



**City of Newport
Planning Commission Minutes
August 14, 2014**

1. CALL TO ORDER

Chairperson Lund called the meeting to order at 6:01 P.M.

2. ROLL CALL -

Commissioners present – Dan Lund, Susan Lindoo, Matt Prestegaard, Kevin Haley

Commissioners absent – Anthony Mahmood

Also present – Deb Hill, City Administrator; Renee Eisenbeisz, Executive Analyst; Sherri Buss, TKDA Planner; Tom Ingemann, Council Liaison

3. APPROVAL OF PLANNING COMMISSION MINUTES

A. Planning Commission Minutes of July 10, 2014

Motion by Haley, seconded by Prestegaard, to approve the July 10, 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 Steven Bern for Approval of a Variance for Property Located at 1280 Kolff Court

Sherri Buss, TKDA Planner, presented on this item as outlined in the August 14, 2014 Planning Commission Packet.

The Public Hearing opened at 6:07 p.m.

Steven Bern, 1280 Kolff Court - I don't have any prepared statements but can answer any questions that you may have.

Matt Prestegaard - I'm familiar with the property and understand the slope requirements. Does this allow you to remove that boat? It's set right above a severe slope and it seems like that's a risk for you.

Mr. Bern - Yes, this will allow me to place it inside. Oftentimes it's on blocks because I've had the same thoughts.

Janice Anderson, 1265 Kolff Court - I'm a neighbor of Steve's. He couldn't have done this too soon so I think it's a great addition to the property. He's upgraded the house a few years ago and I gave him an award for that. The garage will only enhance the property. I know there's some concern about the slope, it hasn't shown any degradation over the years any more than ours. I'm 100% for the action that Steve wants to go through.

The Public Hearing closed at 6:10 p.m.

Matt Prestegaard - I can't see any other way that this can be done.

Chairperson Lund - This is another situation where the setback is 11 feet but the distance from the road is greater so it won't seem out of place.

Susan Lindoo - I agree, it seems like a straightforward request.

Motion by Haley, seconded by Prestegaard, to approve Resolution No. P.C. 2014-10 as presented recommending that the City Council approve a front yard variance for 1280 Kolff Court. With 4 Ayes, 0 Nays, 1 Absent, the motion carried.

B. Public Hearing – To consider amendments to the Zoning Code, Section 1300, Section 1330, Section 1350, and Section 1370.07

Executive Analyst Eisenbeisz and Sherri Buss, TKDA Planner, presented on this item as outlined in the August 14, 2014 Planning Commission Packet.

Susan Lindoo - Would you see a difference between a mobile home and manufactured home?

Executive Analyst Eisenbeisz - If a mobile home, like a trailer home, came forward, that would be considered mobile.

Sherri Buss - It's about having a permanent foundation. If they don't have a foundation, they're a mobile home instead of a manufactured home.

Susan Lindoo - Is there a difference between them then?

Executive Analyst Eisenbeisz - Typically, manufactured homes have a foundation where mobile homes don't.

Susan Lindoo - It sounds like there is a distinction between the two so I'm wondering if it would be worth it to have that we don't want mobile homes without a foundation.

Ms. Buss - Then we would need to change the definition because they are identical right now and that's confusing people.

Susan Lindoo - I can see that. If there's something we don't want we should have it in the ordinance.

Matt Prestegaard - That makes sense to me.

Kevin Haley - What's the current definition?

Executive Analyst Eisenbeisz - The current definition of mobile homes is the same as manufactured homes. It cross-references the two.

Kevin Haley - Then let's get rid of it.

Matt Prestegaard - I think Susan is suggesting that all homes need to have a foundation and if no foundation, than a CUP.

Susan Lindoo - That's what I think we should be clear on.

Ms. Buss - We can take it back and work on a definition.

