

**PLANNING COMMISSION MINUTES
SEPTEMBER 14, 1995**

**PLANNING COMMISSION MINUTES
GEORGE FOX COLLEGE - KLAGES DINING HALL - NEWBERG, OREGON
SEPTEMBER 14, 1995
Thursday, 7:00 PM**

Approved at the October 12, 1995 Planning Commission Meeting

I. PLANNING COMMISSION ROLL CALL

Planning Commission Members Present:

Matson Haug, Vice Chair	Rick Mills
Jim Morrison	Mary Post
Richard Waldren	Jack Kriz, Chair
ABSENT:	Jim Harney

Staff Present:

Greg Scoles, Community Development Director
John Knight, Planning Manager
Terry Mahr, City Attorney
Darla Baldoni, Recording Secretary

II. OPEN MEETING

Chair, Jack Kriz opened the meeting at 7:05 p.m. He announced the procedure of testimony. Citizens must fill out a public comment registration card to speak at the meeting.

III. APPROVAL OF MINUTES

Chair Kriz opened the meeting by reviewing the June 8, 1995 meeting minutes.

Jim Morrison commented about traffic on Fulton & Villa Road and the Commissioners had requested that the City Engineering Division address this.

Commissioner Mills requested a correction to the August 10, 1995 minutes as follows (under exparte contact, page 2): that he had reviewed the records of the prior Planning Commission Meeting, as well as the new information as provided.

Motion #1:	Commissioners Morrison / Post moved to approve the minutes of the August 10, 1995, Planning Commission Meeting with the above noted corrections.
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Vote on Motion #1:	The Motion carried (6-0).
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IV. COMMUNICATIONS FROM THE FLOOR (5 minute maximum per person)
none

OPEN FOR PUBLIC HEARING.

Chair Kriz entered ORS 197, relating to the Public Hearing process into the record, and opened the Public

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Hearing. He noted two (2) pages of the public hearing process were included with the agenda; one that covered hearings 1, 2 & 4; and the second page covered hearing #3.

The chairman noted that item No. 3 would not be heard prior to 9 p.m.

V. PUBLIC HEARING

PUBLIC HEARING (#1) Continued from the August 10, 1995 Planning Commission Meeting.

APPLICANT: Marvin Schneider

REQUEST: Annexation/zone change of a 10 acre parcel from County VLDR to City M-3 Heavy Industrial; withdrawal from the Newberg Rural Fire District; and conditional use permit to allow a facility for recycling waste generated by residential and business activities.

LOCATION: 2808 S. Wynooski Rd.

TAX LOT: 3228-1800

FILE NO.: ANX-3-95/CUP-2-95 / Resolution: 95-19 & 95-20

CRITERIA: Newberg Annexation Ordinance 2012, Section 4. Newberg Zoning Ordinance 1968, Sections 600 & 638

Abstentions/ex-parte contact:

Commissioner Mills attended the field trip and concurred with the memo from John Knight, included with the staff report. He noted a significant banging noise while there, apparently from a truck while unloading.

Commissioner Waldren also attended the field trip, and concurred with the memo from John Knight.

Objections: none

Staff Report: John Knight, Planning Division Manager, noted that we had received additional information since the last meeting, and it was distributed to the commissioners and submitted into the record.

Supplemental information included with the staff report of the applicant's response to questions that arose from the last public hearing.

Preliminary Staff Recommendation: In the absence of testimony at the Public Hearing, staff recommended approval of Resolution 95-19 annexation and re-zoning, and 95-20 Conditional Use Permit (Note: the approval of the Conditional Use Permit is subject to approval of the Annexation).

Proponent: Mark Cottle, 4000 Kruse Way PL 1-265, Lake Oswego, Oregon 97035 (represented the applicant). He distributed information on combustibles and showed samples of the cubes to the Commissioners. He noted that he and John Knight visited a Portland recycling plant, and once you were off site you did not smell the plant.

Proponent: Pat Haight, 114 E. Hancock, Newberg, Oregon 97132. She stated that Marvin Schneider is an honest person and very knowledgeable about garbage and recycling. She supported garbage recycling for our community.

Opponent: David Dailey, 29696 N.E. Putnam Road, Newberg, OR 97132. He suggested moving the doors of the plant to the northeast side, and would be interested in seeing a flow chart on the process of the plant. He asked that the Planning Commission scrutinize the application closely, and for the record to remain open for seven (7) additional days.

