



**City of Newport
Planning Commission Minutes
December 8, 2011**

1. CALL TO ORDER

Chairperson McElwee-Stevens called the meeting to order at 7:00 P.M.

2. ROLL CALL -

Commissioners present – Katy McElwee-Stevens, Susan Lindoo, Janice Anderson, Daniel Flood

Commissioners absent – David Engfer

Also present – Brian Anderson, City Administrator; Renee Helm, Executive Analyst; Tom Ingemann, Council Liaison; Sherri Buss, TKDA Planner

3. APPROVAL OF PLANNING COMMISSION MINUTES

A. Planning Commission Minutes of November 10, 2011

Janice Anderson – There is one amendment on number eight on the third page. The adjournment I believe would have been with four ayes, zero nays and one absent.

Motion by Anderson, seconded by Flood, to adopt the November 10, 2011 minutes as amended. With 4 Ayes, 0 Nays, 1 Absent, the motion carried.

4. APPOINTMENTS WITH COMMISSION

A. Public Hearing – To consider an application from Bruce Timm of Mastertech Auto and Tire for a Conditional Use Permit for property located at 1206 Hastings Avenue.

Admin. Anderson – The property that is in question is located at 1206 Hastings Avenue and is the old Holiday Station. As you can see, the brick is in good condition and the windows have been removed and boarded up. Mr. Timm is looking for a Conditional Use Permit so that he can operate a mechanic shop. Please note that parking is not allowed on the south side and that the topography is a bit uneven. Mr. Timm is proposing to place pillars on the corners and stucco on top. The four bays will be on the north end of the building so that you won't be able to see them as you drive by. Sherri Buss from TKDA will present on the Conditional Use Permit. Mr. Timm is also here tonight.

Ms. Buss presented on this item as outlined in the December 8, 2011 Planning Commission Packet. We have not seen a lighting, landscaping, or utilities plan yet, which we will need to see before finalizing. The landscaping plan will need to show where they will be placing the trees and the species. Generally, these plans can be approved by staff and therefore don't need to come back to the Planning Commission for final approval.

Chairperson McElwee-Stevens opened the Public Hearing at 7:17 P.M.

Daniel Flood – Brian, do you know if they really want to limit the hours from Monday through Friday?

Sherri Buss – That's what Mr. Timm told me directly but you can ask him if he would like to adjust that.

Daniel Flood – I don't have a problem with it if that's what he wants but I don't want to limit them if they would like the option to work on a Saturday. I don't think them working on a Saturday would be an issue.

Admin. Anderson – We have standard hours in our code correct?

Sherri Buss – I think you do and I think that would be a question to Mr. Timm. Would you like that flexibility?

Mr. Timm – Yea that would be fine.

Sherri Buss – We could change the condition then to include Saturday.

Susan Lindoo – Is there anything about like 9:00 on Saturdays. I'm just thinking about the location and the neighbors. Is there anything in the code about how early you can start on Saturdays?

Sherri Buss – Even for construction, 7:00 is normal for Saturday. It's up to you guys if you want to recommend 9:00.

Admin. Anderson – All of the work will be done inside so you wouldn't hear a lot of the noise.

Janice Anderson – Even in the information provided by Sherri, it doesn't look like there's a noise pollution issue.

Sherri Buss – So we'll change the time on #17 to 7 a.m. to 5:30 p.m., Monday through Saturday.

Daniel Flood – One other thing, is there a possibility that we could require less than four trees on the front? I'm concerned that once the four trees grow they would block the business from Hastings Avenue. I think some nice shrubs and smaller trees would be very nice.

Susan Lindoo – If they're deciduous trees, I think you'll be able to see the building quite well. When I was driving by it, it looked like it could support four trees.

Sherri Buss – Your code states every 50 feet.

Daniel Flood – And what's the length of the property?

Sherri Buss - 190 feet. Your code does not exclude the driveway from the requirement.

Daniel Flood – So now you're sticking trees too close together and they will grow into each other and the City will have to pick up the cost for landscaping. There is a nice option for a beautiful landscaping plan and I would like to recommend it.

Sherri Buss - It would require a variance from your Codes' requirement.

