

PLANNING COMMISSION REGULAR MEETING MINUTES

May 12, 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.

Additions to Agenda: None.

Audience Input: None.

Consent Agenda:

- a. Approval of the April 14, 2020, Regular Meeting Minutes.

MOTION by Kenninger.

Second by Schmisek.

Ayes: 7. Nays: 0.

Public Hearing:

5.a. Zoning Ordinance Text Amendment to City Code Section 11-2-15: Single Family Detached Dwelling Requirements to update the maximum area of attached garages. **(20-33-TA)**

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

Commissioner Reed inquired about more clarification on the proposed change to the ordinance, indicating at written the draft is not clear. Nemcek stated that the specific language is needed if we want to permit some larger garages for larger homes. All other setbacks and hard surface coverage requirements would need to be met.

Commissioner VanderWiel inquired how many applications come to the City for this specific request. Nemcek stated that the City gets about one application request per year. VanderWiel inquired why the City wouldn't use the CUP process because the proposed change to 2,000 square feet seems rather large for most areas in Rosemount. Community Development Director Lindquist stated that if the applicants meet the CUP conditions they would be approved for the permit. The CUP process involves a public hearing and if the neighbors are opposed then they feel like they can persuade the City to not approve the request, which is not the case if conditions are met. You would also need a rather large property in order for this to be approved.

Chair Kenninger questioned what happens if someone came in today with the request, what would happen. Lindquist stated that staff would work with the resident to change the plan since a variance would be hard to support.

Commissioner VanderWiel stated by using the CUP we could at least have a say in how the garage would look to prevent it from looking like an eye sore.

Commissioner Rivera stated that seeing that this topic doesn't come up very often we could change the code in order to not clog up the system with unnecessary future applications.

Lindquist stated that staff will take another look at this and maybe the proposed square footage number needs to change.

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Commissioner Freeman stated that there could possibly be a lower number that would work.

The public hearing opened at 6:57 pm.

Public Comments: None.

MOTION by Kenninger to close the public hearing.

Second by VanderWiel.

Ayes: 7. Nays: 0. Motion Passes

The public hearing was closed at 7:00 pm.

Additional Comments: None.

MOTION by Kenninger to continue item to the May 26, 2020 Planning Commission Meeting.

Second by VanderWiel.

Ayes: 7. Nays: 0. Motion Passes

Old Business:

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

Senior Planner Klatt gave a summary of the staff report for the Planning Commission, noting the changes made to the plans such as moving the building back from the road and shifting the parking.

Commissioner Rivera questioned if the applicant has obtained the parcel needed for access and if the applicant does not obtain this parcel can the brewery still move forward. Klatt stated that the applicant does need to obtain the parcel for the project to proceed.

Commissioner Schmisek inquired about the safety concerns on 120th and Bacardi. Has the Eagan police department been contacted? Klatt stated that staff has been working with the Rosemount police department on safety concerns.

Jack Matasosky, Appro Development, 21476 Grenada Avenue, Lakeville, stated that the applicant is proposing a small neighborhood brewery on their property. They wish to share their passion of brewing beer and root beer. They want it to be very family friendly and not just a bar. The plans have been changed to move the building back from the public right-of-way. Because of the limited parking the largest event that can be held is capped at about 85 people.

Dave Schmitz, Applicant, stated that he would like to discuss the limited hours proposed. The conditions state that the patio must close an hour before taproom closing. If this is the case it would negatively impact the business.

Commissioner Rivera inquired how far along the applicant is in obtaining the piece of land adjacent to the road. Mr. Schmitz stated that a price has been agreed on and a purchase order is being drawn for purchase.

Chair Kenninger inquired about the hours of operation for the brewery. Mr. Schmitz stated that they looked at surrounding breweries and that is how they came up with their hours. He doesn't agree with the requirement to close the patio an hour before the closing time. Mr. Schmitz stated that they will not have outside music. The location is surrounded by woods and buffered well and that evening noise shouldn't be an issue. Mr. Schmitz would like to see the hours changed to Monday - Thursday 4-9; Friday 4-11; Saturday 11-11 and Sunday 11-9. With the patio staying open until sundown. Ms. Lindquist stated that she would like to see a set time for the patio to close so that everyone understands expectations. It would be hard to enforce a sundown closing time.

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Commissioner Reed inquired about the process to change the business hours after this item passes. Lindquist stated that the hours will be a condition of approval. The applicant can request an amendment later which requires Council approval.

