



**CITY OF NEWPORT  
PLANNING COMMISSION MEETING  
NEWPORT CITY HALL  
FEBRUARY 13, 2014 – 6:00 P.M.**

Chairperson:	Dan Lund	City Administrator:	Deb Hill
Vice-Chair:	Matt Prestegaard	Executive Analyst:	Renee Helm
Commissioner:	Susan Lindoo	Council Liaison:	Tom Ingemann
Commissioner:	Anthony Mahmood		
Commissioner:	Kevin Haley		

**AGENDA**

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. NOMINATION and APPOINTMENT OF CHAIRPERSON AND VICE-CHAIRPERSON FOR 2014**
- 4. APPROVAL OF PLANNING COMMISSION MINUTES**
  - A. Planning Commission Minutes of December 12, 2013
- 5. APPOINTMENTS WITH COMMISSION**
  - A. Discussion Regarding Breweries
- 6. COMMISSION & STAFF REPORTS**
- 7. NEW BUSINESS**
- 8. ANNOUNCEMENTS**
  - A. Upcoming Meetings and Events:
    1. City Offices Closed for Presidents' Day February 17, 2014
    2. City Council Meeting February 20, 2014 5:30 p.m.
    3. City Council Meeting March 6, 2014 5:30 p.m.
    4. Planning Commission Meeting March 13, 2014 6:00 p.m.
- 9. ADJOURNMENT**



**City of Newport  
Planning Commission Minutes  
December 12, 2013**

**1. CALL TO ORDER**

Chairperson Lund called the meeting to order at 6:00 P.M.

**2. ROLL CALL -**

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

Commissioners absent –

Also present – Deb Hill, 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 14, 2013**

**Chairperson Lund** - I had a couple items. On page three, aloud is spelled "a-l-o-u-d" instead of "a-l-l-o-w-e-d." Also, on page seven, the second paragraph, I don't recall my words exactly but the sentence that says "I know the County spent \$9 million last year to subsidize it because it's cheaper," I don't really know what that means but it wasn't what I intended so if we just removed "because it's cheaper" that would be fine.

**Susan Lindoo** - I had one thing on page eight. The fifth one up from the bottom, Chairperson Lund, I think it's supposed to be "r-a-z-i-n-g." I was also going to ask Sherri about the smells. You were going to ask Barb Dacy about whether the PCA could monitor the garbage plant.

**Ms. Buss** - We followed up with the County Health Department on that. They said that they receive about one complaint per year on that facility. They always follow up on it and take the person to the facility to see if they can smell the same smell and they have found that it's not that facility, it's the facilities in South St. Paul.

**Susan Lindoo** - Is that a rendering plant?

**Ms. Buss** - There's a rendering plant and one other, like a tannery. There are two things in South St. Paul that the City is trying to work on but they are long historic businesses. Because people see the recycling plant they think that's it but it's not. The County will be doing a study of that facility next year to determine if the County should still be using that method, something different, or changing the building. Any complaint they have received so far has not been them, it's the South St. Paul facilities.

**Susan Lindoo** - That's good to know, thank you.

**Janice Anderson** - We're approving the minutes, not discussing.

**Susan Lindoo** - No but I wanted to ask her while we're on it, I apologize for that.

**Chairperson Lund** - Thank you Sherri, I appreciate the update.

**Ms. Buss** - Yes, it was a big issue for the transit station because of the comments from the County Commissioner so we wanted to get that information to the Mayor to say something back about those comments.

**Motion by Prestegaard, seconded by Mahmood, to approve the November 14, 2013 minutes as amended. With 5 Ayes, 0 Nays, the motion carried.**

#### **4. APPOINTMENTS WITH COMMISSION**

##### **A. Public Hearing – To consider an application from Gary Banaszewski for Approval of a Variance for Property Located at 1970 8th Avenue**

Sherrri Buss, TKDA Planner, presented on this item as outlined in the December 12, 2013 Planning Commission Packet.

**Vice-Chair Prestegaard** - I had one question. It seems the variance is for 13 feet and I'm a little curious how the two inches per step adds up to 13 feet.

**Ms. Buss** - They're also extending the entry way out a bit, it's not just the stairway. I'm basing it on their architect's drawing, I haven't actually drawn it out.

**Susan Lindoo** - I had a question about the lot coverage. I was trying to figure it out and the numbers weren't adding up. The lot is 10,455 square feet and the house is 793 square feet and I figured that was about 7% of the lot, so I was wondering what the other 30% was.

**Ms. Buss** - Deck, garage, and driveway.

**Susan Lindoo** - The deck doesn't count because it's not a covered room?

**Ms. Buss** - No it does count.

**Susan Lindoo** - But it's not part of the 793 square feet?

**Ms. Buss** - No and it's actually 973 square feet, I may have inverted some numbers.

**The Public Hearing opened at 6:12 p.m.**

**Gary Banaszewski, 1970 8th Avenue** - There was a question as to the size of the house and the house is 1,020 square feet. I have a document showing that today. There were three different dimensions and according to the survey it's 1,020.

**Susan Lindoo** - And that doesn't include the deck?

**Mr. Banaszewski** - No.

**Ms. Buss** - The footprint of the actual house.

**Susan Lindoo** - And that's pretty close to the 973.

**Ms. Buss** - Can you submit a copy of that to the City?

**Chairperson Lund** - Is that the same that's in our packet?

**Mr. Banaszewski** - It's the same except it actually gives the square footage of the house.

**Ms. Buss** - They didn't give us any of the dimensions so I called the architect and he said it was 973 square feet so it's helpful that they fixed that.

**Susan Lindoo** - And that proposed garage has already been built?

**Ms. Buss** - It's partly built.

**Chairperson Lund** - Part of your construction plans are to replace the garage but you don't require a variance for that?

**Ms. Buss** - That's to be determined but we can't discuss that tonight.

**Chairperson Lund** - We can't even mention it?

**Ms. Buss** - No, they started building the garage and we determined today that it was too tall and so they have stopped construction and have a couple options but he needs time to think about it and we don't have enough information to talk about it tonight.

**Chairperson Lund** - It's just good to have context to the issue in front of us.

**Vice-Chair Prestegaard** - Do you mind talking about the extension to the entryway and what you're doing there?

**Mr. Banaszewski** - The steps were between the kitchen and living room, they took that out and restructured all the beams underneath the kitchen. The steps right now are 11 steps, 84 inches long at five feet six inches high. It should be 110 inches, so it's 26 inches too short. The treads are under eight inches wide and the State Code requires 10 inches, so I need to extend it 26 inches past where it is now and that puts me into a brick wall. I would have to structurally change the beam which is a total structure replacement which is more than we can do because we're putting in new siding and windows.

**Councilman Ingemann** - The plumbing is not affected at all by this.

**Mr. Banaszewski** - No, it's not.

**Councilman Ingemann** - So the statement in there about the plumbing is incorrect. I lived at 1949 Barry Drive and the floor plans are the same for all of the houses. The original way the house was built was you walked into the backdoor and the stairs went straight down. What he has now is that the stairs go alongside the house. If he were to put the stairs out so far with the correct Code, put a landing and continue the other way, he won't need an extension. All of the plumbing is along the back of the house. The original house had wood beams going down the center of the house and they were 16 inches. So what's happened is whoever had the house before you put the stairs the short way and put a railing in. If you were to keep it going that way with a landing you can still get into the basement.

**Chairperson Lund** - So your point is that you could take out some of the living room and have the stairs make a 90 degree turn.

**Councilman Ingemann** - No, you can leave it the way it is because this is a closet.

**Janice Anderson** - Where are the stairs coming from?

**Councilman Ingemann** - They're going down.

**Chairperson Lund** - From the kitchen?

**Janice Anderson** - From the living room. What do the stairs go into downstairs?

**Mr. Banaszewski** - A rec room, it's a big opening. I would take out some more headers and the closet. The stairs right now, the trusses are five feet six inches so I need to duck down.

**Susan Lindoo** - Where would the opening to the stairs be with what you're proposing? Would it be towards the wall of the house? Tom, could you point on the paper where the opening is?

**Councilman Ingemann** - The opening is by the back door.

**Susan Lindoo** - What it would be on the proposed way?

**Councilman Ingemann** - If he were to change it and have the stairs going the other way he would still have the short distance problem. Underneath are the main beams and wooden trusses.

**Susan Lindoo** - The idea is that it would come out in the entryway now right?

**Mr. Banaszewski** - When you walk into the front door, the steps would go down to the basement and there would be two steps into the living room. It would not interfere with the structure of the house.

**Chairperson Lund** - So how does it create more space if you're not cutting joists?

**Mr. Banaszewski** - The stair goes away and I can make the living room full again.

**Chairperson Lund** - So you're putting the stairs in the entryway completely?

**Mr. Banaszewski** - Yes.

**Ms. Buss** - So I think the critical question for us is whether or not there's an alternative to what he's proposing.

**Vice-Chair Prestegaard** - Tom's asserting that the landing is one alternative.

**Ms. Buss** - Have you discussed a landing with your architect?

**Mr. Banaszewski** - We drew it that way but the height of the studs would need to be removed and they would need to pre-fab a beam to go from one wall to another and it would need to support the house.

**Janice Anderson** - So that's a structural change.

**Ms. Buss** - That's a major change to the structure. So the critical issue in terms of the variance is whether or not there's a reasonable way for him to do this without a variance. Structurally, it's possible to do it the way that Tom is suggesting but you're saying that it's a high cost?

**Mr. Banaszewski** - Yes. We're investing a lot of money into it with new siding, roof, windows and a fireplace. I don't plan on moving and want to make it comfortable for us.

**Ms. Buss** - I think that's the question for you guys, is he asking for something reasonable.

**Susan Lindoo** - The house now is 30 feet back so you would be bringing the entryway out 13 feet?

**Ms. Buss** - That includes the stairway. We need to count the front entry stair as part of the structure.

**Mr. Banaszewski** - The living room will be above grade so that water doesn't go in.

**Susan Lindoo** - Personally, I'm less bothered by it sticking out from the house than I am from the increased lot coverage because all of the years that I've been on the Planning Commission one of the recurring issues is flooding because there is no place for the water to go to. I'm not sure it will destroy the symmetry of the street. Obviously you've been stuck with something that a former owner did wrong and you're trying to remedy that and I certainly have a lot of sympathy with that.

**Vice-Chair Prestegaard** - It is nice to see that you're making home improvements and generally I would be supportive of that. I would be interested to know if a 90 degree turn would be viable.

**Councilman Ingemann** - He has a short distance going down, if you're short you'll be able to make the turn but if you're taller than five feet you'll hit your head. The 90 degree turn is not good.

**Ms. Buss** - So it's not a good option?

**Councilman Ingemann** - No.

**Anthony Mahmood** - I have the exact same setup you do and I have to do the same thing moving things downstairs. I drove by your house tonight and I don't see an issue.

**Councilman Ingemann** - I'm looking at the drawing and don't think the entryway will be obtrusive and stick out.

**Mr. Banaszewski** - The plan is to match the roof line with the existing roof line.

**Ms. Buss** - I do think there's a priority about meeting State Code.

**Susan Lindoo** - I would ask if there are other ways to reduce the lot coverage. If the garage hasn't been fully built maybe that can be smaller. I have a lot of concern about lot coverage because of the flooding and maintenance issues that we keep hearing about.

**Mr. Banaszewski** - The garage is structurally built. There's a problem with the height and square footage. With the addition, the house will be bigger than the garage. I've been talking with my architect and contractor to get some drawings to shorten the garage. It's going to be rather expensive.

**Ms. Buss** - I asked John about whether we should be concerned about the 100 square feet. The basic issue about lot coverage already exists so we can't do anything about that and John's feeling is that there's nothing practical we can do for this little space.

**Susan Lindoo** - I think I know that, I'm just going on record that I think lot coverage is a real issue because over the years, the biggest issues we get is flooding problems. Aesthetically, I don't see a problem with it.

**Janice Anderson** - The extension comes toward the street ten feet more and it's only seven and a half feet wide, I would rather see it ten feet wide and seven and a half feet forward.

**Ms. Buss** - That doesn't give him enough space for the stairway and a decent entryway.

**Mr. Banaszewski** - It takes away from the picture window.

**Janice Anderson** - So those extra three feet are not available because of the window?

**Mr. Banaszewski** - Yes.

**Chairperson Lund** - I like the design, I think it's reasonable given the current floor plan. At the end of the day you're trading living room space for an entryway because you're going to recapture the stairway space and make that part of your living room. That said, I don't know that it meets the legal justification for a variance.

**Ms. Buss** - It does if there's not another way to do it. If we're making this fit the Code it definitely meets the rationale.

**Councilman Ingemann** - The only other way is to make it go back to the original way which is a major construction.

**Chairperson Lund** - Or take up more of the living room. Is that enough for the variance?

**Ms. Buss** - We don't make people wreck their houses or ruin the values of their homes. It's reasonable that this house not lose a lot of value.

**Janice Anderson** - Is there an option to put it on the side of the house?

**Mr. Banaszewski** - I would lose driveway space.

**Chairperson Lund** - Are we approving lot coverage that allows the bigger garage?

**Ms. Buss** - No, you're not doing anything with the garage tonight. You're approving the additional lot coverage for the entryway.

**Chairperson Lund** - If he chops off his deck can he get a bigger garage?

**Ms. Buss** - We're really not getting into that tonight. The garage already exists, the previous garage was above the limit as well.

