



**City of Newport
Planning Commission Minutes
May 12, 2016**

1. CALL TO ORDER

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

2. ROLL CALL

Commissioners Present –Kevin Haley, Marvin Taylor, David Tweeten, Chairperson Mahmood

Commissioners absent – Matt Prestegaard,

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

3. APPROVAL OF PLANNING COMMISSION MINUTES

A. Planning Commission Minutes of the April 14, 2016 Meeting

Motion by Haley, seconded by Tweeten to approve the April 14, 2016 Meeting Minutes as amended. With 5 ayes, 0 Nays, motion carries.

4. COMMISSION & STAFF REPORTS

A. Lot Coverage – Draft Ordinance

1. Memo from Sherri Buss

Sherri Buss, TKDA Planner, presented on this item as outlined in the May 12, 2016 Planning Commission packet.

Commissioner Haley – I think our goal here is to develop the city and do the best we can with it, I would like to see the numbers stay high.

Commissioner Mahmood – The higher the number the more businesses we can attract.

Ms. Buss – The other option is to keep the numbers high and put a note on here that says “must meet storm water standards”.

Commissioner Mahmood – I like that.

Commissioner Haley – It allows some developers to get creative with storm water. They are burying it, it’s not like they can’t do that.

Ms. Buss – In MX-1 you’re not recommending a change, we already allow 80% there. In the other districts to have it at 75% but have a note attached to the numbers that would say that it is “conditional upon meeting storm water standards”.

Commissioner Taylor – That should still be what John wants, the language is still there.

Ms. Buss – I think that works fine and we’ll let them know up front. I think that’s what he’s concerned about, when people see that number they then think that they’re entitled to that but if include a note that it’s conditional upon meeting the city’s storm water standards I think that is good. If you guys are good with this we would put this up for a public hearing next meeting and then it would go the Council. John said on the whole that he is really happy with going to a lot coverage standard rather than a building standard because that was always really hard for him to explain to people. Generally he’s fine with what you’re doing and I think if we add that note so people don’t develop an expectation.

Chairman Mahmood – With this chart, maybe you can explain what this means, “minimum front yard if across collector or minor street from any residential district”.

Ms. Buss – Those are setback standards and we have a little higher setback standard for front yards and for other things if you are next to a residential district then we do if you are next to an industrial district.

Chairman Mahmood – Right but what does “across collector” mean?

Ms. Buss – A collector road would be something like Maxwell or a local street. We wouldn’t care if it was across a highway. If you had an industrial use and the street next to you is highway 61 and there’s residential on the other side of that we wouldn’t do it but if it’s really going to impact a residential then we’d make them have a higher setback.

Chairman Mahmood – Alright now it makes sense.

Ms. Buss – You don’t need a formal motion but is the consensus to have it go this way to a public hearing next time? Is there a way to let a business association or somebody know that this is coming up in case they want to testify on it?

Commissioner Haley – I can talk to...

Admin. Hill – I think we have a list of all the businesses in town I’ll see if we can send something out or go through the business association that is established in town.

Ms. Buss – Maybe the hearing notice can go out to them to just let them know.

- B. Industrial Buffer District
 - 1. Memo from Sherri Buss

Sherri Buss, TKDA Planner, presented on this item as outlined in the May 12, 2016 Planning Commission packet.

Commissioner Haley – We’re not talking about zoning that any differently are we?

Ms. Buss – Well that’s the question for you. Do you want to zone any of this stuff that the refinery owns differently? The city’s frustration from staff and the mayor has been that when they buy this stuff and clear the houses out it becomes vacant and the property value goes down and the city’s taxes go down.

Commissioner Haley – And we still have infrastructure under those streets that have to be maintained.

Ms. Buss – Right. So the question for us was if there is anything we can do to stop that loss in tax value. One of the options that we've thought about is whether the area north of them can become a buffer or a mixed-use district that would allow them to have some office uses or parking uses or storage uses or whatever on those properties so they don't just become a sort of no man's land. They're all in the R District right now. It's a real question for you to debate what the pluses and minuses are with doing this. There are a couple questions for the attorney; one question is "If they buy this and imply that they're using it as a buffer zone, are they engaging in an industrial use in a residential district?" I think that is a question for Fritz.

Commissioner Haley – So we could make it MX-4 and just extend MX-4 into that.

