

**City of Salem Planning Board & Salem City Council
Meeting Minutes
Monday, June 16, 2014**

A joint public hearing of the Salem Planning Board and the Salem City Council was held on Monday, June 16, 2014 at 7:00 p.m. at City Council Chambers, City Hall, 93 Washington Street, Salem, Massachusetts.

City Council President Bob McCarthy opened the meeting at 7:05pm.

Roll Call

Planning Board members present were: Tim Ready (Acting Chair), Ben Anderson, Kirt Rieder, Dale Yale, Helen Sides, Bill Grisct and Matthew Veno. Absent: Chuck Puleo and Randy Clarke.

City Councillors present were: Robert McCarthy (President), Thomas Furey, William Legault, Elaine Milo, Arthur Sargent, Heather Famico, Todd Siegel, David Eppley, Josh Turiel, Beth Gerard and Joseph O'Keefe.

Also present: Lynn Duncan, Director of the Department of Planning and Community Development, Dana Menon, Staff Planner, Cheryl LaPointe, City Clerk, and Pamela Broderick, Planning Board Recording Clerk.

Planning Board Acting Chair Tim Ready introduced the members of the Planning Board in attendance.

Agenda

A joint public hearing with the City Council to amend the City of Salem Zoning Ordinance to add a definition for "Brewery, Distillery, or Winery with a Tasting Room" and "Tasting Room" under Section 10; and to amend the *Table of Principal and Accessory Use Regulations* under Section 3.0 to add a new "Brewery, Distillery, or Winery with Tasting Room" use, to be allowed by-right in I and BPD zones, and by special permit of the Board of Appeals in the B1, B2, B4, and B5 zones.

Director of Planning and Community Development Lynn Duncan gave a brief presentation on the background of the proposed ordinance amendment and the research conducted to consider the issues and prepare the draft language. Ms. Duncan advised interest has been expressed in tasting rooms associated with wineries, distilleries and breweries. The Building Inspector determined there is no guidance in the current zoning code to provide for this business. City Solicitor Elizabeth Rennard has offered some basic guidelines on the roles of state and local governance entities regarding this type of business. The licensing component applies to farmer-based facilities (breweries, wineries and distilleries) per Chapter 138 of the state law; the ABCC issues farmer licenses to produce, but to pour and/or serve samples businesses will need local licensing board approval.

Ms. Duncan briefly outlined the formal process to move the proposed amendment forward. Typically the Council requests the Planning Board to consider the matter in more detail before taking action. Should the Council refer the matter to the Planning Board for recommendations, the Planning Board has 21 days to provide input or the Council is free to act without benefit of their recommendation. The Planning Board is prepared to address the issue at the next regular meeting, June 19, 2014, should the

Council request. City Council has 90 days from the public hearing date to vote on the ordinance; with 1st and 2nd passage as required. A two-thirds vote will be needed to pass any proposed amendment.

Planning Board and City Council Discussion:

Mr. Rieder asked for clarification of Line 3 versus the last sentence of the proposed ordinance. Is the intent to restrict tastings to beverages produced on-site only, or to allow for some beverages produced offsite? Ms. Duncan replied the wording does need to be edited, the intent is for the beverages to be produced on-site; non-consumables such as tee-shirts, etc. may be produced offsite, as long as they're branded by the brewery/distillery/winery.

Mr. Anderson expressed concern that the B1 neighborhood is on the list of proposed zones to allow the proposed use by special permit. He asked for clarification, as the B1 neighborhoods tend to be mostly residential with small commercial businesses. He expressed concern there may be events that run late into the evening and disturb neighbors. Ms. Duncan replied that the Board of Appeals hearing for a special permit would provide an opportunity for this concern to be heard. She also noted the NRCC overlay district is not included in this proposed amendment.

Councilor O'Keefe complimented the planning office on their research. He expressed concern regarding any special events held in such a facility and the possibility for negative impact on neighbors, particularly in the B1 zone. He asked for clarification about the approval process for any special events. Ms. Duncan replied the thinking is to provide flexibility at the ordinance level. The special permit issued by the Licensing Board and Board of Appeals would provide oversight of the special/marketing events as these two entities have regular experience in setting conditions for special events across a range of venues. Councilor O'Keefe wanted to know how apple cuttings will be disposed of, what the Ph of the vegetative waste is, and how it would be handled. Ms. Duncan advised some members of the public may be able to give insight.

Councilor McCarthy expressed a concern about the occupancy maximum and meeting safety requirements in this type of facility. Ms. Duncan advised the building inspector and fire department requirements would still apply.

Councilor Sargent expressed a concern about the special events aspect of the proposed ordinances - neighborhood noise and parking congestion both pose problems for the neighborhood. He asked that the Planning Board consider these issues in their deliberations.

President McCarthy opened the hearing to the public for comment; including additional questions from City Council and Planning Board members:

Denise Snape, owner of the cider-making business Far From the Tree, located at 102 Jackson Street, spoke in favor of the proposed amendment. She encouraged the City Council and Planning Board to support them as small business operators that are connecting with the community via participation in the Salem Farmers' Market and other appropriate activities.

Alex Snape, co-owner of Far From the Tree, advised the apples for their cider are not processed in Salem, rather the raw juice is trucked in and the product is aged here, which is a typical practice for both

cider-makers and wineries. As their space is quite limited, any marketing events would anticipate 10-20 attendees; hours of operation for the tasting room would likely be limited to a few days a week. They use a small amount of water for cleaning, no chemicals. Their expectations for traffic volume is low, they have no idea of how many customers to expect for a tasting room. The Ph of the cider is acidic, approximately 3.34.