Commissioner Freeman stated that the latest sunset is on June 20th and its 8:30 pm. Keeping the patio open until 9 pm would make sense to her.

Commissioner Schmisek stated that he agrees with the hours except for the Friday and Saturday being open until 11pm. Mr. Schmitz stated that he would agree to close Friday and Saturday at 10 pm. In exchange for the patio to be open until 9pm.

Chair Kenninger recapped the hours discussed with the applicant as Monday - Thursday 4-9; Friday 4-10; Saturday 11-10; and Sunday 11-9 with the patio staying open until 9 pm. Klatt stated that in the survey staff completed only three breweries in the area stayed open past 10:00 pm

Chair Kenninger read the letters received since the last Planning Commission meeting. She acknowledged the public hearing was closed at the last meeting but would allow additional comments as the project was modified since the last meeting.

Curtis Henry, 3823 154th Street West, stated that he supports the brewery and that Rosemount needs a new business. As a regular customer of microbreweries he noted that these are places to gather with friends to enjoy conversation and making memories. The beer is secondary. Rosemount lacks such a place.

Katherine Gayl, 2980 120th Street West, questioned how the brewery will support the Rosemount 2030 development plan. She would like to better understand the long-term community benefits of having the brewery in the current location.

David Chumbley, 13819 Clare Downs Way, stated that he is in full support of this project. Looking at comparisons, there's a similar type location in Amery, WI. The name is Amery Ale Works and it's outside of town on a rural road. It's a very family, friendly facility with the same casual, social gathering location as the primary objective.

Lori Lucke, 2145 126th Street West, questioned if the noise from that location could be measured before approval. From her property they can hear neighbors around them. She is concerned about the new building location proposed and feels it has moved directly across the street from a residential house. Neighbors purposely moved to this area for the space and quietness surrounding them.

Klatt explained that the property has moved further south but that it isn't in line with the neighboring property. More screening has been put in place.

Kymi and William Kieffer, 3245 145th Street West, stated that they are very much in support of this project and excited for this business to come into Rosemount.

Dale Cody, 2275 126th Street West, questioned if any of the neighboring properties are in favor of this project. Noise does travel and it will affect the neighbors. He asked if anyone would want to purchase a home that is located directly across the street from the proposed brewery.

Brian Cody, 3345 144th Street West, stated that this summer he is purchasing his parents' home (2275 126th Street West). His concerns lie with the level of traffic that this brewery will create.

Lece Pogatchnik, 548 Spruce Street, Eagan, questioned if the speed will be looked at on Biscayne Ave to 120th Street West. Assistant City Engineer Smith stated that a traffic speed study is not currently planned for that section of Biscayne Ave near 120th Street.

Ms. Pogatchnik stated that her concerns lie with the fact that Eagan Police should be contacted to see if they have plans to look at the speed in this area. Smith replied that engineering staff has been in contact

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with the City of Eagan staff but that they have not mentioned any speed studies that they plan for that area.

Lori Geller, 12575 Biscayne Ave, stated that she is in support of this project. All the neighboring properties have between 2-5 acres. She is not concerned about the possible noise that would come from the proposed business.

Julie Neisius, 12525 Biscayne Ave, questioned, with the brewery having an outdoor patio, what does the applicant plan on using for bug control. Mr. Schmitz stated that at this point they have not reviewed their options but do not plan on applying anything that would be harmful.

Fred Ruppe, 12050 Bacardi Ave, stated that his home faces the applicant's property. His concern is that the noise will carry from the brewery. The reason that they purchased the home in this location is for the quiet country feel. This business will absolutely change the neighborhood.

Mr. Schmitz stated that they do take the neighbors comments to heart and that they have spoken with several neighbors. That is why they moved the building back off the road and adding the additional buffers.

MOTION by Kenninger to close the public hearing.

Second by Reed.

Ayes: 7. Nays: 0. Motion Passes

The public hearing was closed at 9:03 pm.

Chair Kenninger stated that a lot of information has come forth either in favor or opposed to this project. She liked seeing the new plans that shifted the location of the building back off the road and neighbor. This is an allowed use to have the brewery on this property. The variance is very administrative and appropriate for what is requested. A brewery is not a bar but is a family friendly environment. She supports the revised proposed hour; with the suggestion that that the patio closes at 9:00 pm.

Commissioner Reed stated that he agrees with Chair Kenninger's statement. He likes the amended hours that are proposed, but he does not like that location of the business and would like to see it outside of a residential neighborhood. He indicated he would vote no unless a condition was put into place with a lower speed limit on Bacardi Ave. Its concerning to put commercial traffic on a residential road.