Ms. Buss – You'd still have the same question because MX-4 does not allow industrial uses. David's question would apply with anything in our city other than an industrial district. The other question for Fritz is about the fact that you were looking around there and were on a non-refinery site and got accosted by one of their security personnel who made you very uncomfortable about being there. I think it's a question of if someone is on a city street, a city sidewalk, or another property should they be doing that or should the city suggest to them that they can only do that on their own properties?

Commissioner Haley – So they're governed by the Coast Guard and if they own it they have to patrol it.

Ms. Buss – But they don't own the city streets.

Commissioner Haley – Right but it's all about the protection of the refinery and keeping people back and away from it and not having them do things that are close by. I think they're cooperating as best they can with the city and the fire and they give us a lot of support.

Ms. Buss – Nonetheless it's a question and you can see how it can have a chilling effect on people who live around there. If your kids go walking through and get chased out but they're on a public sidewalk, I think it's a question we should ask Fritz. I don't know if anybody's been aware of that, you're the first person I've heard talk about that. Have they said that they're using the land as a "buffer" publicly?

Admin. Hill – They've used the word "buffer", it's to reduce liability.

Ms. Buss – So is that really an industrial use?

Commissioner Tweeten – It's short of being an industrial use, can it can merely be in conflict with residential use? The purpose of the residential districts is to preserve the existing living qualities of residential neighborhoods. I don't think they're consistent with that.

Ms. Buss – You're talking about some of the goals in the comp plan?

Commissioner Tweeten – These are the goals in the ordinance describing residential districts and what they're for.

Ms. Buss – We can make a distinction between someone who's demolishing a property and intending to rebuild a residential use. I am wondering what other pros and cons you see. There will be several approaches, you could extend the MX-4 District through that area but then they could do the uses that are allowed in MX-4.

Commissioner Haley – Or a business office park which may be conducive, they have a facility in Woodbury that they're operating out of.

Chairman Mahmood – But the whole thing is if they're using the whole thing as a buffer zone they want to leave it vacant in case something blows up people aren't there.

Commissioner Haley – Residential vs. business because they're not trying to buy up all those businesses around them. I would say that if we turned it into something that was conducive to their use there's a good chance they'll use it.

Ms. Buss – You'd need to assign specific uses if you create a new district.

Commissioner Haley – If you just said buffer then nothing would be able to go in there. I would say the problem with industrial is then we're pushing industrial right into that neighborhood versus an MX-4 or a B-1. They could build the refinery right up to those houses if we did that.

Ms. Buss – If you allowed that in an industrial buffer district.

Commissioner Haley – If they were going to do anything I would suspect it would be....they don't want pipelines and things next to the residential either they've established that.

Admin. Hill – If I were to guess I would say that's true too.

Ms. Buss – So we could extend MX-4 in there and let them do office use. I think then we would have to examine that MX-4 district and see if it included things you wouldn't want in that area but we've got it up against everything else in that area and if that would accommodate any of the uses they're considering in that area. If all they're thinking about is renting houses to employees and possibly having some office use or allowing some other kind of commercial use that might want to locate near them maybe that's the solution. I think you'd have to ask the assessor if they had vacant area in this district and if it was zoned for mixed-use.

Admin. Hill – If it's vacant that's interesting.

Ms. Buss – Would it be commercial?

Admin. Hill – If it doesn't have a house then it would be commercial.

Ms. Buss – I think we'd really have to ask him.

Admin. Hill – That would be true across Hastings in the B-1, that gets taxed Industrial/Commercial even though it's vacant. That's on the south side of Raceway to Fun and it gets taxed at a higher rate.

Commissioner Haley– I think if we get too carried away with naming it a buffer we may lose opportunity. If it were extended as a B-1 or an MX-4, I think we could entice them into developing it.

Admin. Hill – They own about 150 acres in town which is a lot on the other side of the highway. They've owned that up to Century Avenue for quite some time.

Ms. Buss – Whether you'd want to put that into an MX-4, I don't know.

Commissioner Haley– It sounds like from your meeting with him that they may be conducive to developing or selling that.

Admin. Hill – The last time I talked to them they said that there are a lot of ravines in there and it wouldn't be totally conducive to house development. I think you'd want to take a look at it to see. If it is then maybe we would want to keep that section but the rest that can't be keep it as a buffer.