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Opponent: Lee Frease, Mckay Chapel Road, McMinnville, OR 97128. Not completely opposed. She suggested the Commission consider not accepting yard debris from other areas (due to the filbert blight), be sure the insurance coverage is reputable, and consider the possibility of noise complaints that may lead to lawsuits.

Opponent: Nadine Windsor, 2902 E. 2nd Street, Newberg, OR 97132. She addressed the concern of increased garbage trucks going through Newberg, and noted her past involvement in preventing past landfills proposed for Newberg.

Opponent: Beth Whitlow, 8970 Dog Ridge Road, Newberg, OR 97132. She stated that several questions she addressed at the last meeting were not adequately answered, and felt this was the wrong site for the proposed plan.

Questions to Proponent:

Commissioner Mills asked if there would be noticing to neighbors at the one year review?

John Knight confirmed that this was part of the conditions of approval.

Commissioner Haug asked Mr. Cottle if he would obtain more information on the 174 facilities in the United States that Mr. Lackey commented on, and about addressing questions from Mr. Friedman's letter regarding the Comprehensive Plan. **Mr. Cottle** responded that he gave names to John Knight to talk with those facilities, that he and John visited a similar site in Portland, and Mr. Friedman's questions were responded to in detail.

Commissioner Morrison asked Mr. Cottle if the proposed plant would be similar to the recycling center off 99W near Tigard? **Mr. Cottle** stated that they would not be composting.

Commissioner Post asked if any left over waste after recycling would go to the Newberg landfill? **Mr. Cottle** noted that it would be sorted before it comes to the transfer station, and approximately 95% received will be used to produce fuel.

Commissioner Waldren asked Mr. Cottle about ownership of the corporation, and where the trucks would be stored? **Mr. Cottle** responded that he is unsure of the ownership, and on trucks they anticipated a 14 hour turnaround. The same trucks used for delivery would also be used for pick-up.

Commissioner Haug asked about a guarantee that the trucks would only come from this area. **Mr. Cottle** stated that they would not be able to guarantee that.

Commissioners discussed with Mr. Cottle issues concerning trucking the product, combustibles, sorting the product, shredding, trucks on site, bonding requirement, and the City being liable on environmental issues.

John Knight commented that it is unusual for the City to require a bond, and staff had addressed some environmental issues, and added requirements in the conditions.

Chair Kriz asked the Commission if they wanted to approve another citizen to give testimony (Public Comment card received late).

Commissioners Haug/ Waldren moved to let the representative of Smurfit give testimony.

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Don Wright, 500 Foothills Drive, Newberg, OR 97132. He suggested leaving the record open for 7 days.

Commissioner Mills asked Mr. Cottle if it would be possible for his client to make a different mix of the fuel to meet the needs of Smurfit. **Mr. Cottle** responded yes there are different mixes for different companies.

Commissioner Morrison asked Terry Mahr, City Attorney, if the City would review the possibility of requiring establishment of an insurance bond, and is this typical for cities to ask for this. **Mr. Mahr** responded that we have indicated in condition #15 about a closing plan, that is where you would look at the environmental issues. He also noted that he didn't believe the City had the authority to require the bonding.

Public Agency reports: John Knight noted a letter was received into the record this evening from Bern Shanks of The Metro Agency, addressing Metro's authority, recycling, and the vagueness of the applicants proposal. This would also be forwarded to the City Council. Mr. Knight indicated that he had not had an opportunity to read the letter.

Letters: **Two received.** 1.) Received from Newton, Cottle & Westenhaver, P.C., representing the applicant, addressed concerns raised at the 8-10-95 Planning Commission Meeting. Distributed in the staff report. 2.) Received from Smurfit Newsprint Corporation noting that they had not engaged in negotiations with the applicant, but were interested in exploring alternative fuel options. Distributed in the staff report.

Proponent/Opponent Rebuttal:

Mr. Cottle commented that it was inappropriate of Metro to submit a letter on the day of the meeting, after receiving 40+ days notice of the meeting. He discussed the site and noted that there would not be garbage trucks coming in, they'll be enclosed trucks. He was opposed to holding the record open longer, due to plenty of notice given.

