# PLANNING COMMISSION REGULAR MEETING MINUTES
# April 14, 2020
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## I. Regular Meeting

Call to Order:
Pursuant to due call and notice thereof, the Regular Meeting of the Planning Commission was held on April 14, 2020. Chair Kenninger called the meeting to order at 6:30 p.m. with Commissioners Freeman, Reed, Schmisek, VanderWiel, Marlow and Rivera. Also, in attendance were Community Development Director Lindquist, Senior Planner Klatt, Planner Nemcek, Engineer Erickson, Assistant Engineer Smith and Recording Secretary Bodsberg.

The Pledge of Allegiance was said.

**Oath of Office:** Mayor Droste gave the oaths of office to Commissioners Melissa Kenninger and Brent Marlow.

**Additions to Agenda:** None.

**Audience Input:** None.

**Consent Agenda:**

a. Approval of the February 26, 2020, Regular Meeting Minutes.
b. Request by Prestwick, LLC, for Final Plat Approval of Prestwick Place 20th Addition (18-41-FP).

**MOTION** by Freeman.
**Second** by Reed.
Ayes: 7. Nays: 0.

**Public Hearing:**

**RECESS REGULAR PLANNING COMMISSION MEETING AND OPEN BOARD OF APPEALS AND ADJUSTMENTS MEETING**

**6.a. Request by Schmitz Brewery** for a Variance to establish a Microbrewery and Taproom in an AG-Agricultural Zoning District. **(20-31-V) 6.b. Request by David Schmitz for a Simple Plat and Conditional Use Permit to Establish a Microbrewery and Taproom in an AG-Agricultural Zoning District. (20-14-SP & 20-23-CUP)**

Senior Planner Klatt gave a summary of the staff report for the Planning Commission addressing both the variance request and other applications associated with the project. Klatt indicated that staff is recommending a continuance of the item to provide time to get more information relating to some of the public comments already received. He noted that the packet provides many emails that were received along with a petition and a map is provided which illustrates the properties owned by the commenters.

Commissioner Schmisek inquired on why the parking lot is not going to be concrete seeing that it is a commercial use. Klatt stated that the Commission can add that to the conditions of approval. Staff noted that the adjoining road is gravel and felt that requiring paving when the road was paved adjacent to the site was reasonable. Schmisek stated that the safety of the property being on a gravel road is concerning and noted that the speed limit on that road is 50 mph.

Commissioner Reed stated that he is concerned about the setback of the building. Reed stated that he would like to see the building setback further off the street. He noted that the resident located directly across the street from the applicant's property is not in favor of the project.

Assistant Engineer Smith stated that there is a drainage way that goes from the northwest to the southeast through the property. That is one reason the proposed building is placed where it is on the lot.

Commissioner VanderWiel stated that her concerns lie with the location of the building. The parking should not be located directly across from the neighbor. Screening should also be added to hide the commercial use.

Commissioner Marlow inquired if the applicant would be required to submit a photometric plan to see how the lighting would affect the neighboring residents. Klatt stated that it is required.

Commissioner Kenninger stated that she agrees with the stated concerns and that more research on the Commissioners concerns needs to be done. She suggested opening the public hearing for all aspects of the project at this time.

The public hearing opened at 7:33 pm.

Public Comments:

Dave Schmitz, 2100 126th St W, applicant, stated that he wrote a letter to the 19 surrounding homes and explained the project and his business idea. The project is very family focused. The building location would be preferred to be back from the road a little, but the land would have to be graded so much for that to happen, which would be costly. This operation is a family business and they would like to share their property view with the residents of the city.

Community Development Director Lindquist asked the applicant to explain the business operations. Mr. Schmitz stated that the hours of operation will be Monday-Wednesday 3pm-9pm, Thursday-Friday 3pm-11pm, Saturday 11am-11pm, Sunday 11am-9pm. The operation would like to be kept on the smaller side.