Lindquist indicated that staff does not support a condition of approval compelling the City to act that is beyond the control of the applicant. Smith stated that they are not comfortable changing a speed limit without the accurate data which will be obtained during the study scheduled next year.

Commissioner Freeman stated that she likes the idea of a brewery itself and in a rural location. Past farm breweries that she has visited are peaceful and not at all like a wild bar. She agrees with the concerns about the traffic on Bacardi. The traffic and speed on Bacardi Ave are out of control of the applicant. A traffic study needs to be done soon in this area and would like to see the speed limit lowered on Bacardi Ave. She also, supports the new proposed hours.

Commissioner Schmisek stated that he likes the idea of a brewery and but is struggling with placing the brewery in a residential neighborhood. He agrees with the proposed hours of operation but is concerned about the safety issues on Bacardi Ave.

Commissioner VanderWiel stated that she likes the idea of a brewery in the City, but that she will be voting against approval for this specific project as she feels like this project will alter the neighborhood. She stated that surrounding properties would like to use their land as well when they are outside they will have to listen to the noise of a neighboring commercial use. She does not believe the variance request is administrative in nature.

Commissioner Marlow stated that the use is allowed on this property and that microbreweries are family friendly. Patrons do not visit breweries to get drunk. The safety concerns with Bacardi will be there with or without the brewery.

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Commissioner Rivera stated that she can see both sides to the concerns. She understands that the neighbors not wanting a commercial use in their backyard but that breweries are calm family friendly uses. She also likes that the starting hours were moved back so that they are not open when the kids are coming home from school. She noted that the speed limit on the gravel road is concerning.

Chair Kenninger stated that they need to strongly voice to the Council that a speed study needs to be completed, hopefully before the establishment opens. She asked if there are there any road signs that could be placed in the meantime? Smith stated that the specialty signs are usually not recommended because they don't change driver behavior.

Community Development Director Lindquist stated that the commission should not be tying the road speed to this specific project as the applicant cannot regulate the speed limit.

Commissioner Schmisek questioned how you can support the project knowing that it could be unsafe for the neighborhood. Lindquist stated that this use is allowed in the zoning district. Klatt stated that staff placed conditions to mitigate the impacts on the neighborhood and the speed on the road will be addressed in the near future.

Commissioner Reed inquired what we could expect out of a speed study. City Engineer Erickson stated that what they would expect is a review of the road conditions and the approved speed for that section of the road. The study takes into account the geometrics and that portion is rather straight. He would be surprised if the speed limit was lowered to 30 miles an hour.

Lindquist stated that the speed study shows how people drive and the basis of the study is that people drive for the conditions of the road. Smith stated that just because a speed limit is lowered doesn't mean that the population will change their driving behavior.

MOTION by Kenninger by the Planning Commission (acting as the Board of Appeals and Adjustments) to adopt a resolution approving a variance to allow the platting of a lot that does not meet the minimum density and lot frontage requirements of the AG-Agriculture Zoning District, subject to the following conditions:

1. Approval of a conditional use permit by the City Council to establish a microbrewery on the lot to be created as a result of the variance.
2. Recording of a deed restriction over Lots 1 & 2, Block 1 that prohibit the sale of either parcel independent from other property (residential and commercial) with specific provisions and limitations as approved by the City Attorney.
3. The microbrewery parcel (Lot 1, Block 1) shall be adjusted to a minimum lot size of 2.5 acres.

Second by Freeman.

Ayes: 5. Nays: 2. VanderWiel & Reed. Motion Passes

MOTION by Kenninger to recommend the City Council approve a Simple Plat for North 20 Brewery Addition subject to the following conditions:

1. Submission of updated grading, drainage, and erosion control plans and a storm water management plan that reflects the updated site plan submitted for the May 12, 2020, Planning Commission meeting.
2. Dedication of drainage and utility easements on the final plat up to the required buffer required by the City's wetland conservation ordinance around the wetland depicted at the far eastern portion of Lot 2, Block 1, standard drainage and utility easements around the perimeter of the sites and along all drainageways.
3. Conservation easements in a form acceptable to the City shall be recorded with the final plat and cover the wetland and wetland buffers as identified on the plat and associated drawings.
4. Recording of a deed restriction over Lots 1 & 2, Block 1 that prohibits the sale of either parcel independent from other property (residential and commercial) with specific provisions and limitations as approved by the City Attorney.