Staff Recommendation: Staff recommended approval of Resolution 95-19 and 95-20 which would approve the request.

Hearing Closed.

Commission Deliberation:

Commissioner Morrison suggested closing the public hearing, accept written information and deliberate at the next meeting.

Commissioners Mills, Waldren, Haug and Post wanted to close the record and deliberate.

Commissioner Haug was concerned about truck traffic, noise, and Comprehensive Plan policies under E.5 and J (air, water, and resource). He also suggested that the Commission ask the City Council to consider an Urban Growth Boundary Amendment and annexation of the area east of the site to Hwy 219.

John Knight responded that the process on the Urban Growth Boundary was difficult and suggested that the Commission may want to consider a separate motion to review this annexation individually.

Commissioner Mills suggested review of the surrounding areas at a later date.

Commissioner Waldren (re: pg 19 of the Comprehensive Plan) addressed the issue of landscaping.

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Commissioner Morrison is concerned about dealing with this annexation now.

Motion #2:	Haug/Waldren to deny ANX-3-95 and CUP-2-95 (Resolution 95-19 and 95-20) based on inadequate demonstration of compliance with all of the criteria. The criteria that need to be adequately addressed by the applicant are criteria E.5 and J of the Comprehensive Plan, dealing with urban design and impacts on adjacent uses. As part of the same motion, the Planning Commission requested that staff forward a recommendation to the City Council, that the City Council work with the County to consider an Urban Growth Boundary Amendment to include the existing transfer station and area east of the transfer station to Highway 219.
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Vote on Motion #2:	The motion carried (4-2). Votes: Yes -4: Haug, Morrison, Post, Waldren. No -2: Mills, Kriz.
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John Knight stated that the applicant will have 10 calendar days to file an appeal to the City Council.

PUBLIC HEARING (#2)

APPLICANT: City of Newberg

REQUEST: Review of a home occupation consisting of automobile repair and restoration operated by Dale Goldsmith.

LOCATION: 1916 Carol Avenue

TAX LOT: 3217CA-109

FILE NO.: X-25-95 / Resolution: 95-24

CRITERIA: Newberg Zoning Ordinance 1968, Section 440

Abstentions/ex-parte contact:

Commissioner Waldren visited the site, and had not noticed so many automobiles around.

Commissioner Post drove by the site two (2) times and noted various vehicles on and around the site. She submitted a memo into the record listing the findings of her visits.

Staff Report: John Knight covered the staff report noting the Commission's options under the ordinance.

John Knight noted that he went by the site and observed approximately 20 vehicles on and around the site.

Preliminary Staff Recommendation: In the absence of testimony at the Public Hearing, staff recommended approval of Resolution 95-24, that the use be terminated.

Terry Mahr, City Attorney stated that the Community Development Office received contact from the home owners attorney and they agreed that this was not an appropriate use and they requested a few weeks to terminate the use.

Proponent: Sharon Mitchell, (Mr. Goldsmith's attorney, and a property owner on Carol Avenue) P.O. Box 1290, Sherwood, OR 97140. She stated that Mr. Goldsmith was not opposed to terminating the use, but proposed that the process be continued for the 7 day period, and allow them to meet with the neighbors to draw up an agreement for Mr. Goldsmith to continue and correct the problems. Mr. Goldsmith is unable to work away from home, and would like to continue detailing in his garage. He would only bring vehicles to

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work on that could be kept in the garage.

Opponent: Joe Gstettenbauer, 1907 Carol Avenue, Newberg, OR 97132. He and his wife have lived on Carol Avenue for 13 years. They wanted to restore the livability of their area.

Opponent: Marty McIntosh, 1911 Carol Avenue, Newberg, OR 97132. His concerns were on the number of vehicles around, deliveries, excessive noise, smoke and fumes, hours of operation, and he recommended termination of this use immediately.

Questions to Proponent: none

Commissioner Haug asked John Knight if the termination were approved, when would it go into affect?

John Knight responded that the appeal period would run for 10 days, then the City would issue a notice of abatement of nuisance, for an approximate time frame of 15 days.

Public Agency reports: none.

Letters: Eleven were received, six (6) prior to the meeting and five (5) at the meeting (refer to the staff report for details). Eight of those letters were in opposition; one received by a Planning Commissioner on findings; one from Sharon Mitchell (Mr. Goldsmith's Attorney); one (1) from Dale Goldsmith noting his actions taken to address concerns raised.