Jack Matasosky, Appro Development, 21476 Grenada Avenue, Lakeville, stated that the operation will have limited hours and food items. The parking spots are limited to 84 spots. The idea for this project is for it to not be a bar but a location for families to come together. There will also be no live music.

Chair Kenninger inquired about why the applicant decided to not pave the parking lot. Mr. Matasosky stated that the intent is to use the recycled asphalt to minimize the dust. Since the road isn't paved all of the rocks and dust would come into the parking lot if it was paved.

Commissioner Rivera inquired what a future expansion would entail. Mr. Schmitz stated that the likelihood of an expansion is very low. The goal is to keep the operation small.

Joe Casella, 4962 Sycamore Drive, Eagan, stated that he is opposed to the project due to the increase traffic and public safety issues. He stated that 120th Street is a busy street and cars have flipped over into his yard numerous times.

Jackie Fremo, 12780 Bacardi Ave, stated that she is opposed to the project due to the possible impact on the area and traffic. She is concerned about the smell and possible pollution that the brewery might inflict on the area.

Mr. Schmitz stated that the smell and pollution would be minimal. They plan to brew only one day a week.

Dale Cody, 2275 126th Street West, stated that he is opposed to the project due to the increase in traffic. He stated that 126th Street West has no sidewalks and is not a paved road. A lot of people walk in this area and he is concerned about an increase in impaired drivers. A traffic study needs to be done on 126th Street West too, not just on Bacardi Avenue. The comprehensive plan has stated that this area is supposed to stay Rural Residential.

Assistant Engineer Smith stated that the speed study on Bacardi Ave was done prior to this project coming forward. Reed inquired what the nature of a future traffic study would entail. Smith stated that the side streets were not going to be included and that the speed would be evaluated to see if it is appropriate in that location on Bacardi Ave with the increase of traffic. Kenninger inquired if it would be possible to include the side streets around Bacardi Ave in the traffic study. Smith stated that it's something they can look at.

Lece Pegatchnik, 548 Spruce Street, Eagan, stated that she is opposed to the project since people will have to drive through neighborhoods in order to get to the brewery property.

Fred and Deborah Ruppe, 12050 Bacardi Ave, stated that they are concerned with the noise that may come from the property; hours of operation seem excessive. The quiet nights that they enjoy may be taken from them. The smell that would come from a brewery would impact the neighborhood. The increase in traffic would also impact the neighborhood.

Bob and Julie Berken, 2300 126th Street West, the number of cars on the road during the traffic study were vastly low. The safety of the neighborhood is important. The properties surrounding the applicant will be most affected and are all opposed to the project.

Lori Lucke, 2145 126th Street West, stated that she is opposed to the project and agrees with most of the comments from other residents. It was stated earlier that there will be no parking on Bacardi Ave and in the event that they need overflow parking, it will most likely put the visitor parking into the neighborhoods.

Lance and Mara Schottenbauer, 12483 Bacardi Ave, stated that she lives directly across the street from the applicant's property. She has a concern about how the property would be serviced in case of a fire. Another safety concern is the parking lot size and that if the property needs fire help would there be enough room in the parking lot for the fire trucks. Klatt stated that the application has been reviewed by the Fire Marshal. The review stated that the application does comply. Lindquist stated that the City does have other commercial facilities outside of the MUSA and therefor does not have city water or a fire hydrant. The fire station has other ways that they can address a fire if they need to. Klatt stated that city roads are designed to sustain fire rescues. A review memo from the Fire Marshal can be found in the Planning Commission packet. Ms. Schottenbauer stated that she also has a concern about the reasonable use for the property. Having to drive through a neighborhood in order to get to the brewery is concerning. Lindquist stated that every property owner has the right to reasonably use their property. The residents concern about having to drive through a residential area is more of a policy use for the Planning Commission and City Council to decide on. Ms. Schottenbauer stated that she would like to see additional screening with the landscape on the front of the property. But she has concerns about safety and that a blind spot may be created. Klatt stated that the city does have requirements for landscape placement to ensure sight distances are maintained. Ms. Schottenbauer inquired if the hours of operation would be the entire entity or the taproom. The hours are concerning with the main product being an intoxicating product. Mr. Schmitz stated that the hours of operation are for the taproom hours.