Susan Lindoo - Isn't that something that Mr. Timm would bring forward?

Sherri Buss – Yes.

Susan Lindoo – I think it depends on the selection of trees because not all will grow so large.

Sherri Buss – Yes, you could certainly use smaller trees. 30 foot spacing is standard and we're recommending 50.

Admin. Anderson – We'll probably be looking at smaller trees so as not to cover the sign.

Sherri Buss – We can recommend smaller trees as well. You've also established this requirement because you wanted to make Hastings Avenue a little more pedestrian friendly and a traditional downtown, which street trees are a part of.

Janice Anderson – But the option of trees would be chosen by the applicant?

Sherrri Buss – Yes, but we could make some recommendations.

Bruce Timm, 533 Geneva Avenue North, Oakdale, MN – I wanted to address the driveway issues in regards to reducing the size. I'm not sure how we would really do that. Is there a way we could leave the driveways the length that they are? We would fix the curb.

Sherrri Buss – That is up to the Engineer.

Admin. Anderson – What we can do is have the Planning Commission make a recommendation tonight and talk with the Engineer before the City Council meeting next week regarding it. We can put the final recommendation before the City Council.

Janice Anderson – How will the current south parking spots be landscaped? It is wide open right now and a natural spot to park.

Admin. Anderson – I think we could probably just stripe it with “No Parking” signs.

Councilman Ingemann – Could he park his tow truck sideways in that spot? It would take care of the no parking for everyone else and it would keep the tow truck out of the way.

Chairperson McElwee-Stevens – Would that work with the ordinances?

Sherrri Buss – Yes I think so. You should check it with the Engineer.

Motion by Flood, seconded by Anderson to approve Resolution No. P.C. 2011-10 as amended, recommending the Newport City Council Approve a Conditional Use Permit Request by Bruce Timm, 533 Geneva Avenue North, Oakdale, MN 55128, for Property Located at 1206 Hastings Avenue, Newport, MN 55055.

Chairperson McElwee-Stevens closed the Public Hearing at 7:33 P.M.

B. Discuss a Proposal from Veolia Environmental Services to Install an Above Ground Storage Tank

Sherrri Buss presented on this item as outlined in the December 8, 2011 Planning Commission Packet. Ms. Buss handed out information regarding Plymouth's Code, a copy of which is included in the official minutes.

Jeff Ellerd, Regional Engineer, Veolia Environmental Services, was present to discuss Veolia's request. Mr. Ellerd informed the Commission that Veolia is currently contracting with a company for a truck to come to Veolia's address to fill the trucks with fuel and this is costing too much money. As such, Veolia is proposing the installation of an above ground storage tank. Veolia believes that this is allowable per their CUP. Mr. Ellerd compared the 10,000 gallon above ground storage tank to below ground tanks at gas stations.

Daniel Flood – How much fuel do you go through a week?

Mr. Ellerd – About 800 gallons a day, so about 4,000 – 5,000 a week.

Daniel Flood – If we were to say go ahead, what kind of safety features would you install?

Mr. Ellerd – We have all of those specs. Basically, it has a lockout on it and you need either a code or key pass. It would be inside our gate and would be programmed so that it can only operate during certain hours. We would need to comply with State Code for all the fire safety issues. There will be secondary containment for it as well.

Susan Lindoo – Are you suggesting that you would be willing to put it underground when you talked about the underground tanks at Super America?

Mr. Ellerd – Veolia has made a decision that it is not in the environment’s best interest to install underground tanks. You cannot see if underground tanks are leaking or if there is an issue.

Daniel Flood – As far as the Fire Department is concerned, what is the difference between safety of a 10,000 gallon above ground fuel tank and a 500 pound above ground propane tank?

Councilman Ingemann – Propane is a vapor and is not as close to the ground. If the fuel tank leaks it will be on the ground and will soak into it, which causes a pollution problem. It’s also a concern with the houses right next to it because if it does leak it could cause an explosion. The other locations he was talking about such as the Super America and BP have underground fuel tanks because that is an acceptable use.

Susan Lindoo – Is that why they are only allowed in Industrial Districts then? Because there would be an explosion still but they wouldn’t be near a residential district.