**Chairperson Lund** - The current garage was already built?

**Ms. Buss** - It's under construction. The previous garage plus driveway plus house was over coverage also. If we get something related to the garage it would be related to the height and the relationship of the size of the garage to the house, it wouldn't be related to the coverage.

**Chairperson Lund** - How would it not be related to coverage if it's bigger than the old garage?

**Ms. Buss** - They were already over the coverage with the old garage. The garage is not an issue tonight it's the coverage for this.

**Chairperson Lund** - Coverage is coverage so let's talk about the garage as it stands now and see if we can approve that and if he brings the height down he won't need to come back.

**Admin. Hill** - We should not.

**Ms. Buss** - We can't talk about that.

**Chairperson Lund** - Because it wasn't part of the public hearing?

**Admin. Hill** - That's right.

**Ms. Buss** - He has not brought an application forward related to the garage so it's not part of the discussion.

**Chairperson Lund** - I'm not willing to have someone tell me what we can talk about but I understand that we can't vote on it. Your point is that it wasn't part of the public hearing, he's only asking for a variance for lot coverage that doesn't include the garage that already exists but includes an entryway that he hasn't built yet and it will still be nonconforming for the lot coverage because this garage does exist but we can't talk about that today?

**Ms. Buss** - Yes, we shouldn't because he hasn't made an application related to it and you don't have any information in front of you, we would just be speculating about it.

**Chairperson Lund** - I don't have any issue with the garage but I like to talk about the world as it exists.

**Janice Anderson** - That whole neighborhood must exceed the lot coverage, so was the present lot coverage ordinance in place?

**Ms. Buss** - We don't know.

**Executive Analyst Helm** - These homes were built in the 60's so there probably wasn't a maximum.

**Chairperson Lund** - If you build this entryway the garage will be smaller than the house?

**Mr. Banaszewski** - Yes.

**Chairperson Lund** - And then we'll have to revisit the lot coverage.

**Ms. Buss** - Depending on what they decide to do.

**Chairperson Lund** - I think that should be part of this current discussion because we generally don't have people tear down their buildings.

**Vice-Chair Prestegaard** - Referring to the garage construction that has already started?

**Janice Anderson** - It's under construction now but it has stopped.

**Chairperson Lund** - So how far is it...

**Ms. Buss** - Honestly, that is not an application that is before you tonight. They need to make a decision, they can reduce the height of the garage and then you won't hear about it at all.

**Chairperson Lund** - They'll need to come back for the lot coverage.

**Ms. Buss** - No.

**Executive Analyst Helm** - That's part of tonight's Resolution.

**Chairperson Lund** - That's what I just asked.

**Ms. Buss** - The garage is not the same size but there was a slab there before so they're not increasing the lot coverage. The issues for the garage is the height and size.

**Chairperson Lund** - That clears it up.

**Vice-Chair Prestegaard** - We understand that John is not suggesting any changes related to drainage so I'm not sure I have any conditions to add so I would move the Resolution.

**The Public Hearing closed at 6:38 p.m.**

**Motion by Prestegaard, seconded by Anderson to approve Resolution No. P.C. 2013-12 as presented recommending that the City Council approves a Variance requested by Gary Banaszewski for property located at 1970 8th Avenue. With 5 Ayes, 0 Nays, the motion carried.**

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

Sherry Buss, TKDA Planner, and Executive Analyst Helm presented on this item as outlined in the December 12, 2013 Planning Commission Packet.

**Chairperson Lund** - Did we make the rear setback the same as the side?

**Ms. Buss** - It's 20 feet.

**Executive Analyst Helm** - It's the same.

**Vice- Chair Prestegaard** - There's a section here about defining adult uses.

**Ms. Buss** - That's something that Renee discovered. We didn't have a definition of that in the Code and we really do need one. She took a look and grabbed one from Woodbury. We're hoping tonight that you'll add that. We're trying to clean the Code as we make these changes. You'll see we also removed 1300.07 that had some things from accessory structures in it and two other items that were covered elsewhere. We moved the items about the accessory structures to Section 1340 and the swimming pool item exists in another chapter.

**Chairperson Lund** - What about the air conditioner?

**Executive Analyst Helm** - That was not addressed anywhere but the setback for some homes is 10 feet so if an air conditioner was placed on the side it would not meet the 20 foot setback.

**Chairperson Lund** - I wonder if that was intentional because they can be so noisy.

**Susan Lindoo** - I wondered about that as well. It looked like it could not be in the front yard and I think that should be kept in however it's rewritten.

**Chairperson Lund** - I think the whole thing should be kept, 20 feet is not very far.

**Ms. Buss** - But houses are allowed to be 10 feet away.

**Chairperson Lund** - But there's no reason they need to be at the corner of the house.

**Susan Lindoo** - Are there any situations where it could be in the front yard?

**Executive Analyst Helm** - No. All residential districts, except for the RE have a 10 foot setback.

**Chairperson Lund** - So a house may be 10 feet from the lot line but you can't put your air conditioner at the corner of your house if it's that close.

**Susan Lindoo** - So it's 10 feet from the side and rear?

**Executive Analyst Helm** - No it's 30 feet from the rear.

**Susan Lindoo** - So they could go in the rear then?

**Executive Analyst Helm** - Yes.

**Chairperson Lund** - 20 feet is not that far. It shouldn't create any structural problems to put it in the back. I don't see any reason to take this out.

**Ms. Buss** - We can put it in the accessory structure section.

**Chairperson Lund** - In regards to the table for accessory structures, if we want to be very precise it should be "2 - less than 5 acres."

**Ms. Buss** - This is the typical way to write it for codes.

**Susan Lindoo** - It does say "4.99."

**Chairperson Lund** - So the intent is anything less than five acres?

**Ms. Buss** - It says "Less than 2 acres, 2 to 4.99 acres, and 5 or more."

**Executive Analyst Helm** - I don't think acres go beyond two digits.

**Chairperson Lund** - What if it's 4.995?

**Ms. Buss** - Surveyors will never do that.

**Vice-Chair Prestegaard** - All we have left is the adult use thing. I don't think I want to personally go into it.

**Ms. Buss** - Overtime there has been so much litigation in this issue that cities need to be very precise.

**Chairperson Lund** - This definition prefers to "specified anatomical areas" and "specified sexual activities," where are they specified?

**Executive Analyst Helm** - I'm not sure.

**Councilman Ingemann** - Back in the 90's I asked for this ordinance. We cannot prevent them from coming here but we can limit where they are allowed.

**Chairperson Lund** - I'm aware of that strategy and I think it's legally appropriate but my question is that the draft refers to these but they're not specified.

**Susan Lindoo** - Would that be the Minnesota Statute?

**Chairperson Lund** - They're saying activities classified as obscene. The Supreme Court has said that governments are allowed to restrict obscene activities so I'm assuming that's what the Minnesota Statute is so that would be different from the specified items. Did the Woodbury code define these?

**Executive Analyst Helm** - I copied it directly from the Woodbury code.

**Ms. Buss** - Why don't you look and see if they have definitions for those or if it's in the Minnesota Statute.

**Susan Lindoo** - Renee could you find a way of defining that clearly?

**Executive Analyst Helm** - Yes.

**Susan Lindoo** - I think it would benefit to look at Woodbury's and use the same language they do.

**Vice-Chair Prestegaard** - So we're feeling good about these changes and just have two things. The first is that we want to move the air conditioner subdivision to the accessory structure section. Secondly, we wanted to clarify what the specified areas are within adult use.

**Ms. Buss** - If you're willing to have Renee look into that and add that without you seeing it again you can move this with that direction.

**Janice Anderson** - I'm fine with that.

**Chairperson Lund** - I think we agree and understand the general strategy that we're trying to be as restrictive as possible without running afoul of what the Supreme Court says we can do.

**Vice-Chair Prestegaard** - So what would we do because I can move the resolution?

**Executive Analyst Helm** - First you need to have the public hearing.

**The Public Hearing opened at 6:56 p.m.**

**The Public Hearing closed at 6:57 p.m.**

**Susan Lindoo** - I have one other item. The maximum building height and feet in the table is 35 feet or 3 stories but in no case higher than 1,000 feet U.S.G.S. sea level elevation. I was just curious how high Newport is, no one would go over that right?

**Councilman Ingemann** - St. Paul is 870 and they're higher than us.

**Chairperson Lund** - Why do we have that?

**Ms. Buss** - It might be something related to the airport zoning.

**Executive Analyst Helm** - To answer Matt's question, you can move the motion and direct staff to move the air conditioning language and look at the "specified anatomical areas" and "specified sexual activities" and add language to the definitions for those and then move it forward to the City Council.

**Chairperson Lund** - Our general instruction is to tag on to what Woodbury did.

**Vice-Chair Prestegaard** - I'll move to approve Resolution No. P.C. 2013-13 with two modifications, one is to move the air conditioning language to the accessory structure section and two is to check with the City of Woodbury to see what they have and add those definitions to the Code in regards to specified areas in adult use.

**Motion by Prestegaard, seconded by Anderson to approve Resolution No. P.C. 2013-13 as amended recommending that the City Council approve a Zoning Amendment to Section 1300 General, Section 1340 Residential Districts, and Section 1350 Non-residential Districts. With 5 Ayes, 0 Nays, the motion carried.**

## **5. COMMISSION AND STAFF REPORTS**

**A. Invitation from the Heritage Preservation Commission to their Annual Meeting on January 8, 2013 at 5:30 p.m.**

Executive Analyst Helm presented on this item as outlined in the December 12, 2013 Planning Commission packet. The HPC invited the Planning Commission to their annual meeting on January 8, 2014 to discuss the Historic Neighborhood Conservation Overlay District.

**Chairperson Lund** - Did you indicate the general skepticism that we need a historic overlay district?

**Executive Analyst Helm** - Sherri indicated that.

## **B. 2014 Vacancy**

**Executive Analyst Helm** - We will have a vacancy in 2014, Janice has elected not to seek reappointment after 14 years on the Planning Commission. We would like to thank her for her service on the Planning Commission, she'll be greatly missed.

**Susan Lindoo** - We're losing a lot of history.

**Executive Analyst Helm** - With that we are advertising for her vacancy. We haven't received any applications yet so if you know of anyone that would like to serve it would be a three year term. Next, I would like to discuss the meeting in January. The next meeting is January 9, 2014, we have not received any applications for planning requests and I think we're still waiting for St. Paul to amend their brewery ordinance so I don't think we'll have any items so if it's okay with the Chair, we can cancel that meeting.

**Susan Lindoo** - If we meet with the HPC it needs to be announced as a joint meeting if more than two of us go so we'd be meeting January 8 instead of January 9.

**Chairperson Lund** - Will that impact what's going on with the Red Rock?

**Executive Analyst Helm** - Not with the brewery, there are a lot of State and Federal regulations that they need to go through and that takes about six months so they're hoping to open that in the summer. Sherri was anticipating that St. Paul would be done by the February meeting.

**Susan Lindoo** - When the City Council approved the Red Rock thing were they safe to approve it when we don't have an ordinance for it yet?

**Executive Analyst Helm** - That was just a liquor license, there'll be a different license for the brewery.

**Chairperson Lund** - There's no option of allowing an on-sale liquor license to allow brewpubs?

**Executive Analyst Helm** - No, there are State regulations that say they need a brewpub license and they need to go through the Federal and State regulations before we can issue one.

**Susan Lindoo** - It looks like HPC wouldn't be ready for us until 6.

**Chairperson Lund** - Back to your original question I don't think there's a need for a meeting if we don't have anything.

**Executive Analyst Helm** - Ok, I'm guessing the HPC meeting would be ready for you around 5:45. Let me know if you're planning on going. We'll cancel the January 9 meeting so the first one will be February 13.

**Chairperson Lund** - I know the park isn't really our domain but has there been any movement on the island park?

**Admin. Hill** - First I was going to mention that the Knox Lumber building is coming down. Nothing has changed in regards to the park since the last time. We do have a pending purchase agreement for the Johnson properties, they surround the mill pond. I know the HPC is interested in one of the homes, it has remnants of one of the oldest log home structures in the State.

**Susan Lindoo** - Would that be flooded? Will the City preserve that structure?

**Admin. Hill** - It wouldn't be flooded and I don't think it'll be preserved in its entirety.

**Susan Lindoo** - What is the City going to do with that land?

**Admin. Hill** - The Council has been looking at this land for several years, it surrounds where the storm drainage goes into the Mississippi.

**Susan Lindoo** - Will it be park land then?

**Councilman Ingemann** - Houses.

**Admin. Hill** - It would be a passive park at best around the mill pond.

**Chairperson Lund** - You're not planning on building?

**Admin. Hill** - There's enough sites to build maybe four houses. There's a house by Steve Marko that would be condemned and torn down.