John Knight noted in comparison that when he drove by the site and when the Commissioners went by, it was clear that the applicant had made an attempt to clean up the area.

Proponent/Opponent Rebuttal:

Sharon Mitchell stated that Mr. Goldsmith's intentions were to clean up the area and requested that they allow him to recoup his investment on the vehicles he currently has, with cooperation of an agreement with the neighbors to solve the problem in the neighborhood.

Joe Gstettenbauer stated that he believed Mr. Goldsmith had a business away from his home, and suggested that the cars could be stored there. He expressed he would like to solve the problem in a neighborly fashion also.

Mr. Martin McIntosh, 1911 Carol Avenue, Newberg, OR 97132. He addressed safety issues and requested the 10 day deadline enforced.

Staff Recommendation: Staff recommended to adopt Resolution 95-24, which requires the termination of the home occupation.

Hearing Closed.

Commission Deliberation:

Commissioner Post stated that the number of cars reflected a business and there appeared to be more than one employee.

Commissioner Haug felt that there was an awareness of the problem for several months.

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John Knight stated that the record will remain open for written testimony for seven (7) days and an additional seven (7) day period for rebuttal. The applicant requested it remain open.

Motion #3:	Commissioners Morrison/Haug to keep the record open for seven (7) days for written testimony and an additional seven (7) days for rebuttal, and deliberate at next Planning Commission Meeting October 12, 1995 (the record will be closed for public testimony).
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Vote on Motion #3:	The motion carried (6-0).
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PUBLIC HEARING (#3) (Hearing began at 9:50 p.m.)

APPLICANT: Obayashi Corporation

APPELLANT: Sid Friedman

REQUEST: Appeal of a Design Review Committee decision to approve an application for a silicon wafer manufacturing facility. Phase I is proposed to contain approximately 520,177 square feet of building area on a 196.2 acre parcel. 365 parking spaces are provided.

LOCATION: The site is located approximately 1000 feet east of Springbrook Road, between U.S. Hwy 99W and Fernwood Road, Newberg.

TAX LOT: Yamhill County Tax Lot No. 3216-2001 and 3221-100 (proposed parcel #2 of tentative minor partition plan, Newberg File P-8-95).

FILE NO.: DR-18-95 / Resolution: 95-25

CRITERIA: Newberg Zoning Ordinance 10-3.620 and 10-3.622.

Abstentions/ex-parte contact:

The **Chairman** established time limits for various portions of the agenda.

Terry Mahr, City Attorney commented that this project has been subject to publicity. The commissioners need to declare ex-parte contact and discussed bias.

Terry Mahr submitted into the record, a letter to the editor from the Newberg Graphic Newspaper.

Commissioner Waldren had spoken with Bob Bickers at the bank. Bob offered to Richard to answer questions for him and suggested he stop by the Chamber of Commerce to talk with them.

Commissioner Mills had struggled to avoid contamination on the topic. He felt he was not exposed to many specific facts regarding the issues.

Commissioner Haug had followed the project closely, had attended hearings, and read as many articles as possible. He had been contacted by Mike Olberding at work, who suggested he contact Sid Friedman to discuss the appeal. Matt spoke with Sid Friedman. Matt felt he was unbiased and could evaluate fairly.

Commissioner Morrison visited Wacker Electronics in Portland. He also called and spoke with the Gresham Planning Department about hazardous material control. He had spoken with neighbors, both proponents and opponents, and felt he was unbiased.

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Commissioner Post had no exparte contact, but spent over 11 hours reviewing the staff report and materials received. She would receive no financial gain and felt unbiased.

Chair Kriz had not opened mail that was sent to his home, and felt that this was inappropriate. Materials/mail should go to staff.

Commissioner Haug asked for clarification if the Commission is responsible to look at any material that is brought up.

Terry Mahr noted that in limited land use decisions, the decision should be based on criteria that is relevant to the decision.

Commissioner Mills supported Commissioner Haug's statement about receiving mail at home, being an inappropriate action.

Objections: none.