Commissioner Haley– Down by Raceway I think there's 24 acres in there.

Admin. Hill – Yeah that's already zoned B-1.

Commissioner Haley– I've talked to a couple of developers that are very interested in the property up there.

Ms. Buss – The problem with turning it into an MX-4 is then you could not do single-family development up there and if what we think is going to happen up there is single family on large lots then that's not a good idea.

Commissioner Tweeten – If they want a buffer there then they probably don't want single family.

Admin. Hill – It might be conducive to talk about it. The distance is a mess with highway 61 sitting there on one side and the bluff line.

Ms. Buss – We can take these separately they're really very different. On the west side of 61, what are your thoughts on making that area just north of them MX-4? The question in my mind is the river lots which I don't think will ever be anything but single family housing. I'd have a question on whether we put MX-4 on that.

Commissioner Haley– If it's a corporate campus they'd love the river.

Commissioner Tweeten – I agree. I'd hate to see it undeveloped and unused property.

Ms. Buss – What are the negatives of making that MX-4?

Commissioner Tweeten – How I see it right now is that they're in violation of the zoning ordinance so by simply changing it to MX-1 and granting them a pardon for the violation we lose any influence we might have had in directing usage.

Commissioner Haley– So that would be the same case for the bluff land over where there isn't any development and they've owned it forever.

Commissioner Tweeten – I think those properties are different enough.

Commissioner Haley– I agree there's difference but...

Ms. Buss – I think we have to ask the attorney that question.

Commissioner Haley– In my opinion they're doing a very good job keeping the smells and noise down.

Admin. Hill – Yeah they're good neighbors.

Chairman Mahmood – Does the city have the power to say that if you're going to own all this land and we have to maintain all these streets, you need to pay for plowing, etc.

Ms. Buss – No they're paying taxes now.

Chairman Mahmood – But not as much as it would be if it was a house.

Admin. Hill – Yeah that's why we're having this discussion.

Commissioner Haley– Let me play devil's advocate here, if I lived on the river with a 100ft. lot and I wanted to buy my neighbor's properties and not build a thing on them there's no reason I couldn't do that. At what level does this become illegal?

Ms. Buss – I think that David's question is the question is that just because they're industrial and their intent to use this as a buffer, does that mean that their use of that property is an industrial use?

Chairman Mahmood – I would think that if we were going to do anything we'd create a new district to have more control over what's put there.

Admin. Hill – Yes the assessor goes by zoning not by use.

Chairman Mahmood – I am for creating a new zone where we have complete control over what can and cannot be done on there that gives us the upper hand on everything.

Ms. Buss – I think the only thing you'd want to do is look through MX-4 and B-1 and make sure that everything that's in there is nothing you wouldn't want to allow here.

Chairman Mahmood – Maybe we want to allow more instead of limiting it.

Commissioner Haley– Can you shoot us the pros and cons of B-1 and MX-4?

Commissioner Tweeten – One use that I'm interested in is recreational access and as it currently stands they don't have to allow access. Of course they're not prohibited from entering into an agreement with the town for what amounts to privately owned parks. Passive uses of that waterfront would be something that I'd like to see. I don't know if other people feel the same way but I guess the park board has approached them and asked if some part of their property could be used for community gardens and there's a Frisbee golf company down by the post office that had interest in creating a course and they were turned down for both. I think that those uses would be consistent with a residential district.

Commissioner Haley– I've been in their monthly meetings and I hear what they're saying about security and how the government is putting pressure on them to be incredibly secure and I think that's the driving factor there, to keep people away.

Commissioner Tweeten – I can see a reason why you'd want to have some degree of visibility over who is using what and where in that area. I don't think they're concerned about people walking down trails and paths. If they want to put up barriers to big trucks going back there that makes sense but people on foot I don't think are their concern.

Ms. Buss – Recreational use is pretty much allowed in any district I think the question there is the owner and there's not a way the city can compel them to permit recreational use.

Commissioner Tweeten – Not compel but convince, if they're in violation of a residential zoning ordinance we can ask that they put themselves back in compliance.

Ms. Buss – If we were looking at using the MX-4 district, we basically allow any of the residential uses except mobile homes. There are some civic type uses like daycare facilities, essential services, park and recreation, places of worship, are all allowed. For commercial uses, you can do administrative support services, with a CUP you can have a veterinary clinic or animal boarding, artist studios, automotive services but not body repair, bakeries, bed and breakfasts, there's quite a list of commercial uses allowed by right or CUP. The question would be if we extended MX-4 would you want to allow all of these including the auto repair in this district.