**Chairperson Lund** - So the City's purpose is redevelopment? I was wondering if it was to add buffer space.

**Susan Lindoo** - Will most of it be redeveloped like a money-making thing for the City?

**Admin. Hill** - We'll probably break even.

**Susan Lindoo** - Why did the City buy it, were there no developers?

**Councilman Ingemann** - To get some stuff moving, right now it's vacant land.

**Susan Lindoo** - But some of it will be part of the park?

**Admin. Hill** - It protects the mill pond, yes.

**Susan Lindoo** - That'll be interesting to ask the HPC about, if they have any plans.

**Admin. Hill** - I've been in contact with Bob Vogel, they've been waiting for about 10 years for it.

**Susan Lindoo** - So it'll be like an archeological site for Vogel?

**Councilman Ingemann** - Pretty much.

**Admin. Hill** - The log structure sounds interesting.

**Susan Lindoo** - Yea, it would be cool to preserve some parts of it.

## **6. NEW BUSINESS**

**7. ANNOUNCEMENTS**

A. Upcoming Meetings and Events:

- |   |                        |           |
|---|------------------------|-----------|
| 1. City Council Meeting                         | December 19, 2013      | 5:30 p.m. |
| 2. City Offices Closed for Christmas<br>Holiday | December 24 - 26, 2013 |           |

**8. ADJOURNMENT**

**Motion by Prestegaard, seconded by Anderson, to adjourn the Planning Commission Meeting at 7:10 P.M.  
With 5 Ayes, 0 Nays, the motion carried.**

Signed: \_\_\_\_\_  
Dan Lund, Chairperson

Respectfully submitted,

Renee Helm  
Executive Analyst



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 Duluth, MN 55802  
 218.724.8578  
 tkda.com

## Memorandum

<b>To:</b>	Newport Planning Commission	<b>Reference:</b>	Draft Ordinance—Craft breweries and related uses
<b>Copies To:</b>	Deb Hill, City Administrator		
	Renee Helm, Executive Assistant		
<b>From:</b>	Sherri Buss, RLA, AICP, Planner	<b>Project No.:</b>	15482.000
<b>Date:</b>	January 20, 2014	<b>Routing:</b>	

### Background

In November, 2013, the Planning Commission discussed the possibility of updating the City’s zoning ordinance to permit craft breweries, brewpubs, and related uses. The Commission reviewed a detailed memo written by Saint Paul’s planners about how that City and others are updating their ordinances to permit and regulate those uses.

Since that time, Saint Paul and other cities such as Excelsior and Eagan have updated their ordinances. Saint Paul raised the production limit for craft-type breweries to 20,000 barrels each year in mixed-use neighborhoods with a Conditional Use Permit (called “Traditional” districts in the St. Paul ordinance) from the old limit of 5,000 barrels annually. The new limit matches the state definition of the size of a microbrewery. Saint Paul planners indicate that if a small brewery is successful, it quickly increases production above 5,000 barrels annually, and small craft breweries producing up to 20,000 gallons per year have had adverse effects on surrounding residential or commercial uses in Saint Paul and other Metro communities. The Planner reviewed the most recent ordinances that other Metro Area communities are using to regulate microbreweries and related uses in developing the draft ordinance, attached.

### Draft Definitions

In order to permit craft breweries and similar uses, Newport will need to add some new definitions to its zoning ordinance. A page of definitions is attached. The definitions are based on state definitions and those used by other Metro Area communities.

The list includes 7 potential new uses for discussion. The Planning Commission should discuss which of the uses should be added to the ordinance.

The Planner added six of the uses to the draft ordinance, but did not include National Brewery on the list. National breweries are typically allowed only in industrial districts. The Commission should discuss whether this use is desirable, given the adjacency of the City’s industrial districts to residential areas, and potential concerns about odors and noise related to this use.

## Draft Changes to the Ordinance Section 1350

The Planner has proposed some changes to the ordinance to incorporate six new brewery-related uses. Proposed changes for discussion at the Planning Commission meeting include the following:

- Brew on premises stores:
  - Permitted in all MX Districts for buildings up to 10,000 square feet (sf) in size. The draft proposes that larger stores be permitted in MX-1, MX-2 and MX-4, consistent with requirements for other retail businesses in those districts.
  - Stores would be limited to a maximum size of 10,000 sf in the MX-3 District, similar to other retail uses. (The size limits were adopted in the ordinance to keep large retail establishments that require large parking lots out of the MX-3 district; and allow retail uses that fit with housing and transit-oriented businesses.)

(Note for comparison: 10,000 square feet is the approximate size of the NAPA store at Hastings & Glen Road)
- Craft breweries, distilleries, and wineries:
  - These small scale breweries, distilleries and wineries, under 10,000 sf, are proposed to be Permitted in the MX-2 and MX-4 districts; larger establishments would require a CUP in those districts to address potential issues related to truck traffic, noise, odors, etc.
  - These uses would require a CUP at any size in the MX-1 and MX-3 district, and would be limited to a maximum size of 10,000 in those districts. The MX-1 is the “Downtown District” which is dominated by smaller-scale retail and office buildings. MX-3 is the Transit-oriented District, and retail and manufacturing uses are limited to smaller size in this district to be compatible with mixed-use buildings and reserve larger sites for transit-related use. The CUP is proposed so that potential impacts can be considered for this use at any size, and conditions applied if needed.
  - Proposed to be permitted in the B-1 and I-1 Districts, but not permitted in the I-2 and I-S Districts as this use does not fit the purpose of those Districts.
- Small brewery or winery as an accessory use to a bar or restaurant:
  - Proposed to be allowed with a CUP in all MX Districts, which is the same as the requirement for restaurants that serve liquor in the MX Districts.
  - Proposed to be permitted in the B-1 and I-1 Districts, but not permitted in the I-2 and I-S Districts as this use does not fit the purpose of those Districts.
- Micro- and regional brewery
  - Proposed to be permitted in the I-1 and I-2 Districts. This use is typically allowed only in Industrial Districts.

One additional change is proposed in the Table included in 1530.13:

- Change the side setback requirement for parking for commercial or industrial uses from 5 feet to 20 feet if adjacent to any R District. It is typical for parking lots adjacent to residential uses to have a larger setback. There is no record of why the 5' side setback was adopted originally, while a larger rear setback was required adjacent to residential districts. Other codes examined required a 20' side setback for uses such as



restaurants, breweries, and other commercial uses adjacent to residential areas. The Planning Commission should discuss this issue.

### **Performance Standards for Brewery-Related Uses**

Some of the City ordinances reviewed by the planner include specific performance standards for brewery-related uses such as parking requirements, hours of operation, buffer requirement from adjacent residential uses, odors, lighting, etc.

The Planner reviewed the typical requirements and the performance standards included in Newport's zoning ordinance in Section 1330.05. The existing Newport standards include the typical standards that were identified for brewery-related uses in other City ordinances, except for the setback requirement noted above. The Planning Commission may review section 1330.05, which applies to all uses in the City, and discuss whether any additional performance standards should be considered for brewery-related uses.



## CHAPTER 1300 – GENERAL ZONING

### Section 1300 – General

#### 1300.01 Definitions.

The following words and definitions could be added to Section 1300.01 Definitions:

**Subd. 14 Brew on premises store.** “Brew on premises store” shall mean a retail business that sells the ingredients and equipment to customers to brew beer, other malt liquor or wine at the store for personal or family consumption.

**Subd. 13. Brewery, craft.** “Craft brewery” is a facility with a capacity to manufacture twenty thousand (20,000) or fewer barrels of alcoholic and nonalcoholic malt liquor a year. This definition excludes small breweries operated in conjunction with a bar or restaurant defined herein as an accessory use.

**Subd. 28 Distillery, craft.** “Craft distillery” is a distillery producing premium, distilled spirits not exceeding 40,000 proof gallons in a calendar year.

**Subd. 78 Micro- and regional brewery.** “Micro- and regional brewery” shall mean a facility with a capacity to manufacture one million (1,000,000) or fewer barrels of alcoholic and nonalcoholic malt liquor a year. This definition excludes brew on premises stores as defined in this ordinance, and/or small breweries operated in conjunction with a bar or restaurant defined herein as an accessory use.

**(Subd. 91 National brewery.** “National brewery” shall mean a facility with a capacity to manufacture over one million (1,000,000) barrels of alcoholic and nonalcoholic malt liquor a year. This definition excludes brew on premises stores as defined herein and/or small breweries operated in conjunction with a bar or restaurant defined herein as an accessory use. – a brewery with the capacity to produce more than 1,000,000 gallons per year.)

**Subd. 116 Small brewery or winery as an accessory use to a bar or restaurant (brew pub).** “Small brewery or winery as an accessory use to a bar or restaurant,” also known as a brew pub, shall mean a craft brewery or winery operated in conjunction with a bar or restaurant, provided the beer or wine is sold for consumption on the premises and not sold to other bars, restaurants or wholesalers; except that an establishment licensed under Minnesota Statutes may sell “growlers” off-sale with an appropriate city license.

**Subd. 138 Winery, craft.** “Craft winery” is a facility that manufactures wine, as defined by Minnesota Statutes § 340A.301, with a capacity of six hundred twenty thousand (620,000) or fewer gallons per year.

(Note to Planning Commission: the terms malt liquor, distilled spirits, and growlers are defined in State Statutes. The maximum sizes of the uses that are included in the definitions are the definitions used in Minnesota Statutes.)

**Section 1350 - Non-residential Districts**

**1350.01 Scope.**

Except as otherwise provided, this division applies to all non-residential and mixed-use districts in the City.

**1350.02 Purpose of Business Districts.**

Business districts shall be established to accomplish the general purpose of this Chapter and the Comprehensive Plan and for the following specific purposes:

- A. To group compatible business uses which will tend to draw trade that is naturally interchangeable and so promotes the business prosperity and public convenience;
- B. To provide an adequate supply of suitable land for businesses and professional services to meet the needs of the community and provide employment opportunities and significant tax base;
- C. To promote a high quality of business and commercial development and design that produces a positive visual image and minimizes the effects of traffic congestion noise, odor, glare, and similar problems.

**1350.03 Specific intent of the Business Park/Office/Warehouse District.**

The Business Park/Office/Warehouse District is intended to provide locations for office, warehouse, and related uses in a business park setting. Some accessory commercial services may also be a part of this land use type to serve the large employment base.

**1350.04 Purpose of the Industrial Districts.**

The industrial districts shall be established to accomplish the general purpose of this Chapter and the Comprehensive Plan and the following specific purposes:

- A. To provide employment opportunities;
- B. To group industrial uses in locations accessible to rail and highways, so that the movement of raw materials, finished products, and employees can be carried on efficiently;
- C. To separate traffic, noise, and other obtrusive characteristics of intense industrial activity from the more sensitive commercial, residential, and open space areas of the City.

**1350.05 Specific intent of the I-1 Light Industrial District.**

The specific intent of the I-1 Light Industrial District shall be to provide areas for the development of research laboratories, small-scale processing, fabricating, storage, manufacturing, and assembly of products. Such uses are non-polluting, not excessively noisy or dirty, limited traffic producers, and do not produce hazardous waste as by-products.

**1350.06 Specific intent of the I-2 General Industrial District.**

The specific intent of the I-2 General Industrial District shall be to provide areas adjacent to major thoroughfares and in areas where public utilities are available for the express use of industrial developments. Designation of industrial districts will help attract industry, thereby stabilizing the tax base and increasing employment in the City.

**1350.07 Specific intent of the I-S Industrial Storage District.**

The specific intent of the I-S Industrial Storage District shall be to provide areas bordering City limits and areas adequately buffered with open land to permit storage of petroleum products and other similar storage uses.

**1350.08 Purpose of the Mixed-Use Districts.**

The mixed-use districts shall be established to accomplish the general purposes outlined in the Comprehensive Plan and to foster a development pattern that encourages a mix of supportive residential and commercial uses, and supports a multi-modal transportation system that services all users. These districts will integrate places to live, shop, work and play. The mixed-use districts are intended to help shape Newport's downtown and small town identity.

**1350.09 Specific intent of the MX-1 Downtown District.**

The specific intent of the MX-1 Downtown Mixed Use District shall be to provide sites for small scale retail, commercial, office and service uses, and to support a mix of residential uses. District requirements and standards will create neighborhoods that are aesthetically pleasing, dense, safe, and walkable. This district is primarily intended to integrate residential uses with pedestrian-oriented commercial uses such as specialty retail stores, professional and financial services, offices, sit down restaurants, coffee shops, floral shops, etc. This district shall serve as the center for financial, commercial, professional, and entertainment activities. Inclusion of high density housing above commercial uses in this district will support commercial and entertainment uses and public transit services.

**1350.10 Specific intent of the MX-2 Commercial District.**

The specific intent of the MX-2 Commercial Mixed Use District shall be to provide areas that integrate diverse commercial and residential uses. Minimum lot sizes are larger than those in the Downtown District. Development is intended to be compatible with the scale of surrounding areas. Parking areas are restricted in this zone in order to limit the impact on the neighborhood and on areas that are visual gateways to the City.

**1350.11 Specific intent of the MX-3 Transit-Oriented Mixed Use District**

The specific intent of the MX-3 Transit-Oriented Mixed Use District is to encourage a mixture of residential, commercial, office, and civic uses in proximity to the commuter rail station at densities and intensities that support and increase transit use. The district is also intended to:

- A. Encourage a safe and pleasant pedestrian environment near the rail station, and limit conflicts between pedestrians and vehicles.
- B. Maximize access to transit.
- C. Encourage use of transit infrastructure.
- D. Provide parking in an efficient and unobtrusive manner
- E. Reduce parking requirements by encouraging shared parking and alternative modes of transportation.
- F. Encourage a sense of activity and liveliness along the street level of building facades.

