindoo - Their size is fine so that's not an issue and they wouldn't necessarily have any other building code things that we're aware of are there?

Ms. Buss - There are some building code changes that they would need to make but it has nothing to do with a CUP. I talked with Bob LaBrosse about it. It's the fact that under the definitions of the State Building Code they are changing the use of the building and as such they need to make some changes like sprinkling. Requiring a CUP or not has no impact on that at all.

Chairperson Lund - The only thing we could do to help them since there's no CUP for that building now would be to remove the requirement of a CUP for any establishment serving liquor correct?

Ms. Buss - Or when they come in and we see their plan and it's similar to what they're doing now we could make the decision that they wouldn't need to amend their CUP.

Chairperson Lund - They don't have a CUP at all.

Ms. Buss - So it's a non-conforming use. They could continue the current use and that wouldn't require a CUP. We haven't seen a plan from them yet. If they're changing the use, like adding a brew pub, they would need a CUP.

Chairperson Lund - Back to my original point, the only way we could help them out is not require a CUP for liquor establishments?

Ms. Buss - Yes.

Susan Lindoo - I'm not ready for that.

Chairperson Lund - I'd like to help them out but I don't see how we can do that other than send them through the process quickly.

Ms. Buss - Yes and despite some of the comments at the last meeting, there is an intent to the keep the costs of these things as low as possible and to be as efficient as possible.

Susan Lindoo - The clearer it is when they bring it in, the easier it is for you to finish it.

Ms. Buss - And that's the problem. The people that end up complaining are the ones who give us partial applications and sketches that have no scale or information so it takes longer to review those.

Susan Lindoo - And it should.

Councilman Sumner, 737 21st Street - I support the work that you're doing to bring new development into Newport. We had one applicant earlier this evening and I think you took the appropriate steps. I would hope that you do what you can to support the potential development of this exciting new business in Newport. Having a brew pub in Newport would be nice. Keep up the good work and thanks for your work.

The Public Hearing closed at 9:19 p.m.

Motion by Prestegaard, seconded by Lindoo, to approve Resolution No. P.C. 2014-3 as presented. With 4 Ayes, 0 Nays, 1 Absent, the motion carried.

5. COMMISSION AND STAFF REPORTS

Admin. Hill - I got a call from the HRA, they have been working on the transit station. They hired a marketer for the area and she's asking for three people from Newport to spend some time later this month to get some ideas from. I was wondering if any of you would be willing to do that.

Ms. Buss - They've interviewed a lot of developers for this area to see how development works and how they see that area. I think it would be interesting for you to hear.

Vice-Chair Mahmood - What's the date?

Admin. Hill - Nothing has been set.

Vice-Chair Mahmood - I'd be willing to do that.

Matt Prestegaard - I'd be willing but don't want to prohibit others from going.

Susan Lindoo - Can it only be three?

Admin. Hill - No.

Susan Lindoo - I think that would be great for the Planning Commission.

Admin. Hill - Great. We've met with a developer for market rate housing north of the transit station.

Ms. Buss - They have an idea for a two phase development that would be aimed at working individuals.

Admin. Hill - I'm still talking with the island guy.

Ms. Buss - Someone from the Star Trib also called me up regarding the Cedar Lane properties and how it connects with the transit station.

Chairperson Lund - If we could secure rights to the island it sounds like there's a long list of resources to turn it into a park.

Admin. Hill - Yes.

Matt Prestegaard - On the first topic that was before us tonight, if we don't have an overwhelming response from the public at next month's meeting, I'll have a hard time denying it. I just wanted to let you know and invite the public to come out.

Susan Lindoo - I want to make it as good as it can be.

Chairperson Lund - I'm still on the fence. I'll probably spend some time down there in the next month.

Admin. Hill - Yes, it was surprising to hear that there was barbed wire fence on there already. We've never noticed it.

Susan Lindoo - Yes, I was surprised to hear that some properties along Hastings Avenue had it as well. My first reaction was no but there is this insurance deal and that puts another light on it. The arborvitae will be nice but deer are attracted to it.

Ms. Buss - I think we could just give them some species to choose from if an arborvitae doesn't work.

Chairperson Lund - I would like us to take a visit to our Code regarding fence standards because I don't think that was our intent. I would also like to look at the uses and to the extent that we list it for the mixed-use districts, I would like to list it for the industrial and business districts too. I think they should be consistent all the way through.

Ms. Buss - The general assumption is that if it's not listed, it's not allowed.

Matt Prestegaard - You're just asking for a comprehensive review?

Chairperson Lund - The more clarity the better because we don't want people investing their resources if the answer is going to be no.