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5. Payment of a fee-in-lieu of park land dedication of \$23,670 for Lot 1, Block 1. Additional park dedication will be required upon any future development of Lot 2, Block 1.
6. Payment of the required storm water trunk area assessment of \$6,865 per acre for the 2.5 acre microbrewery parcel (Lot 1, Block 1) adjusted to apply to the final acreage on the final plat. Additional storm water trunk area fees will be required upon any future subdivision of the remaining parcel.
7. Each lot must accommodate a sewage treatment system meeting all City and County requirements and designed by a licensed septic designer.
8. Construction of a well capable of providing the water demands for the microbrewery and meeting all Dakota County and Minnesota Department of Health Standards.
9. Incorporation of recommendations from the City Engineer in a review memorandum dated May 12, 2020, relative to drainage, grading, easements, utilities, storm water management, and other subjects covered in the review.
10. The microbrewery will be required to connect to public water and sewer service should these services become available to the parcel in the future.
11. The applicant shall work with the property owner to the south to resolve any private access and easement issues within the subdivision prior to release of the plat for recording.
12. Applicant shall obtain fee title to the property identified as "Parcel 1" on the map labeled Administrative Subdivision (Map C-1) to eliminate an existing gap between the subject property and Bacardi Avenue right-of-way. This is required prior to release of the final plat.
13. The microbrewery parcel (Lot 1, Block 1) shall be adjusted to a minimum lot size of 2.5 acres.

Second by Rivera.

Ayes: 5. Nays: 2. VanderWiel & Reed. Motion Passes

MOTION by Kenninger to recommend the City Council approve a Conditional Use Permit to establish a microbrewery and ancillary taproom on Lot 1, Block 1 of the North 20 Brewery Addition subject to the following conditions:

1. Submission of updated grading, drainage, and erosion control plans and a storm water management plan that reflects the updated site plan submitted for the May 12, 2020 Planning Commission meeting.
2. Installation of septic system designed by a licensed septic designer and meeting all applicable city and county standards.
3. Hours of operation shall be limited to the following: Monday-Thursday 4:00 PM to 9:00 PM; Friday 4:00 PM to 10:00 PM; Saturday 11:00 AM to 10:00 PM; Sunday 11:00 AM to 9:00 PM. On all days, the outdoor patio shall be closed at 9:00 PM.
4. Secure a liquor license for the taproom and compliance with all City standards for the taproom as regulated by the license.
5. Compliance with all requirements of the Building Official in a memorandum dated April 8, 2020.
6. All driveways and parking areas shall be capable of supporting access by emergency vehicles and equipment.
7. The parking area shall comply with the minimum setback of 50 feet from the Bacardi Avenue right-of-way.
8. The driveway and parking area shall be paved with concrete or bituminous surface at the time the city paves Bacardi Avenue in front of the Microbrewery property at the owner's expense. All parking stalls shall be clearly marked to ensure the maximum capacity of the parking area is available for use at all times.
9. No parking for patrons of the microbrewery is allowed along Bacardi Avenue or within surrounding neighborhoods. Should parking problems occur at the site, the applicant will be required to expand the on-site parking lot.
10. City may sign Bacardi Avenue for no parking if necessary.
11. The applicant shall designate an overflow parking area that may be used during peak visitation periods above and beyond 4-proof of parking stalls depicted on site plan
12. Submission of a lighting plan that includes lighting at the driveway entrance and uses down cast fixtures. All lighting shall comply with the City's lighting requirements.

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13. Submission of an updated landscape plan that meets the City's minimum requirements for commercial development (1 tree per 3,000 square feet of area) and that includes the required foundation plantings. Additional plantings may be required along the western edge of the parking lot to provide a fully screen the parking lot from Bacardi Avenue.
14. Compliance with the performance standards outlined for outdoor seating in section 3-1-14 and subsection 11-4-14D of the City Code.
15. Submission of a dust control plan for the driveway and parking area.
16. The taproom operation shall operate in compliance with the City definition of a microbrewery which means no more than 3,500 barrels of malt liquor can be produced in a calendar year and taproom which means that sales are limited to the on-sale of the malt liquor produced by the brewery.
17. Outdoor live music or on-site food trucks are prohibited.

Second by Freeman.

Ayes: 4. Nays: 3. VanderWiel, Reed & Schmisek. Motion Passes

Adjournment: There being no further business to come before this Commission, Chair Kenninger adjourned the meeting at 9:51 pm.

Secretary

Respectfully submitted,
Stacy Bodsberg, Recording