**1350.12 Specific intent of the MX-4 General Mixed Use District**

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

**1350.13 Dimensional Requirements for lots and structures in non-residential districts**

- A. Non-residential district requirements

City of Newport

Section 1350 Non-Residential Districts

Requirements	MX-1	MX-2	MX-3	MX-4	B-1	I-1	I-2	I-S
Minimum lot area in square feet	2,400	4,000	None	2,400	15,000	30,000	30,000	30,000
Minimum lot depth in feet	80	100	None	80	150	200	200	200
Minimum lot width in feet	30	40	30	30	100	100	100	100
Maximum lot coverage by all buildings (%)	80%	50%	None	80%	30%	40%	50%	50%
<i>Structure setback standards***</i>								
Minimum front yard setback	0	10**	0	0	20	20	20	50
Minimum front yard if across collector or minor street from any residential district	10	10**	10	10	50	50	50	100
Minimum side yard	0	5	5	5	10	20	20	50
Minimum side yard if adjacent to any residential district	10	10	10	10	50	50	50	100
Minimum rear yard	20	20	20	20	20	20	20	50
Minimum rear yard if adjacent to any residential district	20	20	20	20	50	50	50	100
<i>Parking and driving aisle setback in feet</i>								
Minimum front yard	20	Not allowed	Not allowed	20	20	20	20	20
Minimum front yard if across collector or minor street from any R district	50	Not allowed	Not allowed	50	50	50	50	50
Minimum side yard	5	5	5	5	5	5	5	5
Minimum side yard <a href="#">for commercial or industrial uses</a> if adjacent to any R district	<u>520</u>	<u>520</u>	<u>520</u>	30	30	30	30	30
Minimum rear yard	5	5	5	5	5	5	5	5
Minimum rear yard if adjacent to any R district	10	10	10	50	50	50	50	50
Maximum building height in feet*	40 3-sty	28 2-sty	See table B.,below	40	40	40	40	40
Maximum height of storage tank in IS district								55
Public utilities	Yes	Yes			Yes	Yes	Yes	Yes

Requirements	MX-1	MX-2	MX-3	MX-4	B-1	I-1	I-2	I-S
required, including sewer			Yes	Yes				

\*Maximum height may be increased upon issuance of a Conditional Use Permit. The setback requirements for increases in height adjacent to single-family residential uses included in this chapter apply.

\*\* See section 1300.08 Exceptions to Front Yard Setbacks

\*\*\*Structure setbacks for the MX-1 and MX-2 are as noted by the dimensional provisions unless otherwise specifically approved in a development plan as outlined in a Planned Unit Development.

B. Additional MX-3 District standards. The following requirements apply to all buildings or uses in an MX-3 District, unless otherwise specified:

Height and Setbacks	Residential Townhouse	Residential Apt., Condo, Cooperative	Mixed-Use Building	Commercial, Civic, not in mixed-use building
Height	3 stories or 35 feet, whichever is less	2 stories minimum, 4 stories maximum*	2 stories minimum, 4 stories maximum*	No minimum, 4 stories or 40 feet maximum
Setbacks	Front: Maximum of 15 feet Side: 10 feet Rear: 15 feet	Front: Maximum of 15 feet Side: 10 feet Rear: 15 feet	Front: Maximum of 15 feet Side: 10 feet Rear: none required	Front: Maximum of 8 feet Side: 10 feet Rear: None required

\*Maximum height may be increased upon issuance of a Conditional Use Permit. Single-story buildings shall have a foot print of no more than 15,000 square feet.

C. Densities in the MX-3 District

- 1) The maximum residential density in the MX-3 District shall be 50 units per acre.
- 2) The minimum residential density in the MX-3 District shall be 30 units per acre.
- 3) The minimum net FAR (Floor Area Ratio) for residential and non-residential uses shall be .5 FAR.

**1350.14 Uses in the Non-Residential Districts**

A. Mixed Use Districts Uses

P=Permitted Use; C=Permitted with a Conditional Use Permit; N=Not Permitted; PUD=Permitted with a Planned Unit Development; [sf=square feet](#)

Use	MX-1	MX-2	MX-3	MX-4
<b>Residential Uses</b>				
Single-family detached, one dwelling per lot	P	P	N	P
Single-family detached, more than one dwelling per lot	PUD	PUD	N	PUD
Two-family residences	P	P	N	P
Townhouse, rowhouse	P	P	P	P
Manufactured single-family dwelling	P	P	N	P

**City of Newport**

**Section 1350 Non-Residential Districts**

Use	MX-1	MX-2	MX-3	MX-4
Mobile homes	N	N	N	N
Multi-Family, condos, apartments and cooperatives	P	P	P—less than 8 units; C—8 or more units	P
Congregate housing for senior populations	P	P	P	P
Homes for handicapped or infirm including group homes or halfway houses but not containing more than 6 unrelated persons	P	P	P	P
Mixed-Use (dwelling unit above ground floor)	P	P	P	P
Live-work building	C	C	C	C
PUD	PUD	PUD	PUD	PUD
<b>Civic and Semi-Public Uses</b>				
Day Care Facilities in Single Family Homes with 14 or fewer children being attended to	P	P	N	P
Day Care Facilities in Single Family Homes with more than 14 children being attended to	C	C	N	C
Day Care Facilities	C	C	C	C
Day Care Facilities in a mixed-use building	P	P	P	P
Essential services/public utilities	P	P	P	P
Funeral Home	C	C	C	C
Hospitals	C	C	C	C
Military reserve, national guard centers	C	N	N	N
Park and public recreation facilities	P	P	P	P
Parking Garage (as a principal use)	C	N	C	N
Parking Lot, Surface (as a principal use)	C	N	N	N
Penal/correctional facilities	N	N	N	N
Place of worship and associated facilities, except schools	C	C	C	C
Public Facilities including government offices, emergency services facilities, public works facilities, schools, libraries, museums, post offices and other municipally owned or operated facilities	C	C	C—50,000 sf maximum	C
Schools – trade, college, vocational, and associated facilities	C	C	C—50,000 sf maximum	C
Schools for business, trade, dancing, music	C	C	C	C
Social and fraternal clubs and lodges, union halls	P	P	C—10,000 sq ft maximum	P
Transit stations and related parking facilities	C	C	C	C
<b>Commercial Uses</b>				
Administrative support services	P	P	P	P
Adult Uses	N	N	N	N
Animal boarding, grooming, veterinary clinics, retail sales	C	C	C—10,000 sf maximum	C
Artist studios	P	P	P	P
Auto body repair and major auto repair, towing services	C	N	N	N

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Section 1350 Non-Residential Districts

Use	MX-1	MX-2	MX-3	MX-4
Auto sales, rental	C	N	N	N
Automotive services, car specialty services (not including body repair or major repair)	C	C	C—Maximum 4 repair bays	C
Bakeries, delicatessens, coffee shops	P	P	P	P
Bakeries, wholesale	P	C	C	C
Bed and Breakfast	P	P	N	P
Biotechnology	P	P	P	P
<a href="#">Brew on premises store</a>	<a href="#">P</a>	<a href="#">P</a>	<a href="#">P</a> <a href="#">10,000 sf</a> <a href="#">maximum</a>	<a href="#">P</a>
<a href="#">Brewery, craft</a>	<a href="#">C</a> <a href="#">10,000 sf</a> <a href="#">maximum</a>	<a href="#">P--to</a> <a href="#">10,000 sf;</a> <a href="#">C—larger</a> <a href="#">than</a> <a href="#">10,000 sf</a>	<a href="#">C</a> <a href="#">10,000 sf</a> <a href="#">maximum</a>	<a href="#">P--to</a> <a href="#">10,000 sf;</a> <a href="#">C—larger</a> <a href="#">than</a> <a href="#">10,000 sf</a>
Building materials and services	C	N	N	N
Catalog and mail order	P	P	P	P
Conference Center, 50,000 square feet or less	C	C	C	C
Convenience stores	P	P	P	P
Data centers	C	C	C	C
<a href="#">Distillery, craft</a>	<a href="#">C</a> <a href="#">10,000 sf</a> <a href="#">maximum</a>	<a href="#">P--to</a> <a href="#">10,000 sf;</a> <a href="#">C—larger</a> <a href="#">than</a> <a href="#">10,000 sf</a>	<a href="#">C</a> <a href="#">10,000 sf</a> <a href="#">maximum</a>	<a href="#">P--to</a> <a href="#">10,000 sf</a> <a href="#">C—larger</a> <a href="#">than</a> <a href="#">10,000 sf</a>
Entertainment/amusement halls, bowling alley, indoor skating rink	P	P	C	C
Fabrication of apparel, leather products and other products from prepared products	P	C	P	C
Fabrication of office and computer equipment	P	P	P	P
Financial services	P	P	P	P
Fitness and recreation centers, in a mixed-use building	C	C	C	C
Gas, diesel or other motor fuel retail sales	C	C	N	C
Grocery and produce sales	C	C	C—50,000 sf maximum	C
Internet publishing and broadcasting	P	P	P	P
Medical, dental, or veterinary clinics and laboratories	C	C	C—10,000 sf maximum	C
Medical appliance assembly	P	P	P	P
Motion picture and sound recording industries	C	C	C	C
Offices – general, medical, professional, free-standing, or mixed-use building	P	P	P--to 10,000 sf; C—larger than 10,000 sf	P
Printing, publishing, bookbinding, blueprinting	C	C	C	C
Processing and packaging of drugs, pharmaceuticals, perfumes and cosmetics	C	C	P	C

Use	MX-1	MX-2	MX-3	MX-4
Retail and service establishments, free-standing, or mixed-use building	P	P	P--to 10,000 sf; C—10,000 to 50,000 sf maximum	P
Rental of vehicles (with limited outside storage)	C	C	C	C
Research, development and testing laboratory	C	C	C	C
Restaurants, including open air or sidewalk cafes, freestanding or in mixed-use buildings—no liquor served	P	P	P	P
Restaurants, including open air or sidewalk cafes, freestanding or in mixed-use buildings—liquor served	C	C	C	C
Restaurants with drive-through service	C	C	C	C
Service businesses, such as beauty shops, barbershops, dry-cleaning, drop-off/pickup (no on-site processing) in mixed-use buildings	P	P	P	P
Small scale manufacturing and artisans	P	P	P—5,000 sf or less; C—5,000 to 10,000 sf	P
Theaters (with structured parking)	P	P	P	P
Theaters	C	C	C	C
Towing services (no outside storage of vehicles)	P	C	P	C
Warehousing as a primary use	N	N	N	N
<a href="#">Winery, craft</a>	<a href="#">C</a> <a href="#">10,000 sf</a> <a href="#">maximum</a>	<a href="#">P--to</a> <a href="#">10,000 sf;</a> <a href="#">C—larger</a> <a href="#">than</a> <a href="#">10,000 sf</a>	<a href="#">C</a> <a href="#">10,000 sf</a> <a href="#">maximum</a>	<a href="#">P--to</a> <a href="#">10,000 sf;</a> <a href="#">C—larger</a> <a href="#">than</a> <a href="#">10,000 sf</a>
<b>Accessory Uses</b>				
Drive up facilities	C	C	C	C
Gazebo, arbor, play equipment in public or private open space area	P	P	P	P
Outdoor sales, in conjunction with permitted use	C	C	N	C
Renewable energy system	P	P	P	P
Parking lot, as an accessory use	C	C	C	C
<a href="#">Small brewery or winery as an accessory use to a bar or restaurant</a>	<a href="#">C</a>	<a href="#">C</a>	<a href="#">C</a>	<a href="#">C</a>
Swimming Pool	P	P	P	P

B. Business and Industrial District Uses

P=Permitted Use; C=Permitted with a Conditional Use Permit; N=Not Permitted; [sf=](#)square feet

Use	B-1	I-1	I-2	I-S
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City of Newport

Section 1350 Non-Residential Districts

Use	B-1	I-1	I-2	I-S
<b>Civic and Public Uses</b>				
Airports	N	C	C	N
Cemetery and/or crematorium	C	N	N	N
Day care centers	C	C	C	C
Day care centers in a mixed-use building	P	C	C	C
Essential services/public utilities	P	P	P	P
Funeral Home	p	N	N	N
Hospitals	C	N	N	N
Medical Clinics	P	N	N	N
Military reserve, national guard centers	C	N	N	N
Park and public recreation facilities	P	P	P	P
Parking Garage (as a principal use)	P	N	N	N
Parking Lot, Surface (as a principal use)	P	P	P	P
Penal/correctional facilities	N	C	C	N
Place of worship and associated facilities, except schools	P	N	N	N
Post Office	P	N	N	N
Public Facilities including government offices, emergency services facilities, public works facilities, schools, libraries, museums, and other municipally owned or operated facilities	C	C	C	C
Sanitary landfill	N	C	C	N
Schools-trade, college, vocational, and associated facilities	p	C	N	N
Schools for business, trade, dancing, music	C	C	N	N
Social, Fraternal clubs and lodges, union halls	P	N	N	N
Transit stations and related parking facilities	C	N	N	N
<b>Commercial Uses</b>				
Adult uses (bookstore, theater, nightclub, nude or partially nude dancing)	N	N	C	C
Auto painting and body work	N	C	N	N
Auto storage	N	C	P	C
<a href="#">Brewery, craft</a>	<a href="#">P</a>	<a href="#">P</a>	<a href="#">N</a>	<a href="#">N</a>
Commercial greenhouse operations	C	P	N	N
Convenience stores	P	N	N	N
Gas, diesel or other motor fuel retail sales	P	N	N	N
<a href="#">Distillery, craft</a>	<a href="#">P</a>	<a href="#">P</a>	<a href="#">N</a>	<a href="#">N</a>
Hotels, motels	P	N	N	N
Restaurant, traditional or liquor served; bar and grill	P	N	N	N
Salvage yards (auto or scrap iron)	N	N	P	N
<a href="#">Small brewery or winery as an accessory use to a bar or restaurant</a>	<a href="#">P</a>	<a href="#">P</a>	<a href="#">N</a>	<a href="#">N</a>
Storage, mini-storage, cold-storage	N	N	N	P
Veterinary clinic, animal hospital	C	P	N	N
Wholesale sales	P	N	N	N
<a href="#">Winery, craft</a>	<a href="#">P</a>	<a href="#">P</a>	<a href="#">N</a>	<a href="#">N</a>
<b>Warehouse and Industrial Uses</b>				
Manufacturing	C	P	P	N
<a href="#">Micro- and regional brewery</a>	<a href="#">N</a>	<a href="#">P</a>	<a href="#">P</a>	<a href="#">N</a>
Retail sale, installation and remanufacturing of vehicle	N	P	N	N