Executive Analyst Eisenbeisz - "Manufactured Single-family Dwelling" shall mean a structure, not affixed to or part of real estate, transportable in one or more sections, which in a traveling mode is eight (8) body feet or more in width, or forty (40) body feet, or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a single-family dwelling with or without a permanent foundation when connected to required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in it, except for accessory manufactured single-family dwellings and temporary manufactured single-family dwellings, as defined in this Chapter. . A manufactured single-family dwelling shall be construed to remain a manufactured single-family dwelling, subject to all regulations applying thereto, whether or not wheels, axles, hitch, or other appurtenances of mobility are removed and regardless of the nature of the foundation provided. A manufactured single-family dwelling shall not be construed to be a travel trailer or other form of recreational vehicle.

Chairperson Lund - That sounds closer to a mobile home than a manufactured home. I don't think we want to mix those up so if we could get two new definitions that would be good.

Ms. Buss - Renee can find something to work with.

Chairperson Lund - We should be more specific if we're allowing manufactured homes everywhere.

Ms. Buss - We'll look for more current definitions.

Chairperson Lund - Is the lot coverage amendment for consistency?

Executive Analyst Eisenbeisz - Right now, single-family homes in the MX districts have a lot coverage of 80%.

Chairperson Lund - But a home could be next to a business with 80% lot coverage.

Ms. Buss - But it would look radically different from any of the other single-family homes.

Chairperson Lund - So would a commercial structure. My view when I read this was that if that lot coverage is too much than maybe we should redraw our boundaries or reconsider the mixed-use.

Ms. Buss - At the last meeting we talked about trying to keep the massing of single-family homes somewhat consistent in the older parts of the community so we don't have monster structures.

Chairperson Lund - But if we're pushing for the high coverage of mixed use, isn't that what we're asking for?

Susan Lindoo - We are in MX-3 but not the others.

Executive Analyst Eisenbeisz - And this is only for single-family homes.

Chairperson Lund - I get that, I don't understand what the difference is between a single-family home and a business. If the lot coverage is too much, it's too much for a single-family home and business, I don't understand why there's a distinction. Are we just hoping they won't put a commercial building in the middle of a neighborhood?

Ms. Buss - Part of this comes about from when we have a request for a single-family home to put in a garage. If we let them put in a garage and driveway and create 80% coverage, we're ending up with a garage that is way outsized.

Chairperson Lund - Wouldn't we have the same problem if a daycare building goes in though?

Ms. Buss - When you anticipate a commercial use, you anticipate a higher lot coverage than a single-family.

Susan Lindoo - Think about a church in a residential area, I expect a church to have higher lot coverage but not single-family homes around it. There's a sense of neighborhoods and grass and trees. I'm not sure people would want to live in a single-family neighborhood where the houses are covering 80%.

Chairperson Lund - Why are houses different than other buildings?

Susan Lindoo - Look at where the mixed-use is, it's quite a bit of area. Maybe we want to say no single-family dwellings in the mixed-use. It wouldn't have an attractive look to it. Huge garages and parking areas are not attractive. I think that would be a better way to go. We want to maintain an attractive residential area.

Ms. Buss - You have so many single-family homes in those districts already that you would make them non-conforming which is what we're trying to avoid. It's trying to keep a single-family property look like one.

Chairperson Lund - That makes sense to me but the way to control that is to redraw our boundaries and have more residential areas where we don't want that type of lot coverage.

Kevin Haley - If there were two properties on either side of you that were businesses and had 80% coverage and I was limited to 35%, I would agree with Dan. If an area allows for 80% than it shouldn't prohibit a homeowner from covering his property.

Chairperson Lund - I do agree it's a concern but I don't agree that it's any less of a concern for commercial.

Ms. Buss - Then we would need to look at the boundaries.

Chairperson Lund - I like them for a long-term but maybe we should bring the houses in residential areas now.

Ms. Buss - So the strip along the highway is just MX then?

Chairperson Lund - Yes.

Susan Lindoo - Maybe we don't want mixed use at all then.

Kevin Haley - The difficulty there is that houses exist there already and if they need to get a new loan and are non-conforming, they can't get a mortgage.

Susan Lindoo - How would you feel if someone moved in next to you and built a house that took up 80% of the lot? That's not really attractive. Maybe we want to hear from the people that are already there.

Chairperson Lund - It's our job.

