



**City of Newport  
Planning Commission Minutes  
April 14, 2016**

**1. CALL TO ORDER**

Commissioner Haley called the meeting to order at 6:00 P.M.

**2. ROLL CALL**

Commissioners Present – Kevin Haley, Matt Prestegaard, Marvin Taylor, David Tweeten

Commissioners absent – Chairperson Mahmood

Also present – Deb Hill, City Administrator, Sherri Buss, TKDA Planner.

**3. APPROVAL OF PLANNING COMMISSION MINUTES**

A. Planning Commission Minutes of the March 10, 2016 Meeting

**Commissioner Prestegaard** – I noticed I was referred to as Chairman Prestegaard on the 6<sup>th</sup> page and the second to the last page.

**Motion by Prestegaard, seconded by Taylor to approve the March 10, 2016 Meeting Minutes as amended. With 5 ayes, 0 Nays, motion carries.**

**4. COMMISSION & STAFF REPORTS**

- A. Building and Lot Coverage Standards – Residential
  - 1. Memo from Sherri Buss

Sherri Buss, TKDA Planner, presented on this item as outlined in the March 10, 2016 Planning Commission packet.

**Commissioner Prestegaard** – I'm trying to read the chart on the first page and am wondering how to interpret it. I guess I'm wondering how to interpret it. They don't seem to add up to anything logical. Should I conclude that the impervious surfaces one should be inclusive of the building?

**Ms. Buss** - Yes you should. If we say a 75% maximum impervious that would be all of the hard surfaces on the lot.

**Commissioner Prestegaard** – In the new standard but in the old standard it apparently means anything but the building.

**Ms. Buss** – In the old standard, it's the maximum coverage of the lot by the building only.

**Commissioner Prestegaard** – Right but I'm looking at the one below that and trying to see how it could be 75%.

**Ms. Buss** – It really makes no sense and that's because it was amended over time and whoever was doing the amending wasn't looking at the various parts of the table.

**Commissioner Prestegaard** – It's proposed that we merge those into a new standard in a number range like one through 70 or 80.

**Ms. Buss** – Right and we would just call it lot coverage and we'd have a definition of lot coverage.

**Commissioner Prestegaard** – My second question was just confirming on Cottage Grove, yes they came at it backwards but effectively they're winding up in that 70 to 85%.

**Ms. Buss** – Yes they're at a similar level. They might allow a little higher in industrial I think it's similar. For B1 it's 70% and for the other business districts it'd be 75%. In industrial it's 15 to 20 and they have some different requirements in there like if you do a certain amount of this in your parking lots it's a different number. It's been very difficult to interpret this table for people coming in. What John and I have done is sent people to the storm water standards. We haven't had anyone proposing any new businesses for a few years so it hasn't been an issue but suddenly with the most recent applications, Scannell was one, where they were about 3% over our permitted building coverage but well within lot coverage and storm water requirements. That one started the question and now Newport Cold Storage where he too would just be a couple percent over but clearly the impervious coverage being 54%; it's not really an issue.

**Commissioner Haley** – So the only glitch that I thought of with the two properties is that they're able to use the existing storm water and have 90% lot coverage but those are the only two properties in town that could actually do that because there's existing storm water there.

**Ms. Buss** – I think from John's perspective, if you picked a number like 90, hardly anybody would be allowed to get there because of the storm water requirements. Then we'd be misleading people when they bring in their applications and then we'd have to say that if you have that much coverage you can't meet the storm water requirement.

**Commissioner Haley** – So if we went 80 or 85% that storm water is still going to limit.

**Ms. Buss** – It is. I think John would be comfortable if you guys wanted to pick 75 or 80 for one or more of the districts. I think if you were to get above that he'd say that it's going to be conflicting with storm water requirements.

**Commissioner Haley** – I'm shooting for a higher number.

**Commissioner Taylor** – I think that the one area that would make the most sense to go higher would be the MX-1 downtown.

**Ms. Buss** – If you notice, Rosemount allows 90% in their downtown district and I think it's the same consideration. For the MX-1 and/or MX-4 you could easily kick it up to 80% and have some of the other districts be 70. Those are the two that are right along 61 where most of the older businesses are.