Staff Report: **Greg Scoles**, Community Development Director, noted the volume of work behind this project. He explained that this was an appeal action to the Design Review board of a limited land use action. He covered the proposed site plan of the wafer facility, and went on to discuss the actions of the Design Review board. In their approval they listed the criteria (page 2) of the staff report. The action of the design review board was appealed on July 6, 1995, by a neighbor.

After the appeal, the appellant and applicant met on various occasions in attempt to come to agreement on terms. A cooperation agreement was attached to the staff report, listing conditions that staff recommended that the Commission consider.

Greg Scoles also noted that a water and well master plan and background reports were provided to the Commissioners with the staff report, along with other materials.

Preliminary Staff Recommendation: In the absence of testimony at the Public Hearing, staff recommended approval of Resolution 95-25, which would uphold the Design Review Board's approval.

PROPONENTS:

Jim Zupanzic (representing the applicant), 2300 First Interstate Tower, 1300 S.W. Fifth Avenue, Portland, OR 97201. He suggested that they pick a few in support to represent the group and others step forward with their name in concurrence. He noted that the City of Phoenix meets September 20, and expect to make a decision then. It is important that a decision is reached at this meeting. The issues here are of compliance with the criteria, and he felt they had met the criteria.

David Bowden, Obayashi Corporation, 13810 S.E. Eastgate Way, Suite 180, Bellevue, WA 98005. He stated that they are managers of design and construction, and that the drawing presented by Mr. Scoles was of Phase I. He also noted the plans for a Phase II, but it was not part of the design review application. Mr. Bowden covered the steps they had taken to assure safety. He then asked Mr. Edwards to address the water issue.

John Edwards (a registered Geologist in the State of Oregon), EMCON, 15055 S.W. Sequola Parkway Suite 140, Portland, OR 97224. He stated that he had studied the Newberg wellfield in 1983, and that people

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can become confused with the subject of ground water. He noted that the City of Newberg water supply is one of the most reliable ones in the State. The City currently has the capacity of 5 mgd, and with expansion could total 10-11mgd. Sumitomo would only require 1 mdg. That should be sufficient water in the aquifer for present and future City needs.

Rick Glick (attorney for Sumitomo), Davis Wright Tremaine, 1300 S.W. 5th, Suite 2300, Portland, OR 97201. The City has developed to about 1/2 the capacity, and it shouldn't be a difficult process to expand the wellfield. In conclusion, the City's water rights would be able to expand to meet the City's water needs and the companys' into the distant future.

Bob Gill, Sumitomo. His job would be to run the plant once built. He felt that the vast majority of Newberg residents would be happy with the plant once it was built, and requested that a decision be made this evening.

Sonya Haugen, Austin Industries and the Newberg Chamber of Commerce, 3113 Crestview Drive, Newberg, OR 97132. They carefully evaluated the issues and requested that the Commissioner weigh the facts and not allow emotion to influence. They are supportive of Sumitomo.

Mike Olberding, 2911A Portland Road, Newberg, OR 97132. He requested that proponents in the audience please stand. A large group of people stood in support of Sumitomo.

OPPONENTS:

Sid Friedman, 31909 N.E. Corral Creek Road, Newberg, OR 97132. He addressed the following options: 1. approve with no conditions; 2. deny application; and 3. approve with conditions. He believed that the conditions as listed were the bare minimum, and urged the Commission to attach other conditions as he had listed in that material he presented. Also, he had demonstrated the City's inadequate water supply in the material, and that Sumitomo appeared to also have concerns about the water supply. If Sumitomo was not concerned, then they should have no problem with limitations on water. In the traffic study no impacts were reflected without a bypass. He also addressed hazardous materials that would be used on site, and the site being in an earthquake zone. He believed in more stringent conditions, and encouraged the Commissioners to attach them to the list of conditions. Mr. Friedman submitted a written copy of his oral comments into the record.

Mary Kyle Mccurdy, Attorney for 1000 friends, representing Mr. Friedman. Referred Commissioners to page 9 of the staff report regarding Oregon's statewide planning goals that provide for the maintenance of air, land and water resources.

Ms. Numara, from the Oregon Natural Resources Council. She noted that Newberg will face issues of quality of life and water. She felt the health and safety issues had not been studied, and recommended denial of the application. It is not good to dedicate 25% of the water rights to one user, and if the City chooses to use the ranney collectors for the Willamette, it could mean poor quality water for drinking. Also, she asked that the record remain open.