Susan Lindoo - I think we need to listen to what people want.

Chairperson Lund - They can come down here, I don't think it's practical to survey the City.

Susan Lindoo - We're making a decision that is different.

Kevin Haley - It exists now.

Susan Lindoo - Can they build a house with 80% lot coverage now?

Ms. Buss - The way your Code is written now yes.

Susan Lindoo - But we just changed that.

Executive Analyst Eisenbeisz - For residential districts only. That's why the amendment is before you now.

Ms. Buss - These haven't been mixed use districts forever.

Susan Lindoo - So when most of these houses were built, they had the smaller lot coverage?

Ms. Buss - Yes.

Susan Lindoo - And we changed that?

Ms. Buss - Yes. I think the question is if there is redevelopment in the mixed-use districts, how do we want it to fit in. Maybe we should discuss this at a time when we have more time to think about it or at the comp plan.

Chairperson Lund - My preference would be to go block by block and decide that way.

Ms. Buss - That's something we would leave for the comp plan then. I'm getting a sense that you aren't ready to make a decision about this tonight.

Chairperson Lund - I think it is an important issue I just don't see the distinction between commercial and residential uses. I think we need to go block by block.

Susan Lindoo - Maybe we should split commercial and residential uses in half and say no one can be above 50%.

Ms. Buss - You wouldn't get businesses with that. If you guys are ok with that higher coverage then we don't need to change it.

Chairperson Lund - I'd still prefer to do a thorough investigation and if some of those areas aren't appropriate for a higher lot coverage than maybe they should be turned into residential areas.

Kevin Haley - It's highly unlikely that someone would go in and build a large house in that MX-1 area because the lots are so small.

Ms. Buss - So an approach would be to have a closer look at the neighborhoods at a future meeting?

Matt Prestegaard - Yes.

Chairperson Lund - I appreciate bringing the issue forward.

Susan Lindoo - There's a minor typo in Subd. 15(A)(6) it should be (1) instead of (f).

Matt Prestegaard - Can you explain the regulation for the barbed wire in the front?

Ms. Buss - It's not allowed in the front yard.

Matt Prestegaard - Doesn't the Knauff property have it?

Executive Analyst Eisenbeisz - They do but it's a legal non-conforming structure.

Ms. Buss - They can have it on the side, just not forward of the building front.

The Public Hearing opened at 6:38 p.m.

The Public Hearing closed at 6:39 p.m.

Executive Analyst Eisenbeisz - The first resolution will be amended to remove the mobile home and lot coverage amendments so it will just be the fence section.

Motion by Lindoo, seconded by Haley, to approve Resolution No. P.C. 2014-11 as amended. With 4 Ayes, 0 Nays, 1 Absent, the motion carried.

Motion by Prestegaard, seconded by Haley, to approve Resolution No. P.C. 2014-12 as presented. With 4 Ayes, 0 Nays, 1 Absent, the motion carried.

C. Discussion Regarding Request for Zoning Change on Brewery Items

Sherri Buss, TKDA Planner, presented on this item as outlined in the August 14, 2014 Planning Commission Packet. The questions for the Planning Commission are: 1) Should the ordinance be amended to allow the brew pub as a permitted use for any restaurant with an existing bar?; 2) Should craft breweries be allowed in the mixed use districts?; and 3) If yes, should there be a size limit and CUP required for craft breweries?

Susan Lindoo - I understand brew pubs, are craft breweries allowed in MX-3?

Ms. Buss - No.

Susan Lindoo - And you're saying that the only city that allows craft breweries in mixed-use districts is St. Paul and they have a limit of 5,000?

Ms. Buss - Yes, most people keep them to industrial districts and some allow them in commercial districts.

Susan Lindoo - So one change is the CUP for the brew pub and the second is the craft brewery?

Ms. Buss - Yes. If you're all feeling like you want any of the folks that have a bar or liquor license to have a brew pub without having to get a new CUP, we can make that change next month. The bigger question is the other one.

Kevin Haley - How you described it originally, I wouldn't have any problems. We're talking Tinucci's, Cloverleaf, Super America...