**Commissioner Prestegaard** – Your ball park was that some of those in MX-1 are 90 already?

**Ms. Buss** – Yeah they're at 90 already.

**Commissioner Haley** – I'd rather the storm water be the decider and not coverage. So if we were at 80 or 85 percent it would be a non-issue. I get John's point where if we're putting 95% on there then people have this unrealistic expectation that isn't realistic.

**Ms. Buss** – He didn't give any detailed thought about if MX-1 would be any different. I think he's telling you what he thinks is the threshold. If he said a 60% maximum that just wouldn't be realistic and 90% wouldn't be either.

**Commissioner Haley** – So if we went to 80% it's still going to be limited by storm water. I'd go 80 across the board because it still wouldn't be possible to get to 70% because of the storm water. It'll allow that to play out and for some creativity I'd like to see.

**Commissioner Prestegaard** – What do you mean?

**Commissioner Haley** – Underground if they need to.

**Commissioner Taylor** – My concern is that if you get another MX-4 a lot of those butt up to residential areas. 70 or 80, it's not a huge difference. The mass of the building probably makes more of a difference.

**Commissioner Haley** – But again we won't exceed the 70 because of the storm water considerations.

**Ms. Buss** – You will. There will be sites where they won't need to do that much storm water.

**Commissioner Tweeten** – The low lying areas are going to need more manipulation I suppose.

**Ms. Buss** – Yeah and for people like our lightest two guys who can use a regional pond, they'll be able to go up to 80%. So they won't need to be at 70 to be at storm water. And maybe that's not a big deal.

**Commissioner Haley** – Still there's a lot of open space on those lots.

**Ms. Buss** – South St. Paul uses 85% in their general business district. A lot of people use 75% in mixed-use districts. I think if you wanted to pick a number like 75 or 80, I don't think John would have a quarrel with that either. I think if you start going above 80 he's going to start to feel like you're giving people some unrealistic expectations.

**Commissioner Prestegaard** – Yeah neither of those puts us out of whack with the neighbors.

**Ms. Buss** – So MX-1 I heard an 80% recommendation. Do you want to go with 80% on all of them?

**Commissioner Haley** – Yes.

**Commissioner Prestegaard** – I'm more ambivalent, I could follow a 75 recommendation I could be convinced of an 80 recommendation.

**Commissioner Tweeten** – Is there an aesthetic justification for having a distinction between MX-1 and elsewhere?

**Ms. Buss** – I think the one that might be is MX-3 where we've really wanted people to do some type of open space or public space on their sites. In the transit oriented district we require people to do 10% public park or plaza or something. That's the one district that we have a little bit of a different standard that might call for a little more green space.

**Commissioner Haley** – However, we're still going to be at the 70% coverage with that storm water pool?

**Ms. Buss** – Maybe. Some of these are challenging because of the high bedrock. It might get closer to 70 so if we think it's going to be 70 it'd be better to be closer than that in our coverage standard rather than giving people an expectation they might get to 80.

**Commissioner Haley** – I'd rather give them some free board.

**Ms. Buss** – The only problem is that if we draw their plan up for 80% and then they come in and John starts doing his storm water analysis and says that you can only be at 75% then.....

**Commissioner Haley** – Could we agree on 75?

**Commissioner Prestegaard** – Yep.

**Ms. Buss** – For everywhere but MX-1?

**Commissioner Tweeten** – MX-1? That's 80?

**Ms. Buss** – Yeah MX-1 80 given that it's pretty much fully developed with pretty high level of impervious already. The other guy is 75% because there's more developable land in those areas.

**Commissioner Haley** – Do we need a motion for 80% in MX-1?

**Commissioner Taylor** – I think that's a good starting point.

**Commissioner Prestegaard** – I don't think we need a motion because it's a recommendation.

**Ms. Buss** – I will put that together in an ordinance and I'll run it by Jon and see what reaction he has and I'll ask him if he thinks it could go to 80 and what issues he sees with that. We'll have it back next time for a public hearing. We might want to make sure that we get this to the business guys like that nice business guy that came in before and commented on the sign ordinance. Let's make sure he gets a copy of it just in case the business gain would like to comment on it. This is something that would make Drew's site work without a variance; we just didn't want him to have to go through the variance process for like 2% building coverage if that was a weird standard.

B. Industrial Buffer Area – Northern Tier

1. Memo from Sherri Buss

Sherri Buss, TKDA Planner, presented on this item as outlined in the March 10, 2016 Planning Commission packet.