Use	B-1	I-1	I-2	I-S
parts and accessories				
Storage and distribution of bulk petroleum products, oil and gasoline	N	N	N	C
Storage, mini-storage, cold storage	N	N	N	P
Warehousing	C	P	P	N

**1350.15 Administrative Procedure for Re-Zoning in the Non-residential Districts**

- A. All petitions for rezoning to establish or expand a nonresidential district shall also concurrently follow subdivision platting procedures and a complete preliminary plat with all supporting data required which shall be filed with the Zoning Administrator.
- B. If a zoning change for a nonresidential district is approved, the first phase of construction shall begin or show reasonable progress within two (2) years after approval of the general development plan and zoning change by ordinance or the district may be zoned back to its original zoning district classification or other appropriate zoning district classification.
- C. Upon receipt of a completed application for rezoning, subdivision or site plan approval, a date shall be set for a public hearing before the Planning Commission. The hearing will be held no less than 10 days after mailed notice is sent to the owners of property located wholly or partially within 350 feet of the site. The Planning Commission shall submit its recommendation to the City Council. Following appropriate review, the Council shall make a decision regarding the application.
- D. Upon finding by the Planning Commission and City Council that the proposed zoning district and preliminary plat shall constitute a district of sustained desirability, is consistent with long range comprehensive plans for the City, and meets the requirements of the district, the City Council may establish such district on the property included in the preliminary plat. The preliminary plat as approved together with such covenants, deed restrictions, controls, or special conditional use permits as may be attached to it, shall be filed and recorded by the owners or developer in the office of the county register of deeds and shall become a part of the ordinance establishing the zoning charge. Any substantial change to the plat shall require resubmission to and approval by the Planning Commission and City Council.
- E. The final platting of such land shall be subject to such requirements for approval, recording, and the installation of improvements as required by other City ordinances.

**1350.16 Administrative Procedure for Site Plan Review in the Non-residential Districts and Additional Procedures for Development in the MX-3 District**

- A. *Site Plan Review.* Prior to obtaining a building permit or constructing any building improvements on an individual lot or site within any nonresidential district, three (3) copies of the site plan of proposed improvements shall be submitted to the Zoning Administrator. The Zoning Administrator may require review by the Planning Commission and City Council. Such site plan shall include the following:
  - 1) A survey or plat of the property
  - 2) Evidence of ownership or interest in the property
  - 3) The fee specified in the City’s fee schedule
  - 4) Information regarding project phasing and timing.



**CITY OF SAINT PAUL**  
*Christopher B. Coleman, Mayor*

25 West Fourth Street  
Saint Paul, MN 55102

Telephone: 651-266-6700  
Facsimile: 651-228-3220

**DATE:** August 7, 2013

**TO:** Neighborhood Planning Committee

**FROM:** Bill Dermody, City Planner, PED  
Ross Haddow, Zoning Intern, DSI

**RE:** Review of zoning study initiated by Resolution 13-256, regarding amending the zoning code text regarding alcohol production (Secs. 63.207, 65.772-82, 66.321, 66.421, and 66.521)

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## **ISSUE**

Councilmember Amy Brendmoen and Councilmember Russ Stark introduced Resolution 13-256 on February 13, 2013, requesting the Planning Commission's study, report, and recommendation regarding proposed amendments to commercial brewing zoning regulations. The resolution calls for facilitating the growth of small, local commercial breweries. (Please see the memo attachments for a copy of the resolution.) The study has been expanded to also address small distilleries and small wineries, as allowed for by the resolution. A significant, but limited Zoning Code amendment allowing small brewers to have taprooms was processed in March 2013 (Ord. 13-14) as directed by the resolution ahead of the full study.

The following document provides background, analysis, a summary of public input, and a recommendation for action. Due to the length and complexity of the background section, it is broken down into several subsections: legal setting, definitions, current Zoning Code classifications, existing and planned facilities, comparison to other cities – breweries, comparison to other cities – distilleries, comparison to other cities – wineries, parking, odor, truck traffic, fire, and the 5,000 barrels cutoff.

## **BACKGROUND**

The market for small, local breweries has expanded exponentially in recent years across the nation, including in Minnesota and in Saint Paul. Just 5 years ago, Minnesota had only 3 microbreweries and 11 brew pubs; by 2012 it had 29 microbreweries and 19 brew pubs. Additionally, many existing breweries are expanding quickly, including local producers Surly and Fulton. The recent boom is driven in part by changes in state law, but it also reflects the larger trend of shifting consumer preferences away from mainstream national brands toward "craft" brands, whether national (Sam Adams), regional (Summit), or local (Flat Earth). This

zoning study analyzes potential amendments to the Zoning Code that could allow Saint Paul to participate more fully in this growth, consistent with the Comprehensive Plan and sound planning principles.

A more recent nationwide trend of note is the growth of small, craft distilleries. For instance, in Washington, where laws and tax rates are favorable, there are now more than 60 craft distilleries. With recent changes to Minnesota tax rates, several small distilleries have expressed interest in locating in our area. Another potential growth sector is small, craft production of alcoholic cider, sake, or other beverages technically classified as “wine” under State of Minnesota law. Due to the similarities between the various types of craft alcohol production, staff has expanded the study focus to include distilleries and wineries in addition to breweries.

### **Legal Setting**

Alcohol business laws are in tremendous flux across the nation and in Minnesota, with continued change anticipated. After the end of Prohibition in 1933, state laws generally established a “three-tier” system for alcohol (production, distribution, retail), with no overlap between the tiers, as a way to prevent abuses that had occurred in the previous era of legal alcohol sales. The “three tiers” had to be completely separate business entities under these laws. The strict three-tier system has been loosened in recent decades to various degrees on a state-by-state basis. For instance, brew pubs – which produce, sell, and sometimes distribute – are now commonplace. In Minnesota, a significant 2011 amendment (popularly known as the “Surly Bill”) allowed for small brewers to operate taprooms that serve the product directly to consumers. Numerous other amendments to State of Minnesota alcohol law have been discussed and are possible in the future, including allowing small distilleries to operate taprooms and allowing brew pubs to distribute off-site.

Taxation is also in flux and could have a significant effect on the alcohol marketplace. Major tax rate decreases for small brewers and distillers have spurred market growth in Minnesota and elsewhere, while upward adjustments in the definition of “small” are often debated and possible for the future. However, states including Minnesota have also considered increasing alcohol taxes and capturing more money from the growing small brewery sector as a way to balance budgets. These taxation issues are out of the City’s control, but could drastically shape the local scene.

### **\* Definitions**

Definition of terms is helpful in discussing alcohol laws and concepts. The Saint Paul Zoning Code provides definitions and/or standards and conditions for *malt liquor production*, *micro and regional brewery*, *national brewery*, *small brewery as an accessory use to a bar or restaurant*, *brew on premises store*, and *bar*. *Malt liquor production* (Sec. 65.774) is a brewery that produces less than 5,000 barrels per year. A *micro and regional brewery* (Sec. 65.820) is a brewery with the capacity to produce up to 1,000,000 barrels per year. A *national brewery* (Sec. 65.821) produces over 1,000,000 barrels per year. A *small brewery accessory to a bar or restaurant* (Sec. 65.910 (1)), commonly known as a “brew pub,” is generally limited to selling its beer for consumption on the premises where it is brewed, excepting only “growlers” for off-site consumption as defined by State of Minnesota law. A *brew on premises store* (Sec. 65.611)

provides the ingredients and equipment for a customer to brew malt liquor at the store for personal or family consumption. A *bar* (Sec. 65.610) is an establishment that serves wine, beer, or intoxicating liquor for consumption on the premises between midnight and 2 a.m.; notably, a taproom or brew pub would be considered a bar if it were open past midnight and would then be subject to additional standards.

Chapter 409 of the City Code (“Licensing: Intoxicating Liquor”) provides definitions and regulations that generally mirror State of Minnesota law regarding *brew pubs*, *taprooms*, *growlers*, and several other alcohol-related terms. One notable difference between City licensing regulations and State law is that the City limits breweries to 3,500 barrels produced per year if they are to offer growlers, while the State recently raised the limit to 20,000 barrels.

State law provides several other relevant definitions, including for *taproom*, *malt liquor*, *growler*, *wine*, *distilled spirits*, *microdistillery*, and *proof gallon*. A *taproom* is a space on the premises of or adjacent to a brewery where the malt liquor product is sold and consumed on-site. *Malt liquor* is any beer, ale, or other beverage made from malt by fermentation and containing not less than 0.5% alcohol by volume. A *growler* is a 64-ounce container filled by a brewer and sold directly to a customer for off-site consumption. Notably, growler sales are limited to 500 barrels annually and are only permitted by brewers of a certain size (<20,000 barrels per year) and brew pubs. A *brew pub* is not explicitly defined (the State instead uses the phrase “restaurant operated in the place of manufacture”), but regulations limit it to 3,500 barrels per year and prohibit sales to other restaurants or liquor stores, except restaurants owned by the same entity. *Wine* is the traditional product made from the normal alcoholic fermentation of grapes, but also includes vermouth, cider, perry, and sake, so long as the product contains between 0.5% and 24% alcohol by volume. *Distilled spirits* is defined to include whiskey, rum, brandy, gin, and other distilled spirits for nonindustrial use. A *microdistillery* is a distillery producing premium, distilled spirits not exceeding 40,000 proof gallons in a calendar year. A microdistillery can provide samples to customers on-site, but cannot sell its product for on-site consumption like a brewery taproom. A *proof gallon* is one liquid gallon of distilled spirits that is 50% alcohol at 60 degrees Fahrenheit.

Though not explicitly defined by the State or City, a beer barrel is commonly defined as containing 31 gallons and a keg as containing 15.5 gallons.

### **Current Zoning Code Classifications**

Below is a summary table of the current Zoning Code classifications for brewing uses:

T = TRADITIONAL NEIGHBORHOOD,  
 SIMILAR TO NEWPORT'S MX DISTRICTS  
 B = BUSINESS DISTRICTS  
 I = INDUSTRIAL DISTRICTS

Table 1: Saint Paul Zoning Code.

	T1	T2	T3	T4	B1	B2	B3	B4	B5	IR	I1	I2
<b>Brew Pub Restaurant</b>		P/C	P/C	P/C		P	P	P	P	P	P	P
<b>Brew Pub Bar</b>		P/C	P/C	P/C		P/C	P	P	P	P	P	P
<b>Brew on Premises Store</b>		P	P	P		P	P	P	P	P	P	P
<b>Malt Liquor Production</b>		P/C	P/C	P/C		P/C	P	P	P	P	P	P
<b>Micro and Regional Brewery</b>										P	P	P
<b>National Brewery</b>												P

P = Permitted C= Conditional Use Permit

A *small brewery accessory to a bar or restaurant*, or “brew pub”, is allowed wherever restaurants or bars are allowed, including T2-4, B2-5, IR, I1, and I2 districts. For restaurants (including brew pubs) in the T2-4 districts, a conditional use permit is required to exceed a floor area of 15,000 square feet. Notably, restaurants do not typically come close to that size limit. For bars in the T2-4 and B2 districts, a conditional use permit is required to exceed a floor area of 5,000 square feet. Examples of brew pubs include Great Waters Brewing Company, Minneapolis Town Hall Brewery, and Rock Bottom Restaurant & Brewery.

A *brew on premises store* is allowed in the same districts as a brew pub (T2-4, B2-5, IR, I1, and I2), though without the size limitations. A prime example of a brew on premises store is the Vine Park Brewing Company.

*Malt liquor production* (maximum 5,000 barrels/year) is allowed in the same districts as a brew pub (T2-4, B2-5, IR, I1, and I2). The size limit is 15,000 square feet in the T and B2 districts, similar to the size limit for a brew pub restaurant (which is the same amount, but does not apply in B2). Examples most likely meeting the City’s definition of *malt liquor production* include Flat Earth Brewing Company, Steel Toe Brewing (St. Louis Park), Indeed Brewing Company (Minneapolis), and Dangerous Man Brewing (Minneapolis), among many others.

*Micro and regional breweries* (up to 1,000,000 barrels/year) are allowed in IR, I1, and I2 districts. Examples of breweries meeting the City’s definition of *micro and regional brewery* include Summit Brewing Company and Surly Brewing Company.

*National breweries* (over 1,000,000 barrels/year) are allowed only in the I2 district. *National breweries* meeting the City’s definition include Samuel Adams, Miller, Coors, and Budweiser.