Executive Analyst Eisenbeisz - They have an off-sale license. We have Tinucci's, Opinion Brewing and Cloverleaf with an on-sale, Newport Liquor and Opinion Brewing with an off-sale, and Super America has a 3.2% off-sale license.

Kevin Haley - So if the liquor store decided to start brewing beer...

Executive Analyst Eisenbeisz - They couldn't.

Chairperson Lund - A quick point of clarification, you said 5,000 gallons, do you mean 5,000 barrels? MN law states that all brew pubs can't brew more than 3,500 barrels so all brew pubs in St. Paul don't require a CUP because by law they can't make more than 3,500 barrels per year so they're only talking about craft breweries.

Matt Prestegaard - I think we're feeling comfortable on brew pubs.

Derrick and Autumn Lehrke, owners of 374 21st Street - I think you just got to the hard part. As we grow, that's the question, what becomes too big. The idea that us growing is a problem isn't a good thing to hear. That we plan to grow and want to grow, that's absolutely the case. We would put that back into your hands. The brew

pub does allow 3,500 barrels right now but if we were to change to a brewery and brew the same beer it's almost a definition without distinction. Instead of selling it in glasses we would be selling it in kegs to other bars and liquor stores. We originally looked at being a brewery and thought the brew pub was a step into that. We would like to see the opportunity to become a brewery in the future if we're going to invest in all of the equipment and updating the building.

Kevin Haley - How big is the building right now?

Ms. Buss - 12,000?

Kevin Haley - So it's already bigger than the 10,000, I thought I saw a regulation in there.

Mr. Derrick - There used to be a regulation of 10,000 square feet but then you increased it to 15,000 to accommodate us but now you don't allow breweries in the MX-3 District that kind of kills the whole thing for us.

Ms. Buss - I think the question is do you want to allow breweries throughout the MX-3 District? If yes, is there a size limit? Their question is do you want to require a CUP for the brewery? I think there was a consensus that you want to allow brew pubs without a CUP. We'll bring that language back to you next month. This is a different question and relates to craft breweries.

Susan Lindoo - Most towns don't?

Ms. Buss - The only one that does in a mixed-use type district is St. Paul and they allow up to 5,000 barrels per year without a CUP and if you go above the 5,000 they require a CUP. That's because once you get up to that level you are having barrels of beer that are being made and sold and there's truck traffic. In the MX-3 District, there are areas that are adjacent to residential districts. Even in purely commercial districts, other communities require a CUP for that use because of truck traffic, loading areas, potential for odors and potential for events because craft breweries, at least in Minneapolis, have several events.

Chairperson Lund - Aren't events addressed in a separate part of the code?

Ms. Buss - They can be.

Chairperson Lund - My inclination is that allowing a brewery that can make 25,000 barrels without a CUP seems irresponsible but the brew pub at 3,500 barrels, I would be comfortable with that.

Susan Lindoo - The brew pub piece seems comfortable.

Matt Prestegaard - Absolutely. Starting to speak towards the craft brewery question, there might be some willingness for us to talk about allowing that in MX-3 but I imagine we would feel inclined to speak about some production cap and some would want the teeth of a CUP.

Chairperson Lund - That's a point, if we're looking at St. Paul and they say 5,000 that doesn't seem too far from 3,500 without a CUP.

Kevin Haley - I could get to 5,000 barrels and not have any issue. 15,000 or 20,000 barrels, it'd be nice to have input.

Ms. Buss - And to have the neighbors speak to it.

Mr. Lehrke - I would say that we would be much more comfortable having that discussion in the near term, especially if we're going to make that change that would require a public hearing now. If you were to set a limit of 10,000 or 15,000 barrels, that's getting to a number we're comfortable with. That's millions of dollars of beer so I

don't think I'll be hurting. I'll be excited, I just want to know that we can get to a reasonable business. It doesn't make sense to invest hundreds of thousands of dollars on something that's not allowed and we'll talk about it in five years when we're ready for it.

Matt Prestegaard - What do you sense is reasonable for volume?