Other Opponents:

Keith Hay, 15775 Ribbon Ridge Road, Newberg, OR 97132. Mr. Hay commended the planning staff of the review criteria. He felt the report was silent on Newberg's Water development and expressed concern of 25% of our water going to one company.

Steve Roberts, 814 E. Hancock Street, Newberg, OR 97132. He stated that new development should fit what

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Newberg has now and prevent the diversion of the quality of life. He believed this type of plant is a bad match.

Mark Porden, 31181 Corral Creek Road, Newberg, OR 97132. He was concerned about the toxic chemical handling, and suggested that Sumitomo be required to cover the cost to expand emergency equipment to deal with emergencies involving chemicals, and encourage a "floor limit" on chemicals. He felt the parent company should take responsibility in case of a chemical spill.

Mr. Luis Perez, 745 S. Baker #15, McMinnville, OR 97128. His hometown had a company come in with promises of jobs, and a promise of protecting the area. The company turned a blue lake into a gray lake and people lost jobs.

Susan Light, 31181 Corral Creek Road, Newberg, OR 97132. She previously submitted a letter to the record. Her recommendation was that the Planning Commission deny the resolution for the project. Also, with the site being on two fault lines, the City should impose "floor limits" on chemicals to limit the scope of a potential disaster.

Pat Haight, 114 E. Hancock, Newberg, OR 97132. She discussed Newberg's water source. She stated that the facts show that the City had reached a point for water rationing in the past. Don't fail to meet Newberg's needs prior to Sumitomo needs. She asked the Commission to vote no on the Design Review.

Angela Monroe, Newberg, OR 97132. She noted Kittleson's study on traffic impact, and the impact at Fernwood Road and surrounding roads. Newberg's traffic situation is currently troubled without adding the impact of Sumitomo. Her second concern was on the dangers of hazardous materials on our roadways.

Lon Wall, 625 N. Morton, Newberg, OR 97132. Look at the whole picture, Sumitomo will impact the livability of our community.

Warren Parrish, 30450 N.E. Wilsonville Road, Newberg, OR 97132. He referred the Commissioners to the staff report and addressed the following areas: page 4 C&D - intersection at Springbrook Road, type of vehicles, type of enforcement; page 33 & 34 - why her letter was not in the report; page 6 - noise and scientific data; page 2 - regarding buildings; page 23 - entrance on Fernwood and landscaping; page 37- sidewalks. How far will Sumitomo go?

Chair Kriz noted that there were approximately three (3) minutes remaining for testimony of the 30 minute time period given.

Elana Burnham, N. Valley Road, Newberg, OR 97132. She felt there was a debate on water availability. If there is a problem, who will pay? The citizens of Newberg, or the Newcomer company?

Chair Kriz announced that public testimony was closed.

There was a question from the audience about time limits on public testimony.

Terry Mahr responded that the rules state that the Chair has the authority to set time limits on testimony.

Chair Kriz stated that the Commission would continue with the rules as stated at the beginning of the meeting.

Commissioner Morrison felt any more testimony should be to discuss new issues only.

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Commissioner Mills noted that he had read an incredible amount of material from both sides, and didn't feel any new testimony had been presented this evening. He stated he was ready to deliberate.

Commissioner Waldren agreed with Commissioner Mills.

Commissioner Haug stated his concern on the amount of time to deliberate.

Commissioner Post felt she had not heard any new issue that had not been covered in the packet already.

Chair Kriz stated that the majority of the Commissioners felt no new evidence had been presented this evening therefore, question period public testimony was closed.

Questions to Proponent: none

Opponent questions of the Proponent:

Warren Parrish asked what basis was the traffic impact study made and by whom? **Mr. Bowden** responded that Kittleson & Associates conducted the study, and they were the company that did the original City wide study for the Newberg Comprehensive Plan. They did suggest a few changes at Fernwood Road that were agreed upon.

Johan May asked about the Newberg/Dundee Bypass and if it would still be feasible? **Mr. Bowden** responded that the site plan had plans to allow for a by pass.

Pat Haight, attended the DEQ meeting, and they were unable to provide information on chemicals, and that they would not be a threat to the Willamette River. **Mr. Glick** responded that what ever discharge of waste water there was, it would need to meet City and State standards.