**Commissioner Prestegaard** – Why are they buying?

**Admin. Hill** – Buffer, if anything happens their liability is smaller.

**Commissioner Tweeten** – There was a fire at a Houston refinery this week. There have been gas leaks in Kansas.

**Commissioner Haley** – One of the Council members and I are on the CAP Board. I've been around refineries; I've worked in a refinery when I was young. I'm telling you these guys are working hard to keep it safe.

**Ms. Buss** – My guess is that they do, there's such liability for them if they don't. Nonetheless, they have bought them as buffer. The hard thing for us is how to deal with this so we wanted to run by you the idea of....should there be some kind of special district where this stuff could be identified as industrial? It'd be hard to just extend our current industrial districts down there, the pink and lavender districts. It's hard to extend them up because if you just extend them up then on those parcels, any industrial uses we currently allow will be allowable uses and there's a bunch of things in there that you really don't want to have residential mixed in with them like adult book stores for instance. They would all become nonconforming which would limit their ability to expand.

**Commissioner Haley** – Unless we did an MX.

**Commissioner Prestegaard** – Yeah or an IX.

**Ms. Buss** – Yes. I was just saying extending the current one. So those would be the arguments for getting a special district and we can call it any creative thing you want to call it. Then if we do a new district we can make a list of uses specifically for that district and we can have some performance standards about setbacks and height of buildings and some of those kinds of things specifically for that district. This is what Seattle has done, it's really boring stuff to read but they have something called an Industrial Buffer District and it has a different set of uses some different standards about height. So how do you guys react to this?

**Commissioner Tweeten** – Isn't part of the concern or maybe the greatest concern is that they're doing nothing? Not so much that they're hindered by zoning restrictions.

**Ms. Buss** – Yeah they've taken all the value out of the property.

**Commissioner Tweeten** – That ends up being an intimidating part of town now. Go down there and you'll be followed by a truck that'll stop you.

**Ms. Buss** – Do they patrol that area?

**Commissioner Tweeten** – Yeah they're looking for people, I went down there today and was met there on 3<sup>rd</sup>.

**Commissioner Haley** – They own the property.

**Admin. Hill** – There have been people that have been parking their cars on their property and leaving property on Northern Tier which they don't want which makes sense.

**Ms. Buss** – It happens when stuff is vacant.

**Commissioner Tweeten** – So you have to patrol it?

**Admin. Hill** – A benefit of rezoning it to something different is the last house to be purchased on the Mississippi. The city's portion of taxes is like \$3,000. You take the house out and that plummets. It's a struggle to make up for those taxes. What they really want to do is use it as an office type pit stop space for people coming into town needing some engineering space and being out by themselves. This would allow them to have an office and keep it as a house. The building doesn't change and we'd actually get more taxes out of it. Currently offices are not allowed in the R-1.

**Ms. Buss** – Part of their argument is that they might then develop some uses on those vacant parcels or keep some houses there and use them as office space or some kind of office space and possibly build something new if we said office use is allowed in this district. They could potentially develop office or some kind of storage facility or something on those parcels that's not allowed now. The purple is MX-4, the yellow is R-1, and the orange-yellow is R-1A. They have bought parcels in the area outlined in red.

**Commissioner Taylor** – Can I just get a little background on their acquisition? I'm not aware of all the history, how many are they buying per year?

**Admin. Hill** – This one came up for sale and they got it.

**Commissioner Taylor** – How many other ones have they bought in the last 5 years? Are they expanding the zone?

**Admin. Hill** – Yes.

**Ms. Buss** – Is everything on here in the last 5 years?

**Admin. Hill** – No most of them were homes. Bruce told me that there were homes on most of these lots a while ago and they're gone.

**Commissioner Haley** – Personally, I would like to see a line somewhere and certainly we could have a conversation asking how far they're going and we'll put a line there.

**Admin. Hill** – We did talk about this that's why we're here.

**Ms. Buss** – What did they say about how far they're going to go?

**Admin. Hill** – It all depends on the different management, it's almost a moving target. Northern Tier used to be Magellan; they've had a number of different owners. With this, if you zone it as such there is a bit of a line in the sand. When they looked at the map, I can see them having the property just north of their refinery but when you see that it's like a 1/8 of a mile from the edge of their other property.....They want to be good neighbors and they are.

**Ms. Buss** – Did they say if they see themselves going beyond the northern boundary of where they purchased up until now?