Mr. Lehrke - If we were in the neighborhood of 10,000 to 15,000 that is where a lot of the cities are coming in...

Ms. Buss - That is not true.

Susan Lindoo - That's in commercial and industrial districts.

Ms. Buss - That's not in this sort of district.

Mr. Lehrke - I don't have all of the details but a lot of what we're hearing today isn't correct and when we talk about cities like Stillwater, they do have a requirement for a permit and it's \$500 for every business that comes before the Planning Commission. They have zero brew pubs there and when you ask breweries, they say that there will not be one under their current ordinances and Stillwater understands that. I didn't bring it today but just search breweries, there was a whole list in a Star Trib article that listed 10-15 cities that are making it easier for breweries to come, they want breweries to come.

Ms. Buss - A lot of those cities I contacted and they allow them in industrial districts. That's the list you have here.

Mr. Lehrke - If I can continue, a lot of those cities said they are doing this before a business comes to them, they are trying to attract businesses to their area. One thing here and it's from your original packet, it says that there's only one brewery that is located in a C-1 district but the Minneapolis staff were interviewed and they are unaware of any noise, traffic or odor issues. You can find city after city that is saying that they're doing everything they can. I've heard concerns about these issues but I don't see anywhere else where they have concerns about odor.

Susan Lindoo - Can you bring us examples then that cities are trying to place craft breweries in mixed-use districts? I don't think you understand our issue, we're saying, like other cities, that breweries are allowed in the business and industrial districts and that makes sense and we're delighted for that. You've purchased a building that is in the mixed-use district. If we can find lots of other cities that are doing it in mixed-use or residential, that will give us more information to work with.

Chairperson Lund - I don't understand why this is getting contentious. There seems to be general consensus that we'll amend the code to allow a brew pub without a CUP. The second part is that we don't allow micro breweries within MX-3 but there seems to be general consensus that a micro brewery is ok and potentially without a CUP with a cap on the volume and then require a CUP at a higher amount.

Mr. Lehrke - I'll point you to your first packet, on page 7, table 2, breweries in commercial or mixed districts: Minneapolis, yes; Duluth, some; Dallas, with CUP; Denver, yes; Portland, yes; Seattle, yes; and St. Paul, yes. That's from your packet.

Chairperson Lund - We're moving that way.

Mr. Lehrke - What I'm finding is not people that have problems with noise, I'm finding city councils that are allowing this even though no one wants to go there so far. I'm not finding citizens that are so angry.

Susan Lindoo - All those cities, allow them in mixed-use districts?

Ms. Buss - We'd have to look specifically at those cities. They're not necessarily mixed-use districts, some of them are commercial or mixed-use districts not at all like yours. All of the cities he listed are very big cities. They're not your comparables. Your comparables in the metro area are a lot of the cities that are listed in the memo. I haven't given you all of the detail. My concern is that a lot of other cities similar in size and the characteristics of mixed-use districts like you have concerns about allowing a brewery as a use anywhere in those districts without a CUP.

Susan Lindoo - I think that's it, it's not not wanting it, it's about having an industrial activity in mixed-use. We've been trying to back away from that because we want that area to be apartment friendly. We're struggling with what mixed-use is. We have so many single-family homes in mixed-use. That's why the brew pub will fit but something that is more manufacturing is complicated. We're trying to figure out how other cities do it. I think a brewery of 5,000 barrel is not very much but 15,000 is getting up there.

Chairperson Lund - The CUP gives us the opportunity to talk about loading hours and things like that. It gets to be more on the industrial scale. My concern is those things associated with an industrial use. It is right next to some residences. Don't hear a CUP as no.

Mr. Lehrke - If you're allowing us to do 3,500 barrels without a CUP, we would have less foot traffic if we switched and started selling as a brewery. It's just a distinction.

Chairperson Lund - It's details like screening and loading dock location.

Ms. Buss - It's a normal part of business operation. Are you ok with what St. Paul allows?

Matt Prestegaard - I was going to suggest that. We would allow breweries in MX-3 and cap it at 5,000. If you want to go over 5,000 then we would require a CUP.