Susan Light directed her question to the Hydrologist. On the hydrologist report, did you say if Sumitomo locates here, then no more major industry could come into town because of the water supply?

David Bowden responded that the water supply under the City's water master plan, made provisions for growth and Sumitomo is part of that growth. There may be others, the City's master plan takes that growth into account.

Annie Navetta, 709 E. Sheridan, Newberg, OR 97132. She wanted to know why the proponent needed an answer tonight, even if it meant that citizens of Newberg were denied to speak tonight? **Mr. Gill** responded that we don't want to deny testimony, but we have customers also, and they are asking for dates of construction.

Pati Sietz, 31909 N.E. Corral Creek Road, Newberg, OR 97132. She directed a question to staff. For those who had not given testimony, will the record remain open for seven (7) days? **Mr. Mahr** responded that it was not a decision for staff, the Planning Commission would make that decision.

Craig Solwash, 31901 Corral Creek Road, Newberg, OR 97132. He questioned the fault line and was curious on safety precautions taken in regards to that. **Mr. Bowden** responded that the general hazard zone on the site was a very small area, and is not within the area where they plan to build Phase 1 or Phase 2.

Jim Ludwick, Friends of Yamhill County, 7500 S.W. Lebold Road, McMinnville, OR 97128. Failure to raise an issue in the appeal process, precludes an appeal to the land use on that issue. If you cut off public testimony, will you keep the record open so that we can at least send letters of testimony? **Chair Kriz** stated that the

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Commission would consider this.

Torrey Lindbo, 32850 Kramien Road, Newberg, OR 97132. He noted that he was unfamiliar with the word graywater, and asked about it being used for watering the landscape. **Mr. Bowden** responded that the City Wastewater Treatment Plant currently discharges wastewater into the Willamette, the City has the desire to use it for irrigation instead of dumping into the Willamette. With Sumitomo, it becomes an opportunity to start this. It will be safe and will not contaminate the land.

Luis Perez stated that there is not enough time up until midnight. **Chair Kriz** stated that the Commission does not arrange for the room, staff does.

Dr. Joe Bowersox, 16751 Willamina Creek Road, Willamina, OR 97396. Addressed groundwater and meeting daily water needs, and if staff had considered a toxic gas ordinance? **Mr. Scoles** responded that it relates to the master plan after anticipated growth after 2003. There is information in your documents that talk about the plan and the plant capacity, as the need arises wells would be added, and this is shown in the exhibits.

Henry Reeves, 22250 Boulder Crest Lane S.E. Amity, OR 97101. He directed his question to Sumitomo and asked what they envision as the longevity and usefulness? **Mr. Gill** responded that they anticipate 30-50-100 years.

Merilyn Reeves, 22250 Boulder Crest Lane S.E., Amity, OR 97101. What was the real reason to not sign the original agreement with Mr. Friedman? **Mr. Zupanvic** responded that there was a recision of that agreement under the direction from Japan. The company wanted to be treated with parity. **Ms. Reeves** asked about regulating gases and are you aware of the ordinances? **Mr. Zupanvic** responded yes. The company agrees to comply with laws and regulations.

Commissioner Haug referred to the zoning ordinance page 130, #9, regarding one of the criteria of the site review on findings. It stated "to sustain comfort, health, tranquility, and contentment of its residents." What is your view of why this ordinance doesn't apply to the Design Review process. **Mr. Zupanvic** noted that the company would comply with the environmental regulations applicable to the company, and believed that was appropriate for the Planning Commission to receive as assurance that they will comply.

Commissioner Morrison asked Mr. Edwards about the concern of the existing wells and their capability. **Mr. Edwards** responded to water quality and water supply and was amazed at the mis-information brought here today. Newberg uses only a fraction of the available water a day. Keep in mind that Sumitomo would pay for a significant portion for the addition to the infrastructure. Nothing shows that the quality of the Newberg water supply had been affected by the river. The river is the best place to get additional water. The City plans to put in a three (3) million gallon reservoir.

Rick Glick responded that the City has the capacity in the aquifer and the water rights to develop it. The City also has a high priority to develop. Newberg has very secure water rights to secure it's future with or without Sumitomo.