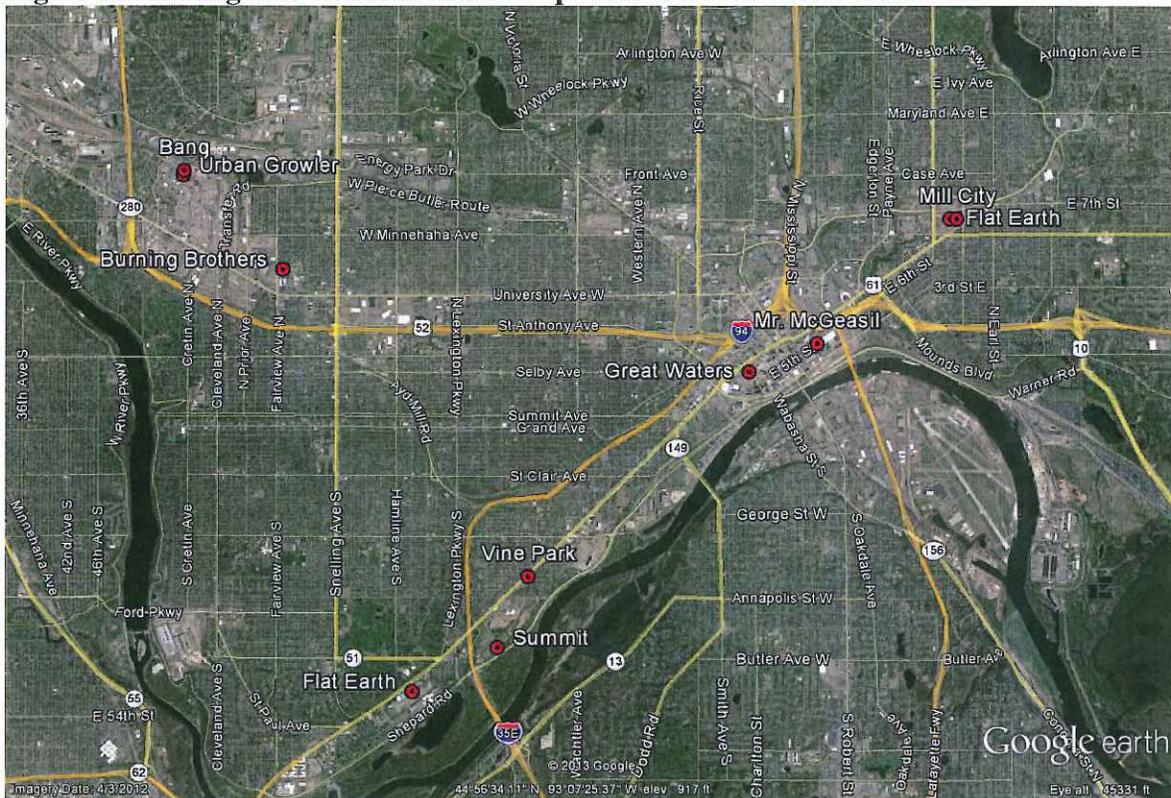
Distilleries and wineries are not currently addressed in the Zoning Code and therefore require determinations of similar use from the Zoning Administrator for each individual case. The Mill City Distillery recently received zoning approval to occupy part of the former Hamm's Brewery, which is zoned I2, making it the first modern distillery approved in Saint Paul.

The full permitted use tables are located within the Zoning Code as Table 66.321 (Traditional Neighborhood Districts), Table 66.421 (Business Districts), and Table 66.521 (Industrial Districts).

### Existing and Planned Facilities

Saint Paul currently has four alcohol production facilities, with four new facilities and a relocation/expansion planned in 2013. Great Waters Brewing Company, classified as a *small brewery accessory to a restaurant*, is zoned B4. Summit, a *micro and regional brewery*, is zoned I1. Flat Earth, a malt *liquor production facility*, is zoned I1. Vine Park, a *brew on premises store*, is zoned B1. A relocated/expanded Flat Earth and Mill City Distillery are planned for the former Hamm's Brewery, zoned I2. New malt *liquor production facilities*, Bang Brewing Company and Urban Growler Brewing Company, are planned on neighboring parcels in St. Anthony zoned I2. Another malt *liquor production facility*, Burning Brothers, is planned in Hamline-Midway on property zoned T3. Other new distilleries and a new malt liquor production facility have inquired about property in Saint Paul, but have not yet announced their planned locations.

**Figure 1: Existing and announced alcohol production facilities in Saint Paul.**



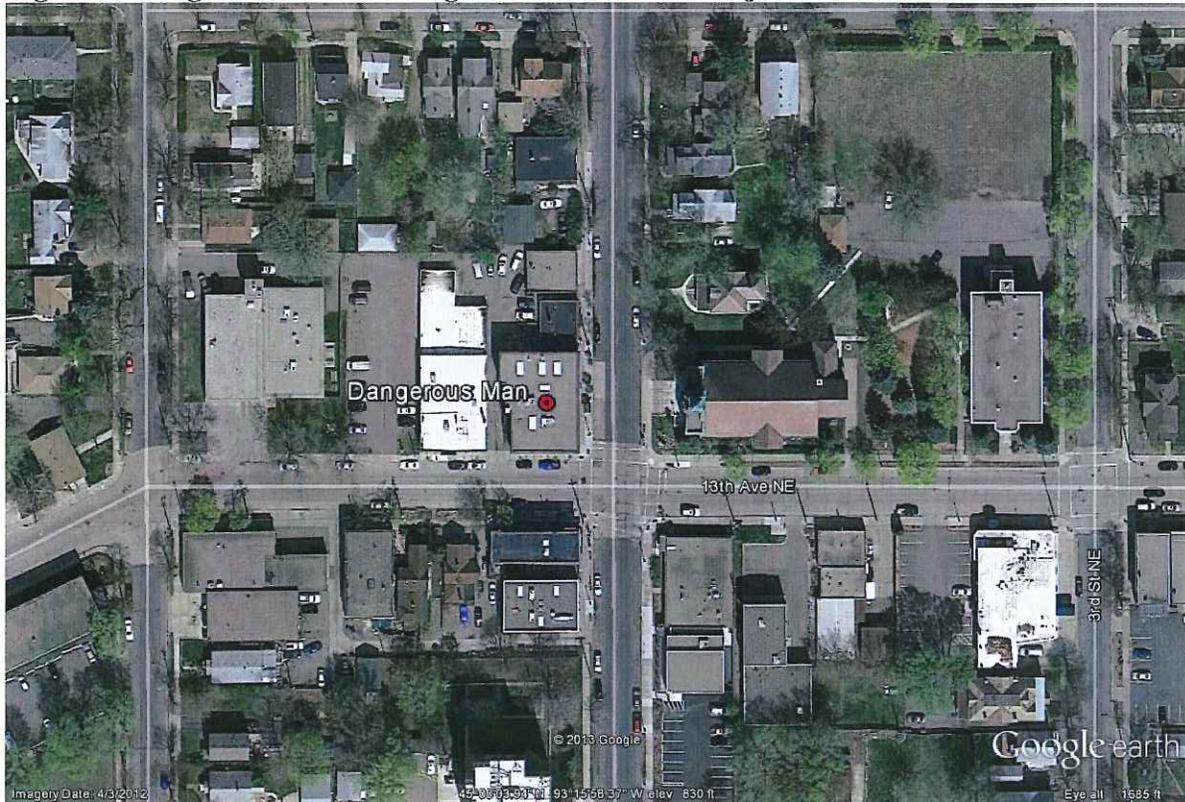
### **Comparisons To Other Cities - Breweries**

Staff researched regulation and location characteristics of breweries in other cities locally and throughout the United States, focusing especially on Minneapolis, Duluth, Dallas, Denver, Portland, and Seattle because of their similarities to Saint Paul. Key findings include that Saint Paul has rather permissive zoning regulations for small breweries compared to many cities nationally and that the primary comparison cities noted above are similarly permissive.

Generally, Saint Paul's regulations make it possible for small breweries ("malt liquor production") and brew pubs to exist in almost any mixed use, commercial, or industrial district, excepting only the most restrictive districts intended to serve just the surrounding neighbors (B1 and T1), heavy industry (I3), or non-production uses (OS and BC). Many other cities still limit breweries of any size to industrial areas, and some cities limit brew pubs to commercial zones.

Though Saint Paul's regulations are already rather welcoming to breweries, there are several ideas that can be drawn from the primary comparison cities. Minneapolis, distinctively, allows small breweries in their C1 Neighborhood Commercial District, but they have a much more restrictive floor area limit without needing a conditional use permit (1,200 sq. ft. vs. 15,000 sq. ft. in Saint Paul's most similar district). Only one brewery (Dangerous Man) is currently located in a C1 District – it is relatively new, but Minneapolis staff interviewed are not aware of any noise, traffic, or odor issues thus far.

**Figure 2: Dangerous Man Brewing Co. is in a C1 zone adjacent to residences and a church.**



Denver’s regulations stand out as the most permissive – the districts that allow breweries are similar to Saint Paul, but without similar size/output limits specified in their form-based zoning code (a limit of 60,000 barrels per year, vs. 5,000 in Saint Paul, applies only in their mixed use districts). Denver’s larger, established microbreweries are mostly located in industrial areas or near the baseball stadium, though newer ones are located in a variety of settings, including mixed use. None of the newer breweries located near residential properties appear to be producing more than 5,000 barrels per year, and so no lessons can yet be drawn about their land use compatibility at such a capacity.

Nearly all cities nationwide allow microbreweries in industrial districts and brew pubs in commercial/mixed use districts. Also, the primary comparison cities (other than Duluth) allow brew pubs in industrial districts, just as Saint Paul does. The summary table below addresses the more variable regulations regarding breweries in commercial/mixed use districts.

**Table 2: Breweries in Commercial or Mixed Use Districts.**

	Allowed?	Maximum Barrels/ Year	Maximum Sq Ft	Notes
Mpls	Yes	none	1,200	Includes C1 Neighborhood Commercial District
Duluth	Some	none	none	Allowed districts are clustered d'town/lakefront
Dallas	w/ CUP	none	10,000	CUP also required for bars, sometimes required for restaurants and brewpubs
Denver	Yes	60,000 or none	none	CUP if w/in 500 feet of resid. in non-mixed use districts; barrel limit only applies in mixed use districts
Portland	Yes	none	5,000 or 10,000	
Seattle	Yes	none	10,000 or 20,000*	
Saint Paul	Yes	5,000	15,000*	

\* Maximum does not apply in more intense districts (B3-B5 in Saint Paul, equivalent in Seattle)

**Comparisons To Other Cities - Distilleries**

Though some small, craft distilleries have existed for decades, they are generally more of an emerging concept than craft breweries. There were only 323 craft distillers in the country in 2012 based on an American Distilling Institute directory, with nearly half (149) of them concentrated in six states: California, Colorado, New York, Oregon, Texas, and Washington. The major urban concentrations of craft distillers (5+ businesses) were in Portland and Seattle.

Nationwide, zoning regulations that specifically mention small or micro distilleries address them both qualitatively and quantitatively. Quantitative limits identified range from 5,000 gallons per year (Evanston, IL, which also requires a taproom to meet the definition) to 660,000 gallons per year (Nashville). Proof-gallons are also used as a measure in other locations.

The leading distillery cities (Portland and Seattle) do not specifically address small distilleries in their codes. Rather, distilleries are considered subsets of production or light manufacturing uses, much like breweries; all uses fitting the broader production/manufacturing categories are allowed in most commercial and mixed use districts so long as they abide by size restrictions. Some of the distilleries in Portland and Seattle are immediately adjacent to residential uses. Research into property complaints and interviews with city staff have revealed no land use impacts regarding distillery operations. Anecdotally, Portland staff note that distilleries tend to have more of a retail goods element than breweries.

**Figure 3: Oola Distillery in Seattle is surrounded to the south, west, and east by apartments.**



### **Comparisons To Other Cities - Wineries**

Staff research has not discovered any major cities that specifically address small, local wineries (or producers of sake, hard cider, etc.) in urban locations. Some cities, such as those noted above, would likely classify small wineries in the broader production or light manufacturing categories. Sake is addressed in State of Minnesota law to clarify that it can be sold in growlers similarly to that sold by small brewers, a response to a specific situation in Minneapolis. Minneapolis has one sake producer (Moto-i) that is located in a commercial district and functions much like a brew pub, with the sake production being accessory to a restaurant. Portland, Seattle, and Minneapolis, incidentally, each have a hard cider producer in the process of opening this year.

### **Parking**

Parking can become a concern when a brewery adds a taproom due to the increased customer traffic it typically presents. Current practice is to require the production portion of the facility to provide parking based on the limited production/manufacturing Zoning Code entries, while the taproom portion is treated like a restaurant. The same practice would likely apply to distilleries or wineries (sake, cider, etc.) with taprooms, should the State of Minnesota law allow for it. Limited production/manufacturing uses must provide 1 space per 1,000 sq. ft. gross floor area or 1 space per 2,000 sq. ft. if more than 50% of production floor space is occupied by automated machinery. Restaurant uses must provide 1 space per 400 sq. ft. Staff recommends clarifying this current practice through new language in the Zoning Code. The parking requirements are summarized in Table 63.207 of the Zoning Code.

Any taproom or brew pub restaurant that became a *bar* by definition would become subject to the parking regulations applied to bars. A bar is required to provide 1 space per 150 sq. ft. gross floor area.

Notably, Minneapolis currently calculates parking for breweries in industrial areas as if it were a 100% production use, regardless of any taproom space – a significant difference from Saint Paul practice.