Ms. Buss – That’s in general. They’re usually only allowed in Industrial Districts and even then there’s a large setback.

Mr. Ellerd – I would ask then is Super America a non-conforming use with the propane storage tank? Propane is more dangerous than diesel in regards to an explosion hazard.

Ms. Buss – I would have to go with Tom’s sense because I’m not a technical expert on it. I looked really hard to find a code that did it differently but couldn’t. For the most part it’s allowed as a primary or accessory use in Industrial Districts or purely Commercial Districts. Additionally, almost every code allows gas stations to have below ground tanks and an above ground propane tank with a Conditional Use Permit. Several cities do it the same way you do and my sense is it’s like that because of the safety concern.

Susan Lindoo – I would like to see how big the Super America propane tank is. Do we have any information on that?

Ms. Buss – You would need to look at the CUP for it. There would be some requirements regarding setbacks and protection. It’s up to you to decide if you think this is similar to a gas station use. I’ve just found that generally cities don’t think of it that way.

Mr. Ellerd – I disagree with the premise that this is a new use to the property because it’s not. We’re already fueling trucks on the property daily. We’re proposing to have a truck come in every two weeks to fill the tank. This isn’t bulk storage or distribution, that’s what’s down the road at the tank farm. This is for consumption not distribution.

Ms. Buss – It’s up to you to decide what this is close to. The staff analysis was that in terms of the definitions this is a different use from an underground storage tank. It might be good to clarify it the way Cottage Grove has done in their ordinance. Staff’s interpretation of it is that it’s most similar to the above ground storage use and for that reason it would be a new use.

Katy McElwee-Stevens – Brian, what is it that you’re looking for from us in regards to this? Are we to make a decision and then you’ll move it to the Council?

Admin. Anderson – Yes. I wanted to see how you saw it.

Ms. Buss – It really is a recommendation. What your code says is that it’s up to the Planning Commission to make a recommendation to the Council about how you see this use.

Ms. Ellerd – One path I could see on this is that if you say this is not a new use we could be allowed to do this as a non-conforming use and it wouldn’t affect the rest of the code.

Ms. Buss – That is not true. If they allow this as an accessory use in this district they would be allowing it for anybody.

Daniel Flood – That's not necessarily true either. When we were discussing PUD's and other zoning ordinances you had stated to me that we're allowed to pick and choose those types of options as a Planning Commission and City Council. You also mentioned that when you're changing the ordinance and doing things for other people you can pick and choose. We can go back to the meeting notes and look for that discussion.

Ms. Buss – I would be happy to do that because this is not what I meant in any of those comments. In a PUD you have a lot of flexibility in regards to what recommendations you make and whether or not you approve a PUD. In this case, if we say this is an accessory use allowed for you guys, you're saying that this is an accessory use allowed in this district.

Daniel Flood – I would say it's a primary use.

Ms. Buss – No, the primary use is the building and the use that they're doing as a business.

Daniel Flood – I misunderstood the primary and secondary use then. If they're running a fleet of trucks, wouldn't that be the primary use?

Ms. Buss – We would have to look at their CUP.

Susan Lindoo – Wouldn't the primary use have gone in twenty years ago? Veolia became legal, non-conforming when this district became a new zone and if we allow them to add an accessory use then we would need to add it to the rest of the district correct?

Ms. Buss – Yes.

Mr. Ellerd – What about when you talk about expanding a legal non-conforming use?

Ms. Buss – That would mean of the existing use on the property. So if you wanted to expand your building and keep doing the same thing, which would be an expansion. When your use was originally proposed you did not include storing fuel on the property so it is considered a new use. Storing fuel is defined as a use in the code.

Mr. Ellerd – Where? It's not defined in the code.

Ms. Buss – So what their job is to say if the accessory use that you're proposing is similar to what is defined in the code or if it's different.

Mr. Ellerd – It's much more similar to a gas station than it is to a petroleum tank farm.

Susan Lindoo – But it's not underground. I understand the logic in regards to the leakage issue but I also see that having 10,000 gallons of fuel in a residential area is an issue. It would make more sense if it were a commercial district. The problem is that this area became something different eleven years ago when the comp plan changed.