Ms. Buss - It's hard for me reading it knowing that you allow auto sales in MX-1 to know that your intent is no auto uses in the other MX districts.

Matt Prestegaard - It was that summary statement that did it for me.

Susan Lindoo - We can never think of everything.

Ms. Buss - No you can't and if someone comes with a use that you never thought of you need to think of a use that it's most similar to.

Chairperson Lund - It seemed like a stretch.

Ms. Buss - When we looked at it, he has the houses on the lot and wants them to be residential so do we make those non-conforming.

Chairperson Lund - In fairness, the property owner came to us and asked us to rezone it to B-1.

Susan Lindoo - Would we allow those houses in B-2?

Ms. Buss - No they would become non-conforming which would mean that they can't expand too much. I think he wants employees living in those houses.

Executive Analyst Helm - Do you want that at the next meeting?

Chairperson Lund - No.

Matt Prestegaard - You're pretty much saying that we should look at all of the uses and say yes or no for each district?

Chairperson Lund - Yes. Does everyone agree that we should look at fences again? I thought we talked about it already.

Executive Analyst Helm - You did. What you did was replaced barbed wire fences with electric fences in the RE District.

Chairperson Lund - But where we said no barbed wire, it didn't apply to residential, which I think was our intent.

Susan Lindoo - But it would be allowed in B-1?

Ms. Buss - No, you only wanted it in the industrial districts.

Susan Lindoo - That's interesting because I could see it as allowed in the business districts.

6. NEW BUSINESS

7. ANNOUNCEMENTS

A. Upcoming Meetings and Events:

- | | | |
|--------------------------------|----------------|-----------|
| 1. City Council Meeting | March 20, 2014 | 5:30 p.m. |
| 2. City Council Meeting | April 3, 2014 | 5:30 p.m. |
| 3. Planning Commission Meeting | April 10, 2014 | 6:00 p.m. |
| 4. City Council Meeting | April 17, 2014 | 5:30 p.m. |

8. ADJOURNMENT

Motion by Prestegaard, seconded by Lindoo, to adjourn the Planning Commission Meeting at 9:38 P.M. With 4 Ayes, 0 Nays, 1 Absent, the motion carried.

Signed: _____
Dan Lund, Chairperson

Respectfully submitted,

Renee Helm
Executive Analyst

Renee Helm

From: Deb Hill
Sent: Tuesday, March 11, 2014 8:11 AM
To: Sherri A. Buss (sherri.buss@tkda.com); tingemann@comcast.net
Cc: Renee Helm; davesmrb@yahoo.com
Subject: FW: Comment on rezoning request for the Knauff property.

fyi

From: Pauline Schottmuller [REDACTED]
Sent: Monday, March 10, 2014 7:50 PM
To: Deb Hill
Subject: Comment on rezoning request for the Knauff property.

Dear Planning Commission Members,

I am out of town tonight but I wanted to get my 2 cents in about the rezoning request for the Knauff property. As most of you know, I was a Newport City councilmember for 12 years. I sat on the council that first rezoned this property to mixed use. I'd like you to know some of that history as it is pertinent to the discussion tonight.

The rezone of the 7th Ave. neighborhood to mixed use was very controversial with the residents of that neighborhood. We did a lot of rezoning at that time but the vast majority of my time was spent with the 7th Ave. neighborhood addressing their concerns. The reality is that 7th Ave. is both business and residential and MX was the only zone that addressed both uses. The residents' concerns were that 7th Ave. should be treated primarily as a residential neighborhood and any business needs to blend in and compliment. They would point to Kiss's and say that was an okay business. They would point to Bill's Auto Parts and say "look what we have to live with". They were not trusting that City Hall would make sure that any new business would be a better neighbor than Bill's Auto Parts. We promised that we would. Now it is up to you to make good on that promise.

I have looked over the proposal and recognize that there is much to recommend it. This property has been an eyesore for decades and is a brownfield. Mr. Sullivan is offering to clean this property up if Newport does not get grant money. That is a real plus.

So is the recommendation for curbing, the trees, how trash containers must be handled, the holding ponds, etc. That helps blend the business into this residential neighborhood. The CUP needs to go farther. Please keep in mind that Bill's Auto Parts operated under a CUP but that CUP was so poorly written that the business was an eyesore despite being in compliance. When residents would complain we could only sympathize. There was no compliance issues to enforce. CUPs need to be very well

thought out, very detailed and, I believe, the burden needs to be on the business to be an asset, not on the neighborhood to adjust and put up with a business next door.