### **Odor**

In general, manufacturing processes that create noxious odors detected beyond property lines are often limited to industrial districts. Some non-manufacturing uses regularly found in commercial districts, however, frequently generate smaller-scale odors discernable beyond the property line – particularly restaurants with fryers. The question of whether an odor should be limited to industrial areas seems to be a matter of preferences and expectations, which may be best measured by neighbor complaints. Staff research has found that small breweries, distilleries, and wineries in urban areas do not normally generate odor-based complaints.

Breweries, distilleries, and wineries (sake, cider, etc.) do have the potential to generate odor. Breweries, distilleries, and sake producers, in particular, will generate some odor similar to a bakery when the product is cooked (brewed) and still non-alcoholic. (Sake is actually brewed even though the State of Minnesota classifies it as a “wine”.) This type of cooking odor can be quite noticeable with larger brewers, like Summit. Staff research has found no odor-related complaints against small brewers or distillers in Saint Paul or the primary comparison cities. It is not clear at what operation size the brewing odor becomes plainly noticeable.

A distinctive odor potential from wineries or distilleries comes from drying/rotting byproduct – the problem identified with the former industrial ethanol plant on West 7<sup>th</sup>. Certain distilled liquors, generally those with more flavor, can also produce odors during the aging process. So long as waste products are not left to dry on-site, small wineries and distilleries are not expected to generate significant odors beyond what would be expected from a similarly sized bakery or brewery. Small distilleries in the primary comparison cities have not generated odor complaints.

### **Truck Traffic**

A near-universal land use impact of breweries, distilleries, and wineries is truck traffic, including both inbound delivery of raw materials and outbound delivery of product. The correlation of production and truck traffic is not linear – an annual capacity of an additional 1,000 barrels does not equal a certain amount of additional truck traffic. Small producers have more irregular patterns and generally higher levels of traffic per unit, but often via smaller vehicles with less land use impact like vans or personal trucks. That is, the product is often delivered on-demand for each individual customer (restaurant, liquor store, etc.). Larger regional brewers – our area does not yet have any regional distillers or wine producers – have more regular and larger deliveries, often via semi-truck, typically coordinated through a major distributor who can store the product in their own warehouse. Brewers of an intermediate size often use box trucks.

Staff research has found that there is not enough consistency in brewery facility operations to allow prediction of the increase in truck traffic for a given increase in production. Complicating variables include type of vehicle used (van vs. box truck vs. semi-truck), fullness of vehicle, mix of product containers (can/bottle vs. keg), and amount of on-site storage for grain supplies and finished product. However, the following approximate idealized figures may still be helpful: 1,000 barrels per year = 19 barrels per week = 264 cases (24-packs of cans or bottles) per week = 0.44 box trucks full of outbound product per week (if all in cans or bottles) = 0.2 semi-trucks full of outbound product per week. The idealized figures can be used to generate best-case scenarios (e.g. a 5,000 barrel per year facility could generate as little as 2.2 outbound box trucks per week). It should be emphasized that the idealized figures have not been found to reflect reality – they are at best a starting point for analysis.

### **Fire**

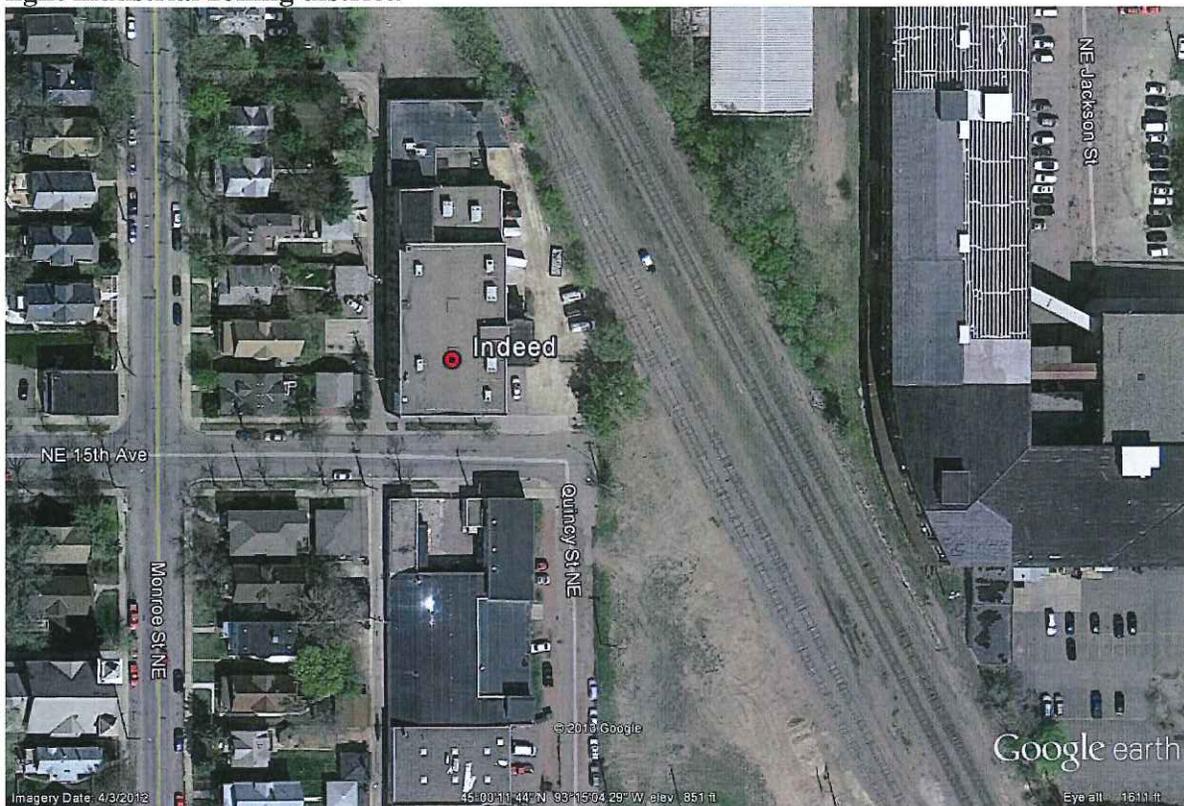
Fire risk is more difficult to measure and predict than other land use impacts because fire is chronologically irregular rather than an ongoing event. Thus, the lack of fire events in similar situations elsewhere is not necessarily predictive. Fire is of particular concern with regard to distilleries' flammable product and breweries'/distilleries' grain storage. The Fire Code addresses both of these concerns and would be applied at the time of building permits. Staff research has not discovered fire to have been an issue with existing small distilleries in urban areas, though fire risk has been used as rationale for limiting distilleries to industrial districts in some jurisdictions. In the primary comparison cities, fire risk does not appear to have been explicitly addressed through zoning.

### **5,000 Barrels Cutoff**

Given current regulations for *malt liquor production* that limit it to 5,000 barrels per year, staff research has particularly focused on the land use impacts of breweries approximately that size or somewhat larger in comparable cities. There are few examples of breweries in that size range across the country that have maintained that size for any length of time. Indeed Brewing of Minneapolis is in the process of doubling its capacity from approximately 3,800 barrels per year to 7,600, with no further expansions announced; thus far, no negative land use impacts have been reported. Indeed Brewing could be an exception to the norm and worth future examination. One niche brewery in Portland has been producing 10,000 barrels/year since about 2010 without land use conflicts, though it is in an industrial-type building not near residential uses. Generally,

breweries producing over approximately 3,000 or 4,000 barrels per year tend to have expansion plans to produce well over 10,000 barrels. Whether the *malt liquor production* limit is set at 5,000 barrels per year, 10,000 barrels, or somewhere in between, the current national market conditions would predict that a brewery exceeding one of those limits would soon surpass all of them – it appears to be within a transition range for breweries expanding their market area reach. It is difficult to predict whether future market conditions would be similar. Also, niche submarkets are particularly difficult to predict since their success will hinge on untested consumer preferences, rather than superiority in the more stable mainstream market.

**Figure 4: Indeed Brewing Company in Minneapolis is located adjacent to residences in a light industrial zoning district.**



## ANALYSIS

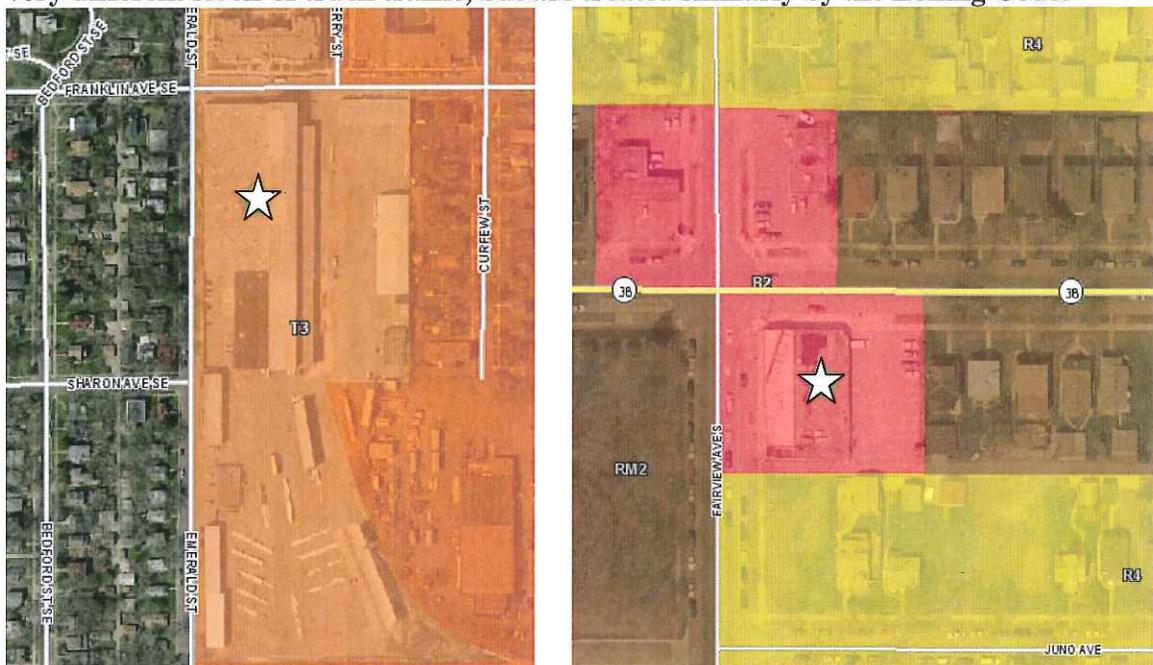
Several issues have been identified for analysis in consideration of potential zoning amendments, as addressed below. An analysis of Comprehensive Plan conformity follows.

### Issue #1

**Should the limit of 5,000 barrels per year be adjusted for *malt liquor production*?**

*Malt liquor production* is limited to 5,000 barrels in the T2-4 and B2-5 districts. It is also limited to 15,000 square feet in T2-4 and B2 districts. The primary land use concern with increasing the 5,000 barrel limit is the anticipated increase in heavy truck traffic. However, as noted above, it is impossible to predict the amount of truck traffic based solely on production levels without knowing other details about the particular business operations. Also, it is noted that properties in the affected zoning districts have varying attributes (e.g. distance to residential, location of truck docks) that would significantly influence a brewery's land use impact. For example, please see Figures 5 and 6 below.

**Figures 5 and 6: Properties below show situations (zoned T3 and B2) that could support very different levels of truck traffic, but are treated similarly by the Zoning Code.**



\* Due to the significant variety of land use settings among the affected districts, and due also to the inability to predict levels of heavy truck traffic, a conditional use permit is the best option for accommodating production levels above 5,000 barrels per year in the T2-4 and B2-5 districts. Variables that could be considered through a conditional use permit include presence/location of truck docks, distance to residential uses, and building orientation.

Under the conditional use permit option, any hard upper limit should be set high enough to include production levels that might be deemed appropriate at the best-suited sites located in traditional neighborhood and business districts. It is recommended that the hard limit be set at 20,000 barrels per year.

One reason that raising the 5,000 barrels per year limit might not be desirable is that it could reduce demand for underutilized industrially zoned sites. Related to this, it could entrench production-style uses on sites that were rezoned to traditional neighborhood districts specifically to incentivize a transition from industrial uses to mixed commercial/residential uses. The

recommendation to allow a conditional use permit option predicts that moderately higher production facilities can be compatible with, and perhaps encourage, the mixed uses envisioned for these zoning districts.

### **Issue #2**

#### **Should breweries, including *malt liquor production* or *brew on premises stores*, be allowed in additional zoning districts?**

*Malt liquor production* and *brew on premises stores* are currently allowed in all non-residential districts except T1, B1, OS, BC, and I3. The Zoning Code asserts that the T1 and B1 districts are intended to provide uses that primarily serve the nearby residential areas, while the OS district is intended for non-production service uses, the BC district is for residences converted to low-impact businesses, and I3 is reserved for objectionable or hazardous uses. Certainly, as generally unobjectionable production uses that do not locate in residential buildings, they are not appropriate in the OS, BC, or I3 districts. These uses do serve surrounding residences, as intended for the T1 and B1 districts, but they also generally serve a much larger market area, drawing from other neighborhoods and often other cities. Therefore, these uses are not appropriate in the T1 or B1 districts. No changes to the allowable districts for these uses are proposed.

*National breweries* should continue to be permitted in only the I2 district because of their significant truck traffic and odor impacts. *Micro and regional breweries*, likewise, produce impacts that are more appropriate in industrial districts (IR, I1, I2) than business districts such as B5 or B4.