Kevin Haley - I would be fine with that.

Susan Lindoo - Can you still sell other liquor if you stop being a brew pub?

Mr. Lehrke - No. The only difference is whether or not we sell other people's products. The only difference would be that we could only sell our beer.

Matt Prestegaard - Our question is a production and volume question.

Ms. Buss - If that's agreeable to you guys, we can bring back a draft ordinance that permits a brew pub without a CUP and allows a craft brewery up to 5,000 barrels and requires a CUP above 5,000 barrels.

Kevin Haley - I think we're on the right track. Even at 10,000 barrels, there aren't that many trucks.

Ms. Buss - I think you need to imagine that there could be three or four of these on the same street. I've really looked into this and called planners. The cities that are expanding the use and encouraging it are doing so in purely commercial or industrial districts. People are comfortable with that. When it gets to a mixed-use or next to residential, people start having concerns, especially if there's outdoor related use.

Matt Prestegaard - Was there reaction to what I threw out there and have we heard everything you wanted to say?

Mr. Lehrke - I think we would like a little higher number and maybe we can bring you some documentation. 5,000 is not a small amount of beer, it's helpful. I did want to bring up something else, the ordinance you passed as a provision that says brew pubs aren't allowed to sell to other bars and liquor stores. That's being talked about

at the State level. If our beer is popular and we want to sell it to someone else, do you have a concern? If not, the ordinance would need to be changed.

Chairperson Lund - You'd prefer that we reference the State regulation?

Mr. Lehrke - Yes.

Ms. Buss - We can't be more liberal to the State but we can reference it in the ordinance.

Executive Analyst Eisenbeisz - Just to clarify, there are two definitions for breweries. There's a craft brewery that allows less than 20,000 barrels and there's a micro brewery that allows less than 1,000,000 barrels.

Matt Prestegaard - I assume that we're talking about craft.

Kevin Haley - I don't see us getting into a micro brewery.

Audience Member - Can you state how many trucks come in now?

Mr. Lehrke - We probably have six or seven different vendors. If we were brewing, you would see less traffic.

Executive Analyst Eisenbeisz - Sherri will bring something forward so we'll have a public hearing next meeting.

5. COMMISSION AND STAFF REPORTS

Executive Analyst Eisenbeisz - Pioneer Day was a really good day, the weather held out. We sold out of all 600 buttons and have a number of prizes that haven't been claimed so if you still have your button check the website to see if your number won.

6. NEW BUSINESS

Susan Lindoo - I'll announce the new flood markers for the Grove Street Overlook. We still had money left over from the mosaic project so we're making two flood markers that will show the high flood years and will be a giant ruler so staff can see how high the water is. We had some of the Newport kids help with tiles.

Kevin Haley - I was just down there, it's beautiful and the mural shows nicely.

Susan Lindoo - It's a beautiful piece and some volunteers clean it every year.

Kevin Haley - That is where the fence will be? I was down there last night and it's a five foot drop to the rocks, I understand the concern.

Chairperson Lund - There's no legal requirement to put up a fence over a cliff but there's a concrete wall that someone built.

Susan Lindoo - Should there be a fence at the other ones?

Chairperson Lund - The fishing pier is a slow grade and the other one has a wall. The Grove Street Overlook is unique because it has a drop-off. There was some discussion at the City Council meeting about making a fence that people can't climb on, I don't think that's the City's responsibility. The City's responsibility is to put up a fence, if someone climbs over it that's their fault. To the extent possible, it would be nice if it were closer to like the edge of a fishing pier.

Susan Lindoo - If we had the money, it would be cool to reconstruct the WPA walls.

7. ANNOUNCEMENTS

Chairperson Lund - The next Planning Commission meeting will be September 11.

8. ADJOURNMENT

**Motion by Lindoo, seconded by Prestegaard, to adjourn the Planning Commission Meeting at 7:23 P.M.
With 5 Ayes, 0 Nays, the motion carried.**

Signed: _____
Dan Lund, Chairperson

Respectfully submitted,

Renee Eisenbeisz
Executive Analyst