Steven Kreitz, 1785 120th Street West, Eagan stated that he is opposed to this project. The idea of this project is great but just not in this specific location. The traffic on 120th Street and the accidents that have happened is only going to increase. Mr. Kreitz would like to see 120th Street and 126th Street included in the traffic study. He stated that the property has septic and well. The amount of water used at this brewery will be 8-10 gallons of water for every 1 gallon of beer produced. He is curious as to what the possibility of surrounding wells going dry with the added water use. Klatt stated that additional permits will be needed for the impact of the well and if the property will need to obtain a larger well. Additional approval steps will be needed if this item continues forward.

Julie Neisius, 12525 Biscayne Ave, stated that the area has had an increase in traffic throughout the last 12 years. She asked if sidewalks are going to be put in place and who would pay for the sidewalks and paving of the road. She inquired about exterior materials; that commercial buildings need to be brick. This property is not proposing a brick exterior. Klatt stated that the design requirements in a commercial zone would be brick but, in this case, they are in AG zone. The exterior of the building does meet the standards in the specific zoning area. Assistant Engineer Smith stated that improving Bacardi is not part of the city's current plan. If a paving and sidewalk project would be proposed the city would follow their assessment policy.

Keith Bester, 2140 120th Street West, questioned why the proposed property is being split to 2.5 acres vs. the standard 5 acres in this area. Klatt stated that the applicant is requesting the 2.5 acres for the property. Mr. Schmitz stated that because of the storm water and park fees. The cost of those fees is the main reason for requesting the 2.5 acres. Mr. Bester stated that the neighboring nature preserve is important, and he has concerns about bringing in a brewery that would impose on the original state of the preserve. Klatt stated that the City does not have specific set backs required from the nature preserve. Mr. Bester questioned if there are any concerns with the wetland/creek and that the culvert was recently fixed. Smith stated that there is a condition that would require the applicant to provide an easement that would protect the wetland and place a buffer around the wetland.

Yvonne Casella, 4962 Sycamore Drive, Eagan, stated that the school busses for Red Pine both in the morning and afternoon will pass the brewery and she is concerned about traffic and safety.

Lori Geller, 12575 Biscayne Ave, stated that she is in support of this project. She stated that most neighbors opposing the project do not have small children. She has small children and the decision should not be based on fear.

> **MOTION** by Schmisek to close the public hearing.
> **Second** by VanderWiel.
> Ayes: 7. Nays: 0. Motion Passes

The public hearing was closed at 9:28 pm.

**Additional Comments:**
Chair Kenninger stated that she would like to see additional information come forward.

Commissioner Schmisek inquired if the next meeting would be enough time to get the answers to all of the questions. Kenninger stated that this item would be continued to the May 12, 2020, meeting. Lindquist stated that traffic is absolutely a concern but with our current times a traffic study will not provide a very good idea of what this area is like on a typical basis. Smith stated that they will be looking at a more in-depth speed study on Bacardi for 2021.

> **MOTION** by Reed to continue item until the May 12th, 2020, meeting.
> **Second** by Freeman.
> Ayes: 7. Nays: 0. Motion Passes

> **MOTION** by Reed to recess Board of Appeals and Adjustments meeting and reopen the Planning Commission meeting.
> **Second** by VanderWiel.
> Ayes: 7. Nays: 0. Motion Passes.

## RECESS BOARD OF APPEALS AND ADJUSTMENTS MEETING AND RE-CONVENE REGULAR PLANNING COMMISSION MEETING.

**Five-minute break was taken at 9:37 pm**

**6.c. Request by Builder Jones** for Approval of a Planned Unit Development Master Development Plan with Rezoning, Preliminary Plat, and Final Plat at 2316, 2318, and 2322 Bonaire Path. (20-25-PUD, 20-26-PP, 20-27-FP)

Planner Nemcek gave a brief summary of the staff report for the Planning Commission.