*The old warehouse needs to come down. Build a new cement block one with a brick facade. That would go a long way towards making the business an asset instead of an eyesore. It would also insure that this business generates some property taxes.

* Chainlink fence with the slats always, always, always goes to hell. Nor does it block the view. Just look at the chain link fence with slats in front of the property now. You can see every bit of junk back there. How about the new no maintenance fencing panels? I'd personally love to see a 6 foot high brick wall. But the fence needs to truly be "a no see through it at all" type of fence. The barbed wire does not belong in a district with housing. No prison, this isn't a safe neighborhood feel to the fencing.

* Barbed wire is meant to keep people out so is Mr. Sullivan telling us criminals will be coming to Newport attempting to rob his business? If so, do we really want this business in Newport? Our police have enough on their plate. This concern is asked in all sincerity. When the check cashing business asked to locate to Newport we had the police investigate to make sure we weren't inviting trouble into town. Have the police done the same type of investigation with impound lots?

* When the city requires homeowners to clean up their properties it needs to have a leg to stand on. I wish I could play for you the hundreds of times a resident would point to Bill's Auto Parts and say to clean up that place before coming after them. And I believe that to be a valid point. By now the city administration and council should have some inkling as to how sick and tired residents are of yards full of derelict cars and other junk. But now we are entertaining letting in a business that deals with just that? If this request is approved the CUP better be written so that we don't have to look at 5 plus acres of cars and other stuff. A chain link fence doesn't fit the bill.

* So this begs the question: with all the clean land available in Cottage Grove. why is Mr. Sullivan looking to purchase a brownfield in Newport? Maybe other cities don't see his business as a desirable one.

* I think the city and Mr. Sullivan should explore having all traffic enter and exit off of 2nd Street. I know this will involve the refinery's property but since you are waiting through 2 grants cycles there is time to work a deal with the refinery. The 1997 or 1998 resolution to keep trucks off of 7th Ave. should be honored. Again this is mostly a residential neighborhood. I know there are drainage ponds in that area but drainage ponds can be moved while still in the drawing board phase.

Newport needs every available acre to be put to its highest use and to generate sufficient taxes to bring down our historically high property taxes. Newport needs to improve its image. We need to be a cleaner, neater city. I wonder what the chances would be of a B-1 appropriate business coming in if the city were to buy the Knauff property and offer it free to such a business. The city has certainly spent enough buying up homes on Cedar Lane and now the Johnson property (for \$130,000.00?). Buying the Knauff property should not be that much of a stretch.

I personally would not rezone. The second best position would be to write the CUP in such a way that this business will look and behave first class.

Thank-you for the opportunity to voice my concerns.

Pauline Schottmuller
97 10th Street, Newport.

Renee Helm

From: Deb Hill
Sent: Wednesday, March 12, 2014 9:20 AM
To: Sherri A. Buss (sherri.buss@tkda.com); Renee Helm
Cc: danieltlund@hotmail.com; davesmrb@yahoo.com
Subject: FW: one last comment on Knauff property

fyi

From: Pauline Schottmuller [REDACTED]
Sent: Wednesday, March 12, 2014 8:58 AM
To: Deb Hill; Susan Lindoo
Subject: one last comment on Knauff property

Please include this in my remarks:

I know that the fence around the Knauff property has 3 strands of barbed wire on the top. Some may argue that that sets a precedent or proves that barbed wire is okay for the neighborhood. Those people never had the conversations with all the people who have pointed at Bill's Auto Parts and said "clean that place up!" Whatever business is allowed to go in there must look better, much better, than Bill's Auto Parts. Chain link with barbed wire has to go. The old warehouse has to go. And if Mr Sullivan is not willing to invest the money in aesthetics than he needs to go.

Thanks Deb. Pauline

G-Cubed Engineering, Surveying and, Planning

285 Westview Drive
West St. Paul MN 55118
office 651-288-1100, fax 651-455-4948

March 6, 2014

Re: Imperial Recovery Services – Response to MSA Plan Review

City of Newport
Deb Hill, City Administrator
Jon Herdegen, City Engineer MSA

This letter is in response to the Memo dated February 25, 2014 by Jon Herdegen.

General Plan Comments:

1. Ok – we will note on final construction plans.
2. Ok – we will note on final construction plans.
3. Ok – signed documents and plans will be provided prior to construction.
4. See separate site cleanup and remediation plans.
5. Driveway apron is in place. Concrete perimeter curbing is requested not to be required and the project is designed as sheet flow as recommended BMP's by PCA and SWWD, see below.