**Admin. Hill** – That all depends on different management.

**Commissioner Haley** – Recently I heard that they're being purchased by Western Refineries which is a sister company already. Western is buying out all of the stock so Western will be under full control which they sort of are already.

**Commissioner Prestegaard** – I don't know if we want to draw a line that's much further than where they've already gone because it seems that that would annoy the residents further. If they continue the behavior we can move the line. It seems like we're inviting the behavior if we draw the line much further out and we would upset the residents further by beginning to allow a bunch of other uses.

**Admin. Hill** – Absolutely.

**Commissioner Haley** – You could almost draw a straight line, it might include a couple more houses.

**Ms. Buss** – I tried to draw a line like that making it somewhat straight, you could go up and down but then it starts to look like you're doing some weird spot zoning or something.

**Commissioner Haley** – That's what I was saying just bring that one closest to the river up to be parallel to the other one and let it go there.

**Ms. Buss** – We could do that too. We could go up one more tier there.

**Commissioner Haley** – Then bring up 5 or 6 properties.

**Admin. Hill** – Would we want to include the Knauff property or not?

**Ms. Buss** – The only problem with that line is that it starts to split some parcels.

**Commissioner Haley** – That's what I was saying. Is there an easement through there?

**Admin. Hill** – It used to be a railroad thing or something like that.

**Commissioner Haley** – So if we came through there there's 1 lot, we could go north or south with that lot. I think probably north and then straight to the river.

**Admin. Hill** – The business is supposed to be 1 contiguous parcel.

**Ms. Buss** – We would have to put them in 1 district.

**Commissioner Tweeten** – How does this play with taxing districts?

**Ms. Buss** – Have you talked with the assessor, do we know that if we put this in an industrial district even if some of the parcels are vacant that they'll get a higher tax value?

**Admin. Hill** – That is my understanding. I can ask about the different degrees and how that works.

**Ms. Buss** – Is it going to be different if it has an office on it versus if they leave it vacant versus if there's still a house on it? Because it would be pointless to do this if the city's not going to get more tax dollars.

**Admin. Hill** – They're the ones that actually mentioned it.

**Commissioner Haley** – Then it's pointless because then they would be able to build offices in that area and build it out.

**Ms. Buss** – Right. There would be higher value if they actually utilized those parcels.

**Commissioner Taylor** – The tough thing about that area is that it's in limbo. Nobody's going to put money into their house when they don't know if they're the next one that's going to be bought out.

**Commissioner Haley** – They own SA and SA's office is in Woodbury.

**Commissioner Tweeten** – As a city we're not powerless to incentivize certain uses and disincentivize non-use with taxes, fees, conditional zones.

**Commissioner Haley** – The problem is that they've got a lot of cash. The taxes here are insignificant comparatively. It does matter to the City but it has little matter to them.

**Commissioner Tweeten** – That's all the more reason to....

**Commissioner Haley** – Yeah so turning it into MX or something we can tax more.

**Ms. Buss** – Yeah I think that's true, the notion that it might incentivize them to do something else with those parcels other than leave them vacant is a good point as well. I think that's what we'd like to see happen, some other uses there. Probably not hardcore refinery uses right on those parcels but office and potentially storage or something similar.

**Admin. Hill** – Yeah because certainly you get more taxes from industrial or MX than R-1 but is there a difference between the industrial and MX buffer or whatever we call it?

**Commissioner Tweeten** – I feel like it's worth stating that the riverfront stuff is desirable property. That is nice stuff that is being taken away from Newport.

**Admin. Hill** – That was the trigger for this whole discussion

**Commissioner Haley** – Not to make an excuse for them but the coast guard is the one in charge of their security. The guys that are going down patrolling the neighborhood, it's there for a reason and they're mandated to cover all their property. It's substantial for them too.

**Ms. Buss** – So we'll start thinking about a new district. What sorts of uses would you guys like to consider?

**Commissioner Tweeten** – Or is it a matter of what uses we want to disallow?

**Ms. Buss** – We could work at it either way. Should we allow any type of residential in that buffer district or do we say no residential?

**Commissioner Haley** – What happens if we turn this into an MX and if somebody chooses to live there? It will happen. If we turn it into a B or industrial then it's nonconforming and it makes it very difficult for them to get any mortgages or to expand.

**Ms. Buss** – Yeah it makes it difficult to expand.

**Commissioner Prestegaard** – We could allow residential even though it's unlikely that people are going to build new stuff, it'll just be nonconforming those that are already there.