Ian Hunter, 14 ½ Fort Ave, Salem, spoke in favor. He is in planning stages of a distillery that he and a partner hope to open in Salem. The amendment is needed to provide for small scale manufacturing which requires face-to-face interaction with customers. Salem is uniquely positioned for his proposed business—the existing tourism base will support artisan producers. One of their products will be grain-based. Spent grain does not enter the waste stream, and can be resold to farmers. Waste water is very minimal. CO₂ produced through fermentation can rebalance the Ph of the waste water. Special events are likely corporate events (private tastings and meetings). On premise license is not permitted by-right in the farmer licensing at the state level.

Jesse Brenneman, 65 Telegraph Street, Boston, (partner of Ian Hudson) provided operational insights. The mash is the process of extracting sugars from the grain, spent grain is what is left over. Farmers are happy to take this material. Councilor Milo asked for clarification on fermentation equipment (vats outside the building), storage of spent grain, and expressed concern about lingering odors. Spent grain should be kept in sealed containers. Mr. Brenneman stated that typically the spent grain was disposed of within a couple of days, and he confirmed they have not yet talked to South Essex Sewerage District. Deacon Giles Distillery is the proposed name of their business.

Chris Loring, 19 Carlton Street, owner of Notch Brewing and founder of Tremont Brewery in Charlestown, MA, spoke in favor. Boston Beerworks, an existing operation here in Salem, provides good insight into odors and manufacturing concerns. He cited several local examples of a pouring license adjacent to a producer. He asked that the City consider several important distinctions in drafting the amendment language:

- Language related to retail sales must be worded carefully
- Selling full-pour for onsite consumption—more than a samplesize ; the proposed draft ordinance is vague on this point. Suggests that it match MGL Chapter 138 language.

He hopes to open a craft brewery in Salem and is considering a location on Grove Street which is in the NRCC district.

For benefit of Council and Planning Board members, Ms. Duncan clarified that the NRCC cannot be included in the current proposed amendment because the addition of that zoning district to the proposed amendment would be a significant change from what was advertised in the public notice, and would require a new public notice. There are ways to work with Mr. Loring if he is interested in a location for a brewery in the NRCC zone, such as rezoning the parcel he is considering, etc.

Chris McGowan 28 Federal St, Salem, spoke in favor. He is a hobbyist who hopes to open a craft brewery in the future, he pointed out the growth of the craft beer market. Many of our popular restaurants carry beverages from small/craft producers. New England is a hot spot for this movement; it makes sense for Salem to join it. Tastings help small entrepreneurs compete with the large marketing budgets of larger companies. Portsmouth NH is enjoying a boom in this business sector.

City Councilors and Planning Board members explored various operational details with members of the public with experience/knowledge of the business. In general the following concerns were identified:

- Proposed amendment language needs to be modified:
 - Ensure it complements M.G.L. Chapter 138 language without contradiction regarding pour sizes and by-right vs. special permit.
- Special and/or marketing events need to be carefully managed to avoid negative impact on the neighborhoods (traffic and late night noise).
- Adequate notification of abutters when application for license/special permit is submitted.

City Councilors and Planning Board members satisfied themselves that existing governance entities (Board of Health, Building Inspector, Fire Department, Zoning Board of Appeals, etc.) would be able to provide for oversight within the existing framework of governance and licensure with regards to:

Maximum occupancy

Hours of operation

Food service

Types of special/marketing events

Delivery of supplies/raw materials

Disposal of waste water and spent vegetative material

Ms. Duncan reported the Salem Chamber of Commerce has submitted a letter in favor of the proposed amendment.

General in favor, subject to language edits as generally discussed were:

Councilor Gerard, Councilor Turiel, Councilor O'Keefe, Councilor Eppley, Councilor Furey, Councilor Milo, Councilor McCarthy, Councilor Sargent, Councilor Famico and Councilor Legault. Councilor Siegel generally in favor, but expressed moderate concern that the use would be "by-right" in the BPD zone.

Planning Board Members generally in favor: Mr. Ready, Ms. Yale, Mr. Griset, Mr. Veno, Mr. Rieder, Mr. Anderson and Ms. Sides.

Opposed: no opposition to the proposed amendment was made from a City Councilor, Planning Board member or member of the public in attendance.

Councilor McCarthy asked that a copy of the State's farmers pouring license be provided to Council and Planning Board members. Ms. Duncan confirmed the planning department will forward the relevant passages.

Motion and Vote: Councilor O'Keefe made a motion to close the public hearing. The vote was unanimous with eleven (11) in favor: (Councilors McCarthy, Turiel, O'Keefe, Legault, Famico, Gerard, Furey, Sargent, Eppley, Siegel, and Milo).

Motion and Vote: Councilor Turiel made a motion to refer the matter to the Planning Board for their recommendation. The vote was unanimous with eleven (11) in favor: (Councilors McCarthy, Turiel, O'Keefe, Legault, Famico, Gerard, Furey, Sargent, Eppley, Siegel, and Milo).

Old/New Business

None.

Adjournment

Motion and Vote: Councilor O'Keefe made a motion to adjourn the meeting. The vote was unanimous with all in favor.

President McCarthy adjourned the meeting at 8:40pm.

Respectfully submitted,
Pamela Broderick, Recording Clerk

Approved by the Planning Board on 7/17/2014