Kenninger inquired about the one small lot and to see if it meets the setbacks with its neighbor to the east. Nemcek stated that an updated final plat was provided and that the lot was widened enough that the increase in the width makes up for the increase in side yard setback requirement. Kenninger inquired about the cul-de-sac and whether it will stay a permanent cul-de-sac. Nemcek stated that it will be a permanent cul-de-sac. Additional homes will be added to the cul-de-sac during future development.

Reed inquired about what the advantage would be to have a light at Bonaire Ave and Highway 3. City Engineer Smith stated that the traffic levels will continue to be monitored and that MnDOT has no current plans to add a light in that location.

The public hearing opened at 10:05 pm.

Public Comments:

Rob Eldridge, representative for Builder Jones, 10515 165th Street, Lakeville, stated that Builder Jones is a newer construction company that have been in business for around 5 years. They are a going to complete the development with a couple other builders. The design for the development and having the lot size on the smaller end is because the housing trend is showing that people are looking for smaller lots and some smaller homes. Homes could also be used for people to downsize and go from a two-story home to a single-story home.

John Wilson, 13541 Birdsong Court, stated that the development seems to have too many homes. He would like to see the development less congested. Mr. Wilson inquired about completing the attachment to Bonaire Path during phase one and if there will be sidewalks through the neighborhood. Nemcek stated that the need to manage the storm water on site is the reason why the developer drew the plans in the proposed configuration. The sidewalk will extend along the south side of Birdsong Path and along Bengal Street. Mr. Eldridge stated that the lot size for the development was configured around the stormwater easement and the pipeline easement that are in place through the development. The Bonaire access being completed during the first phase is still being discussed but with having to maintain the stormwater on site. It seems like it will be difficult to make that happen.

Lois Muellner, 2320 Bonaire Path West, stated that she was contacted by Builder Jones to purchase her property. Ms. Muellner is curious if this development could go on without the purchase of her property and if she would have to pay for the utilities being brought in because of this development. Ms. Muellner is concerned about erosion around her property. She would also like a purchase agreement with Builder Jones so that it can be included in this development. Additionally, Ms. Muellner asked for confirmation that the access easement over the existing driveway at the eastern side of her property will remain. Nemcek stated that the initial phase of the development is outside of Ms. Muellner's property and has always been planned in this area because of the streets and utilities that are already in place. Ms. Muellner will not be responsible for any assessment costs for the utility changes happening around her property. The developer pays for the development costs. Mr. Eldridge stated that the erosion protection will be put into place to protect her property. The driveway easement is currently shared between four property owners. A new easement will be drawn up and would have to be approved by Ms. Muellner before it would be filed.

Jerry Anderson, 2295 Bonaire Path West, stated that his property is located directly north of the proposed development. When he split his property, he was under the assumption that the road that goes into Bonaire would be on the lot line. Nemcek stated that this map is concept drawing and any connections to Bonaire are subject to change. Mr. Anderson inquired if the properties around the development would be required to hook up to the sewer within a certain amount of time. Community Development Director Lindquist stated that the City ordinance requires residents to hook up to water within 8 years of becoming available. The sewer needs to be accessible not just in the area. Mr. Anderson inquired if Biscayne Way would ever be opened back up once there is more development in that area. Nemcek stated that the ultimate plan would be to have an intersection at Biscayne and Connemara, but the ultimate alignment of the street would not be along the railroad like the old Biscayne was.

**MOTION** by Kenninger to close the public hearing.
**Second** by Reed.
Ayes: 7. Nays: 0. Motion Passes.

The public hearing was closed at 10:40 pm.

**Additional Comments:**
Commissioner Reed stated that he is in favor of this development. The smaller lot sizes are a little concerning but that they may sell well at this time. He would like to look into having a light put in at the intersection of Bonaire Path and Highway 3.