Mr. Ellerd – If I were an auto repair shop, I would have an above ground tank for used oil.

Ms. Buss – If it was allowed as your CUP.

Dave Schneider, Regional Manager, Veolia Environmental Services – Is the concern more aesthetics or safety?

Ms. Buss – It's safety.

Mr. Schneider – I think we just handled what could be more dangerous in regards to propane or diesel fuel. The concerns that I'm hearing is the aesthetics and what the property would look like.

Susan Lindoo – No, for me, the issue is safety and it being mixed-use.

Mr. Schneider – I think you would have a lot more exposure with the propane tank than with something that's offset on a large parcel.

Susan Lindoo – If we were to give permission to you it would then go with everyone in that district.

Ms. Buss – Correct, there's no way that we can allow it for you without allowing it for everyone.

Mr. Schneider – Is there a way you can add restrictions to it?

Susan Lindoo – Would we have to add the restrictions with every CUP?

Ms. Buss – You could do a couple things. You could write it right in your code to require certain restrictions. Or you could write it into CUP's.

Councilman Ingemann – What if they were to have a semi-truck pull in behind their building with fuel and park there for a week and then have it replaced every week because that's not above ground storage?

Ms. Buss – We would have to look at your code to see what's allowed for truck storage/parking.

Susan Lindoo – It seems that if this were allowed we would need size limits and a lot of conditions to make it work with residential.

Janice Anderson – What are the setbacks?

Ms. Buss – It would be the same for any structure so it would be 10-20 feet. If we were to allow this then we would have to set additional requirements.

Mr. Schneider – I understand your concern with not wanting to open it up to everyone but I think we're probably the largest land area there and you could add conditions for that. Our ultimate goal is to stay in Newport and keep our employees here. Paying what we're paying, it's difficult to stay here.

Daniel Flood – I think one of the things we should look at is if we're willing to entertain the idea then we need to look to see what we can do to satisfy all the needs and safety and help your company thrive in Newport.

Ms. Buss – You would need to change the code then.

Daniel Flood – Instead of saying no and turning you away, I would like you to work with staff to see if we can make it work. I'm not promising anything though.

Mr. Ellerd – Is there a way to do it as an interim use?

Admin. Anderson – I think that would be the wrong way to handle this. It's giving them false hope and they would be back in three years when it's over. I'm working with other properties along there as well where there is an old property and old business that has gotten rezoned. I believe 10,000 gallons qualifies as bulk storage and this shouldn't be allowed, especially next to residential. If the Planning Commission or Council wants to go backwards from all the talk I've been hearing lately and let everyone put in above ground storage tanks. We're trying to go the other way. We can certainly look at it to see if there's another way.

Susan Lindoo – Maybe there is a way of sitting down and seeing if there's another way. I do agree with Dan that the answer is no right now.

Admin. Anderson – I hate to be sneaky about it too. I think the one way is underground but they're not willing to do it but we could talk about it.

Chairperson McElwee-Stevens – Are they on a CUP now?

Janice Anderson – No, they're a legal non-conforming business.

Ms. Buss – I would assume that they have a CUP but we would have to look.

Chairperson McElwee-Stevens – I would like to see if there is a chance that there is something already written before we go any further with this.

Ms. Buss – I would guess that this use was only ever allowed in the Industrial Districts.

Janice Anderson – I think the thing here is that we don't want to say no.

Chairperson McElwee-Stevens – Well I don't like to say no but I don't have enough information to make a decision tonight.

Janice Anderson – Sherri has given us the background and I think we can go with that.

Susan Lindoo – I think it's unlikely that the CUP would be changed.

Ms. Buss – I would be surprised if this use was allowed in anything but an Industrial District.

Mr. Schneider – How soon do you think we can resolve this?

Ms. Buss – What they would need to do is make a recommendation to the Council that the City sit down and talk with you. The Council would need to approve it because it costs money and the Planning Commission is not a decision-making body.

Daniel Flood – I would like to recommend to the Council that the staff take a further look to see what can be done.

Susan Lindoo – So our recommendation would be that it doesn't work right now but they could consider asking staff to see if there's another way it can be met?