**Commissioner Haley** – The other side of that coin is that if we did make it industrial, then it would in a sense, force the homeowners to do something at some point. Could it be sold as a residence?

**Ms. Buss** – Yeah you can sell a nonconforming use, it's just the person who buys it needs to understand that they cannot increase the size of the building by more than 30%.

**Commissioner Taylor** – It's really a no win situation for the residents in that area right now. Everything is going to be a disincentive to stay and improve.

**Commissioner Haley** – So by making it MX we are not forcing them out.

**Commissioner Prestegaard** – Yes at least softening the blow.

**Admin. Hill** – It will still be taxed as a resident.

**Ms. Buss** – So you're thinking of making it a mixed-use district for now with something like an MX-IB or something that might continue to allow residential but we just assume that nobody is going to build any new residential area given what is going on there.

**Commissioner Haley** – Is there a way for us to make sure that nothing gets built residential beyond that demarcation line?

**Commissioner Tweeten** – Northern Tier is doing it just by buying it all up. They're changing the highest and best use for everything out there.

**Ms. Buss** – If a developer came in here and we explained that district and what's going on there, I don't think there's anybody that would try to build housing there if we told them what was going on. MX would at least allow people to stay there as nonconforming.

**Commissioner Haley** – Is there any reason to make a new MX that's different than the one we currently have?

**Ms. Buss** – We don't really allow any industrial uses in the current MX districts so if we were going to let these guys do things like storage, we would do something like MX-IB. Then if we want to allow the refinery to do things like storage or offices. Offices are allowed in MX but storage is not.

**Commissioner Taylor** – Would we then get into fences? I’m just worried about that encroaching too quickly on the residences.

**Ms. Buss** – For now we can say “indoor storage only” and still have our fence standards and then it’s up to them to come to us and say that they need a variance from the fence standard. For now, before it becomes totally industrial, we can maintain some of these standards. We would need to write very careful performance standards so that what we allow in this district isn’t the same as what we allow in the purely industrial districts but that would rather have some standards regarding abutting residential properties like requiring shorter buildings, fence standards, etc.

**Commissioner Prestegaard** – I was also picturing a shorter use table where we just start with a few.

**Ms. Buss** – And that some of the uses we allow in industrial districts like adult bookstores or whatever, we would not allow in this industrial zone. We probably wouldn’t allow breweries here adjacent to the neighbors.

**Commissioner Prestegaard** – It seems that inevitably we’re going to have to go through the uses that we feel comfortable with.

**Ms. Buss** – I think that would be the next step. Next time I can bring back a blank table of uses for one of the other MX districts and we can go through and check which ones will be allowed, allowed with a conditional use permit, etc.

**Commissioner Taylor** – Let’s say we changed it to MX, how does the assessor look at those parcels that Northern Tier owns as far as tax base?

**Ms. Buss** – It is partly the use. If something is zoned commercial it has a different starting point and then within a commercial district they look at comparables. We could ask the assessor how he would look at the tax value if we turned it into a MX district. For next time I can put a blank table together using one of our MX districts and some of the industrial ones and we’ll work our way through the uses. I can maybe tease out of some of the ordinances some of the typical performance standards for a use that’s on an edge like this for relating to adjacent residential. What we have to do once you guys put something together is have a public hearing and let all the neighbors know, we’ll need to let Northern Tier know, so they can look at it and talk about it. I think as you develop the draft you may want to help them understand what’s going on here. The other one we can have up for next time is the lot coverage one.

## **5. NEW BUSINESS**

## **6. ANNOUNCEMENTS**

### **A. Upcoming Meetings and Events:**

- |                         |                |           |
|-------------------------|----------------|-----------|
| 1. City Council Meeting | April 21, 2016 | 5:30 p.m. |
| 2. Park Board Meeting   | April 28, 2016 | 6:00 p.m. |
| 3. City Council Meeting | May 5, 2016    | 5:30 p.m. |

## **7. ADJOURNMENT**

**Motion by Prestegaard, seconded by Tweeten, to adjourn the Planning Commission Meeting at 6:59 p.m. With 5 Ayes, 0 Nays, the motion carried.**

Signed: \_\_\_\_\_  
Anthony Mahmood, Chairperson

Respectfully submitted,

Andrew Brunick  
Administrative Intern