Commissioner Tweeten – I think that you can create a district that's just office residential and offices have to fit within the residential feel.

Chairman Mahmood – I just have one question. Our goal here is to regain some of the money we're losing because they're ripping down the houses. If we turn it into an MX-4 and they still don't build anything do the taxes go up?

Admin. Hill – Yes.

Chairman Mahmood – Considerably? Is it worth it?

Admin. Hill – It's almost 4 fold.

Chairman Mahmood – If we created our own MX-5 and said that it was for these certain things could we make it so that the taxes will go up even more?

Admin. Hill – There's usually basically 2 tiers, residential, some other things, and commercial/industrial.

Chairman Mahmood – What you're saying is that because they've ripped down the home it's no longer a residential and if it's in MX-4 it would automatically go to a commercial tax base?

Admin. Hill – Yeah but without the house. If you keep the house then you have that extra value.

Ms. Buss – She's saying that a vacant lot in an MX district is going to be worth more in terms of taxes than a vacant lot in a residential.

Commissioner Haley – Do you see any problem with making it MX-4?

Ms. Buss – No I think there are a lot of uses in MX-4 that won't ever happen there. I think there are a couple of uses that we may want to question in MX-4 like the automobile uses to see if we really want to extend those. I don't think we'd want to do B-1 because I think there are some things allowed in B-1 like adult uses that are probably not a good thing to put next to a residential district. The other take on it would be creating a new MX type district and have a much narrower set of uses like housing and office and essential services.

Commissioner Haley – I think that they will do everything they can including not doing anything to keep residential out of there. They could have bought up many of those businesses and they haven't.

Chairman Mahmood – What do you all think?

Commissioner Haley– I could go MX-4.

Commissioner Tweeten – MX-4 sounds like it could be turned into a parking lot.

Commissioner Taylor– The whole area would have to be significantly changed to be a successful office area.

Ms. Buss – Our MX districts are really intended for smaller scale stuff.

Councilman Ingemann – If you made an MX-5 restricted down to just houses and offices and cut out the other stuff that was permitted before. I think that would take care of what you’re talking about because you’re not allowing a lot of other stuff but it’s still a mixed use.

Chairman Mahmood– That’s why I think we need to make a different district.

Ms. Buss – That would be the reason that we don’t think everything that’s permitted in MX-4 should be permitted in this little area.

Commissioner Haley– I don’t think that the refinery would sell any of it if there was ever a potential of residential going back in there.

Ms. Buss– Then you get to the question of what if the management of the refinery changes and they say “we don’t care about this anymore; we’re going to start selling off this property to other uses”. We want to make sure that what we have allowed in that district is what we’d be happy being there if the refinery decided they wanted to give it up.

Commissioner Haley– Can we attempt to get some input from them again?

Ms. Buss– Would they send a person to one of your meetings to talk about this?

Admin. Hill – I think that would be the thing to do to give them carpe blanche in letting them decide. I’ve been in contact with them and I’ve told them that we’re looking at a buffer zone and I gave the example of the house that was just purchased saying that they couldn’t use it for an office right now but if it was rezoned they could.

Commissioner Haley– I think that if we gave this to them they would send it to their attorneys.

Admin. Hill – I can contact them.

5. NEW BUSINESS

Admin. Hill – Sherri and I got a call from Red Rock Lodge, they were selling and wanted to know if they are a conforming or non-conforming use. We found that where they’re zoned, hotel/motel is not listed as a permitted-use so they are technically a legal non-conforming. So that’s something that we might want to add.

6. ANNOUNCEMENTS

A. Upcoming Meetings and Events:

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|---------------------------------------|--------------|-----------|
| 1. City Council Meeting | May 19, 2016 | 5:30 p.m. |
| 2. Library Advisory Committee Meeting | May 24, 2016 | 5:30 p.m. |
| 3. City Council Meeting | June 2, 2016 | 5:30 p.m. |

7. ADJOURNMENT

**Motion by Haley, seconded by Tweeten, to adjourn the Planning Commission Meeting at 6:51 p.m.
With 5 Ayes, 0 Nays, the motion carried.**