Janice Anderson – Would underground be permitted?

Ms. Buss – With an additional permit.

Janice Anderson – I would second Dan's recommendation.

Chairperson McElwee-Stevens – I'm not opposed to that either.

Susan Lindoo – I can't see it as an accessory use but I support what else had been said.

Janice Anderson – So what we're doing is softening the no?

Daniel Flood – Well I think we're opening a dialogue with a business that is employing people and spending money in Newport. Right now the rules say no but we're willing to open a dialogue to see if it can be done.

Chairperson McElwee-Stevens – Just so we're clear on where we stand now, you all are no correct?

Daniel Flood - Yes

Janice Anderson - Yes

Susan Lindoo - Yes

Chairperson McElwee-Stevens – And I'm a no. So our recommendation is that as it stands now, we're all a no but we would like to see if there's other ways to resolve it.

C. Discuss the Red Rock Gateway Implementation Study – Draft Map and Zoning Ordinance

Motion by Flood, seconded by Lindoo to table this discussion until January 12, 2012. With 4 Ayes, 0 Nays, 1 Absent, the motion carried.

5. COMMISSION AND STAFF REPORTS

Admin. Anderson – The City is working with a consultant and sent in grant applications to DEED and Met Council for the Knauff property behind City Hall for Phase II. Phase II determines the level of contamination and how much clean up is going to cost. One can cover 75% and the other can cover 12% of the remaining 25%. We're looking at senior housing for that property. We should hear in January. I've been working with the realtor on it.

I have a meeting next week regarding the Dahline property located at Glen Road and 7th Avenue regarding future development at that site.

We're still working on the Façade Improvement Program that was approved at the EDA. Mr. Timm should be approved for some money from it. I also sent a letter to the owner of the BP station regarding the property and cleaning it up.

There are interviews on December 15 for three firms for the design of the Transit Station.

Backwoods Archery recently went out of business. Advanced Sportswear will be opening up in that spot in early 2012.

The City will be taking over the library in 2012 so the City is looking to hire an individual to work there part-time. For the most part, this will be separate from the Washington County Library system.

Lastly, staff is working with St. Paul Tire which is located on 7th Avenue. The owner will be working to improve the property by June 30, 2012.

Chairperson McElwee-Stevens – I wanted to remind residents that the Holiday Train is on Sunday, December 11 at 5:30 p.m. at the Youth Services Bureau in Cottage Grove. Residents can get information on the City's website. The Fire Department is also taking donations through December 20.

6. NEW BUSINESS

No new business

7. ANNOUNCEMENTS

City Council Meeting	January 5, 2012	5:30 p.m.
Planning Commission Meeting	January 12, 2012	7:00 p.m.

Chairperson McElwee-Stevens – I would like to thank Dave Engfer for his service to the City of Newport as his term is up on December 31, 2011. I would also like to thank Susan Lindoo who is up for reappointment. Finally, I would like to thank Dan Flood who is resigning from the Planning Commission.

Daniel Flood – Tonight I am announcing my resignation from the Planning Commission. I would like to thank the citizens of Newport for the opportunity to serve you and the City Council. I have decided to run for US Congress here in the 4th Congressional District and feel that it is in the City’s best interest to have Commission members who can focus their time and efforts in the City. Newport has many wonderful opportunities for development coming our way and it is imperative that the Commission members have the ability to be fully engaged in this process. As the New Year is approaching and three positions are open for appointment or reappointment I urge the City Council members to take this Commission seriously. The Council must appoint citizen leaders who will work hard to form a vision for the City of Newport to lead us into greater prosperity in the future. I fully support the City Council, Planning Commission, and City staff and will work with all as needed during this transition. Again I would like to thank the citizens of Newport for this opportunity to serve you.

8. ADJOURNMENT

Motion by Lindoo, seconded by Flood, to adjourn the Planning Commission Meeting at 8:53 P.M. With 4 Ayes, 0 Nays, 1 Absent, the motion carried.

Signed: _____
Katy McElwee-Stevens, Chairperson

Respectfully submitted,

Renee Helm
Executive Analyst