We are requesting an exception to ***City Zoning Code 1330 General District Regulations Section 1330.05 Subd. 7 Paving and Curbing***: requiring the periphery of all parking areas to be constructed with poured-in-place concrete curbing. We are requesting that concrete curb and gutter not to be required under the city code for the following reasons;

- a. This is a unique parking area and is not open to the public.
- b. Only professional employees/drivers are allowed to operate vehicles in that area.
- c. We are proposing a security fence one foot from the edge of parking so vehicles will not be able to drop off the edge of the parking area alleviating the concern of deterioration of the hard surface edge.
- d. The request is controlled by the city if the use were to change under the conditions of the CUP.
- e. Current BMP's (Best Management Practice) for both the MnPCA (Minnesota Pollution Control Agency) and SWWD (South Washington Watershed District) encourage and the eliminations of curb and gutter where practicable and encourage sheet flow design for the treatment of storm water. This project is a good example of using sheet flow to accomplish storm water treatment. In order to use sheet flow curb and gutter is not consistent with recommended BMP's and thus a practical difficulty to comply.

- f. References and source: link <http://www.pca.state.mn.us/index.php/view-document.html?gid=7427>
- g. From the MnPCA link above **MODEL STORMWATER ORDINANCE**
 - B. Storm water Management Performance Standards and Design Criteria
 - 7. Minimize impervious surface area and maximize infiltration
 - g. Eliminate curb and gutter where practicable, and use vegetated swales or equivalent.
 - h. Look for vegetated areas that can filter sheet flow, removing sediment and other pollutants, and increasing the time of concentration.
- h. South Washington Watershed District Standards Manual Volume 1 section 2.12 references MnPCA 2005 Minnesota Storm water Manual recommendations.

Storm water Comments:

- 6. OK – Permits will be obtained as required.
- 7. OK – Water Quality Modeling will be provided as required.
- 8. Ok – we will note on final construction plans, in SWPPP and, NPDES Permit.
- 9. Ok – we will provide details with final construction plans.
- 10. Ok – we will provide with the storm water management plan.
- 11. Ok – we will note on final construction plans.
- 12. The fence is chain link fence where water can pass through.
- 13. Ok – we will add fence to the plans as noted.
- 14. Ok – we will note on final construction plans.
- 15. Ok – a maintenance agreement will be provided.
- 16. Storm water management
 - a. Water table was measured at 28ft-33ft below existing ground
 - b. Minimal stockpiling is anticipated, protection is noted on the plans
 - c. Additional Erosion Control Will be added with the final plans
 - d. Construction dates TBD
 - e. Requirement of Performance Bond – Noted
 - f. Dewatering treatment noted – dewatering not anticipated
 - g. Plans note all Downstream storm drain inlets to be protected

Thank you,

Daniel Tilsen
G-Cubed Inc.
651-283-7546 cell

Enclosed is my application, and resume. Thank You for your time and consideration.

Sincerely,

Daniel J. Tilsen

February 13, 2014

Dear Planning Commission,

We have reviewed the packet for this evenings meeting and would like to provide a few comments.

From viewing the information provided, we respectfully request that the planning commission follow the direction of St. Paul regarding brewery ordinances. As you can see, St. Pauls ordinance states "a small brewery accessory to a bar or restaurant, or brew pub, is allowed wherever restaurants or bars are allowed, including T2-4.....districts... A conditional use permit is required to exceed a floor area of 15,000 square feet."

Per page 34 of your packet (pg 7 of St. Pauls report), table 2 "Breweries in commercial or mixed use districts" this table lists seven cities (Mpls, Duluth, Dallas, Denver, Portland, Seattle, and St Paul) and only one (Dallas) requires a CUP for bars and sometimes for brew pubs or restaurants.

As you know, the site we have chosen is already doing business as a bar/restaurant and the use is not changing with the change of ownership. We plan on still serving food and liquor as the previous owners have done for decades. Changing our occupancy or CUPs can have adverse effects on building and operating requirements. Our current project cannot afford these additional, unnecessary expenses.

Another concern with the staff recommendation is the size limitations. Due to the bowling alley on site, our facility is over 12,000 sf. As a result, this recommended ordinance wouldn't even allow for our location to be sited for a brewery. Please adopt St. Pauls direction that allows breweries the flexibility to grow in Newport.

We understand there is a certain comfort level with requiring a CUP when sighting a NEW establishment that serves liquor to ensure it is in line with the city's plans. However, this is an EXISTING establishment where a CUP should not be needed. Please consider St Pauls approach to business friendly policies that encourage businesses to come in and redevelop.

Thank you for your consideration.

Derrick & Autumn Lehrke

Opinion Brewing Company, LLC.