### **Issue #3**

#### **How should distilleries be defined and regulated?**

Distilleries are not currently addressed in the Zoning Code. The land use impacts of small distilleries are similar to those of small breweries, including truck traffic and odor, but with the additional concern of heightened fire risk. The Fire Code addresses the heightened fire risk of distilleries and would be applied at the time of building permits. Therefore, truck traffic and odor concerns should be the primary determinants of the appropriate zoning districts for distilleries.

Small distilleries have been proven to be compatible in urban areas with regard to truck traffic and odor concerns. It is recommended, therefore, that small distilleries be allowed similarly to *malt liquor production* in traditional neighborhood and business districts because of the similar observed land use impact in comparison cities. An appropriate cap for such a small distillery might be 40,000 proof gallons per year, which is the current State of Minnesota definition for a *microdistillery*, a classification that enjoys significantly lower tax rates than larger distilleries. Proof gallons are an appropriate measurement unit since producers must pay taxes based on them.

**Issue #4**

**How should wineries be defined and regulated?**

A winery should be defined in reference to State of Minnesota law, which currently includes production of the traditional product made from grapes, as well as vermouth, cider, perry, and sake, all of a certain alcohol content. Referring to State law, rather than repeating it, would allow the Zoning Code to remain current if minor changes are made to the State law, such as reclassifying sake as malt liquor, adding products to the list of *wines*, or adjusting the allowable alcohol content.

Staff research has found that most traditional grape-based wineries do not locate in urban areas. However, cider and sake producers do sometimes locate in urban areas and could be part of a growing trend. Staff research has discovered no reason to anticipate that small wineries will have a significantly different impact than *malt liquor production*; therefore, small wineries should be permitted in the same zoning districts and subject to the same conditions. The applicable production limits should be converted from barrels to gallons, since gallons is the measurement unit used for paying taxes and should be readily available.

The proper zoning classification for larger wineries is unclear. Other similarly sized cities do not generally address wineries in their zoning regulations. Additionally, it is not clear whether larger wineries should be an industrial use or an agricultural use. It is recommended, therefore, that large wineries not be addressed in the Zoning Code at this time.

**Issue #5**

**How should parking for taprooms be addressed?**

The taproom portion of a facility is required, as a matter of practice, to provide parking at the same rate as restaurants. This practice should be incorporated into the Zoning Code for clarity and predictability. The most logical place for this item is within the parking table (“Minimum Required Off-Street Parking By Use”) in Sec. 63.207.

**Issue #6**

**Are changes necessary to the definition of *small brewery as an accessory use to a bar or restaurant* (brew pub) in anticipation of any changes to State of Minnesota law that would allow them to sell to liquor stores and restaurants/bars?**

In Saint Paul, any such future small breweries that want to sell beer to liquor stores or restaurants would have to be reclassified under the Zoning Code as *malt liquor production* and abide by those regulations, including (currently) a maximum 5,000 barrels produced per year in certain districts. This is because both the State and City regulations require brew pubs to sell only for on-site consumption (excepting only growlers). A State law change allowing brew pubs to sell to liquor stores and restaurants could force other cities to contend with brew pubs, which usually locate in dense retail locations, morphing into 15,000 barrel-per-year breweries with production-type activities (forklifts, pallets, trucks, etc.). Fortunately, no change is needed to Saint Paul’s Zoning Code in order to deal with those issues. Additionally, Saint Paul provides a reasonable

and practical alternative for this potential business through the *malt liquor production* classification.

### **Issue #7**

#### **Are changes necessary to differentiate a taproom from a bar?**

Currently, a brewery of any size in Saint Paul can open a taproom to serve its product on-site. It is plausible that such a taproom could become extremely popular to the point that production is arguably an accessory use. However, the Zoning Code appears to suitably handle this situation in its current form. In 2012, the Zoning Code was amended to specifically define a *bar* as being open between midnight and 2:00 a.m., indicating that those hours of operation trigger the need for heightened land use regulation such as increased parking provision. A taproom would be considered a *bar* if it were open during those hours.

### **Issue #8**

#### **What naming structure should be used?**

Several brewers and distillers have expressed a desire for better clarity in City regulations. One small clarifying change recommended herein is to rename *malt liquor production* as *craft brewery* to be in line with *micro and regional brewery* and *national brewery*. Likewise, the smaller distilleries and wineries will be called *craft* for consistency. Another possibility considered was the term *nano* (*nano-brewery*, etc.), but that connotes a much smaller facility to many in the industry (i.e. under 500 barrels produced per year). The term *artisan* was also considered, but it also connotes a much smaller facility.

### **Comprehensive Plan**

The Comprehensive Plan calls for implementation of the Economic Development Strategy, a document that contains six broad initiatives intended to strategically benefit economic development in the city. One of the initiatives is a “streamlined development process,” with clear and consistently applied regulations. The proposed text amendments further that initiative by removing an unnecessary regulation on alcohol production.

Additionally, Strategy 1.50 of the Comprehensive Plan’s Land Use Chapter calls for facilitating “the redevelopment of commercial areas where existing buildings are no longer considered functional to accommodate viable retail and businesses.” Though the proposed text amendments are not location-specific, they could facilitate such redevelopment by allowing new types of businesses (small distilleries, small wineries, and somewhat larger breweries) to be considered in these areas.

Similarly, Strategy 2.2 of the Land Use Chapter calls for promoting “the redevelopment of outmoded and non-productive sites and buildings so they can sustain existing industries and attract emerging industries.” Allowing new types of businesses at such locations would help implement this strategy.

Meanwhile, the proposed text amendments do not contradict any Comprehensive Plan goals relating to protection of neighborhoods. Citywide parking, Fire Code, Building Code, and licensing procedures will still need to be followed.

## **PUBLIC INPUT**

Numerous existing and potential Saint Paul brewers and distillers have informed the study through background interviews. Many of them favor making the City's regulations clear and transparent, so as to avoid surprises or uncertainty down the line. Also, several expressed a desire for flexibility to accommodate future expansions of their businesses and/or changes in State of Minnesota law.

## **STAFF RECOMMENDATION**

Staff recommends that the NPC recommend that the Planning Commission release this study and proposed amendments for public review on August 23, 2013 and schedule a public hearing on October 4, 2013.

### **Attachments**

1. Proposed Zoning Code Amendments
2. City Council Resolution 13-256

# Draft Zoning Code Amendments

## ARTICLE II. - 63.200. PARKING REQUIREMENTS

Table 63.207 Minimum Required Off-Street Parking By Use

Land Use	Minimum Number of Parking Spaces
<i>Commercial Uses</i>	
Restaurant, <del>C</del> offee shop, tea house, deli, <del>taproom</del>	1 space per 400 sq. ft. GFA

## ARTICLE V. 65.400. COMMERCIAL USES

### Division 10. 65.770. Limited Production, Processing and Storage

#### **Sec. 65.774~~2~~. ~~Malt liquor production.~~ Brewery, craft.**

A facility with a capacity to manufacture twenty thousand (20,000) or fewer barrels of alcoholic and nonalcoholic malt liquor a year. This definition excludes small breweries operated in conjunction with a bar or restaurant defined herein as an accessory use.

*Standards and conditions in traditional neighborhood and business districts:*

- (a) In traditional neighborhood and B2 business districts, a conditional use permit is required for such uses with more than fifteen thousand (15,000) square feet of floor area to ensure size and design compatibility with the particular location.
- (b) ~~Fewer than five thousand (5,000) barrels of malt liquor shall be produced in a year.~~ In all traditional neighborhood and business districts, a conditional use permit is required for facilities with the capacity to manufacture more than five thousand (5,000) barrels of malt liquor a year in order to ensure operational and design compatibility with the particular location.

#### **Sec. 65.773. Distillery, craft.**

A facility that manufactures distilled spirits, as defined by Minn. Stat. § 340A.301, with a capacity to manufacture forty thousand (40,000) or fewer proof gallons a year.

*Standards and conditions:*

In traditional neighborhood and B2 business districts, a conditional use permit is required for such uses with more than fifteen thousand (15,000) square feet of floor area to ensure size and design compatibility with the particular location.

#### **Sec. 65.77~~24~~. Finishing shop.**

**Sec. 65.7735. Limited production and processing.**

**Sec. 65.7756. Plastic products.**

**Sec. 65.7767. Printing and publishing.**

**Sec. 65.7778. Recycling collection center.**

**Sec. 65.7789. Recycling drop-off station.**

**Sec. 65.7790. Warehousing and storage.**

**Sec. 65.781. Winery, craft.**

A facility that manufactures wine, as defined by Minn. Stat. § 340A.301, with a capacity of six hundred twenty thousand (620,000) or fewer gallons a year.

Standards and conditions:

(a) In traditional neighborhood and B2 business districts, a conditional use permit is required for such uses with more than fifteen thousand (15,000) square feet of floor area to ensure size and design compatibility with the particular location.

(b) In all traditional neighborhood and business districts, a conditional use permit is required for facilities with the capacity to manufacture more than one hundred fifty-five thousand (155,000) gallons a year in order to ensure operational and design compatibility with the particular location.

**Sec. 65.7802. Wholesale establishment.**

**ARTICLE III. 66.300. TRADITIONAL NEIGHBORHOOD DISTRICTS**

**Table 66.321. Principal Uses in Traditional Neighborhood Districts**

Use	T1	T2	T3	T4	Development Standards
<b>Commercial Uses</b>					
<i>Limited Production and Processing</i>					
<del>Malt liquor production</del> <u>Brewery, craft</u>		P/C	P/C	P/C	✓
<u>Distillery, craft</u>		<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>✓</u>
<u>Winery, craft</u>		<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>✓</u>

**ARTICLE IV. 66.400. BUSINESS DISTRICTS**

**Table 66.421. Principal Uses in Business Districts**

Use	OS	B1	BC	B2	B3	B4	B5	Development Standards
<b>Commercial Uses</b>								
<i>Limited Production, Processing and Storage</i>								
Malt liquor production <u>Brewery, craft</u>				P/C	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	✓
<u>Distillery, craft</u>				<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	✓
<u>Winery, craft</u>				<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	✓

**ARTICLE V. 66.500. INDUSTRIAL DISTRICTS**

**Table 66.521. Principal Uses in Industrial Districts**

Use	IR	I1	I2	I3	Development Standards
<b>Commercial Uses</b>					
<i>Limited Production and Processing</i>					
<del>Malt liquor production</del> <u>Brewery, craft</u>	P	P	P		
<u>Distillery, craft</u>	<u>P</u>	<u>P</u>	<u>P</u>		
<u>Winery, craft</u>	<u>P</u>	<u>P</u>	<u>P</u>		



# City of Saint Paul

City Hall and Court House  
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## Legislation Text

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File #: RES 13-256, Version: 1

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### Title

Initiating a comprehensive study of zoning regulations pertaining to commercial brewing.

### Body

WHEREAS, the Council of the City of Saint Paul finds that the zoning code's present land use definitions and development standards were adopted at various times and for various purposes intended principally to regulate large commercial brewing operations; and

WHEREAS, the City Council recognizes an increasing trend towards small, local commercial breweries; and

WHEREAS, it appears to the City Council that the zoning code's present standards which regulate large commercial brewing operations may be unnecessarily burdensome to the evolving small-scale commercial brewing industry and the entrepreneurs who need zoning approvals from the City in order to establish small-scale commercial breweries; and

WHEREAS, the City Council desires to support the growth of small, local commercial breweries by undertaking a study to consider text amendments to the zoning code which would clarify, harmonize, and update regulatory language, including a reexamination of definitions based on commercial brewery production limit cut-offs and zoning districts appropriate for locating small commercial brewing businesses; and

WHEREAS, pursuant to Minn. Stat. § 462.357, Subd. 4, the Council may initiate amendments to the zoning code and for the purpose of facilitating the growth of small, local commercial breweries the Council desires to do so; now

THEREFORE, BE IT RESOLVED, that the Council of the City of Saint Paul hereby refers to the planning commission for study, the proposed amendment to Leg. Code § 65.774 as set forth below, and zoning code sections: 65.910; 65.610; 65.774; 65.820; and 65.821; and to receive from the commission a report and recommendation on the said amendment specified sections, and any other zoning code sections which the commission believes may facilitate the Council's intentions, all in accordance with Minn. Stat. § 462.357, Subd. 4; and

BE IT FURTHERE RESOLVED, that the Council, in its desire to assist small, local commercial breweries by enabling these breweries to obtain tap room licenses pursuant to Minn. Stat. § 340A.301, Subd. 6b, the Council specifically commends the following proposed amendment to Leg. Code § 65.774, entitled "malt liquor production" to the commission for its study, report, and recommendation as follows:

Sec. 65.774. Malt liquor production

*Standards and conditions in traditional neighborhood and business districts.*

(a) In traditional neighborhood and B2 business districts, a conditional use permit is required for such uses with more than fifteen thousand (15,000) square feet of floor area to ensure size and design compatibility with the particular location.

(b) Fewer than five thousand (5,000) barrels of malt liquor shall be produced in a year.

~~(c) The malt liquor shall not be sold to customers for consumption on the site where manufactured.~~

AND, BE IT FINALLY RESOLVED, that the Council requests the Commission's review, report, and recommendation on the proposed text amendment to Leg. Code § 65.774 no later than 60 days from the date of reference of this resolution to the commission, as provided under Minn. Stat. § 462.357, Subd. 4.