Commissioner Freeman stated that she is in favor of this development and agrees that the need for a light at Bonaire Path and Highway 3 is a must.

Commissioner Schmisek stated that he is in favor of this development that will include smaller homes. Also agrees that a light at Bonaire Path and Highway 3 is needed.

Commissioner Rivera stated that a round a bout may also be beneficial at Bonaire Path and Highway 3.

**MOTION** by Reed to recommend the City Council approve the Preliminary and Final Plats for Doolin Heights, subject to the following conditions:

a. Approval of a Planned Unit Development Master Development Plan with Rezoning.
b. Execution of a Subdivision Agreement.
c. Conformance with all the requirements of the City Engineer as detailed in the attached memorandum dated April 14, 2020.
d. Payment of $85,000 as cash-in-lieu of park dedication.

**Second** by Schmisek.

Ayes: 7. Nays: 0. Motion Passes.

**MOTION** by Reed to recommend the City Council approve the Planned Unit Development Master Development Plan with Rezoning of the property from R1-Low Density Residential to RI PUD-Low Density Residential Planned Unit Development, subject to the following conditions:

a. Execution of a Planned Unit Development Agreement.
b. The front building elevation design shall include one of the following elements:
    i. Three and a half (3.5) feet of brick or stone wainscoting, excluding doors, windows or the wall behind the front porch;
    ii. A front porch with railing that extends at least 30% of the width of the front elevation, including the garage;
    iii. A side entry garage;
    iv. Or, no more that 70% lap siding, excluding doors and windows.
c. A deviation from City Code Section 11-4-5 F.1. to reduce the lot minimum area of 10,000 to 7,010 square feet.
d. A deviation from City Code Section 11-4-5 F.2. to reduce the minimum lot width from eighty (80) feet to fifty-five (55) feet.
e. A deviation from City Code Section 11-4-5 F.5. to reduce the side yard setback from ten (10) to seven and one half (7.5) feet except for the following:
    i. Areas where existence of larger drainage and utility easements require additional setbacks.
    ii. Lots adjacent to the eastern boundary of the development area must meet the R1 side yard setback standard for the side of the property adjacent to Biscayne Pointe North.
f. A deviation from City Code Section 11-4-5 F.9. to increase the maximum lot coverage from thirty percent (30%) to forty-five (45%) for lots less than 8,250 square feet; to forty percent (40%) for lots between 8,250 square feet and 9,250 square feet in size and thirty-five percent (35%) for lots between 9,250 square feet and 10,000 square feet.
g. Incorporation of the recommendations from the City Engineer in a review memorandum dated April 14, 2020, relative to drainage, grading, street design, easements, utilities, and the adjacent sidewalks.
h. The applicant shall inform buyers of lots adjacent to the temporary infiltration basin of the temporary nature of that infrastructure.
i. Vacation of the private easement over stormwater infrastructure and public right-of-way.
j. Subdivision monuments shall be subject to sign permits and ordinance standards.
k. Two trees shall be provided on all corner lots.
l. The landscaping plan shall be updated to provide additional screening along the eastern boundary of the development area.
m. The applicant is not required to meet the minimum tree replacement requirements for this phase of development. The applicant shall work with staff to identify opportunities to provide replacement trees in future phases of development as depicted in the Concept Plan to account for the shortfall in this initial development phase.
n. The applicant shall install snow fencing around trees to be maintained and have staff review the grading limits and fence installation prior to issuance of a grading permit. Grading should not occur within those trees' drip lines. The applicant shall walk the site with City staff prior to issuance of a grading permit.
o. Submittal of a landscaping surety in the amount of 110% of the cost of the landscaping.

**Second** by Schmisek.
Ayes: 7. Nays: 0. Motion Passes.

**Adjournment:** There being no further business to come before this Commission, Chair Kenninger adjourned the meeting at 10:47 pm.

Respectfully submitted,
Stacy Bodsberg, Recording Secretary