Commissioner Waldren asked Mr. Bowden, for example, if the City asks for water usage cutbacks, would Sumitomo agree to a 10% cut per day? Is that possible, and would Sumitomo agree to do that? **Mr. Bowden** responded, the company wants to be treated as an equal citizen of Newberg. If the City takes those measures as long as they are equal to all, Sumitomo would certainly comply. The company wants to work with the City in developing future water supply.

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Public Agency reports:

Lynn Beaton, attorney for Oregon Economic Development, 775 Summer Street N.E., Salem, OR 97301. She didn't need to be very involved with this project, because Sumitomo was in compliance. This project clearly complied with your Comprehensive Plan and complied with Newberg's zoning. She stated her confidence that the environmental issues were being fairly and adequately addressed. She requested that these issues be left to the proper agencies to address and she urged the Commission to allow the proper use of zoning.

Letters: 34 Letters were received on or before the September 14 Planning Commission Meeting. A list of names is attached to the minutes, and the letters are on file at the Community Development Office. Of those letters 19 were in support of the project, 6 in opposition, and 9 that made comments.

Proponent/Opponent Rebuttal:

Jim Zupancic thanked everyone for being there, and for raising the issues. The issue for the Commission is a matter of compliance, is this application in compliance? After hours of testimony, the company is asking to only be treated as to a neighbor or a friend, 36 conditions have been placed upon the company, many from Mr. Friedman's comments and from staff. The company felt that enough is enough without further continuances, and only further conditions by staff, but by no others.

Staff Recommendation: Greg Scoles stated that the staff recommendation stood as noted in the staff report which was to uphold the Design Review Board's approval.

Hearing Closed.

Commission Deliberation:

Commissioner Haug asked Greg Scoles, about page 9 of the conditions and if Mr. Friedman's conditions were beyond the scope of the Design Review. Commissioner Haug was concerned about rationale by staff. Also, if there were to be a water shortage, what policy would be used by the City. **Mr. Scoles** stated that we don't have a disagreement, the Commission must decide to determine if the criteria is applicable and if there is enough regulatory authority on the conditions. There are policies in place if there were to be a City water shortage.

Commissioner Morrison requesting a decision of the Commission, are we going to leave this open for written testimony for seven (7) days?

Commissioner Haug stated the 120 day rule is applied from the date the completed application was received. If the Commission doesn't meet this 120 day rule, the applicant automatically wins without conditions.

Terry Mahr noted that after 120 days, the applicant would go to court, and the court would determine the conditions, but they would approve the application.

The Commissioners discussed completing the hearing or continuing: Waldren wanted to stay and complete, Haug to leave open for 7 days, Morrison to discuss issues, Mills noted that the purpose for the 7 day period is usually to rebut new information from the opposing side. He had not heard any new information, so he voted to complete the hearing, and Post was ready to deliberate.

Chair Kriz stated that majority wants to continue on.

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Commissioner Morrison addressed the three options that the Commissioners had.

Commissioners Waldren, Post, Morrison, Mills, Haug, agreed that they didn't intend to deny the proposal, but rather to discuss the conditions.

Commissioner Morrison was uncomfortable about the hazardous material and how it was addressed, as well as traffic, and the time it would take to deliberate.

After Commission discussion, the consensus was to leave all staff conditions in as valid.

Commissioner Waldren suggested that Sumitomo work with the City Fire Department on the Hazardous chemicals, and wanted to address traffic. He also suggested to move some conditions from Phase 2 up to Phase 1, #4 a-d (page 3).

Commissioners also discussed the roads and access to the site.

Commissioners by majority agreed to require conditions as described on pages 3 and 4 of the staff report as stated. Consensus by Commissioners. (added to conditions).

Commissioner Waldren wanted to add that Sumitomo have on site a trained hazardous materials team and work with Newberg's Fire Chief and Tualatin Valley Fire Department through design review and construction. The Commission was in favor by consensus. (added to conditions)

Greg Scoles suggested that the applicant shall staff and maintain a hazardous materials response team and have a hazardous materials management plan with periodic technical inspections of the facility. He also commented on how the storage of hazardous materials are regulated, one is through the fire code and one is through the building code, also by the hazardous materials plan.

Commissioner Haug asked to address the water issue. Asked that if the City requests water rations, that Sumitomo share in the rationing in an equitable fashion. He also discussed the Mr. Friedman appeal; #3 he felt was reasonable and #4 that dealt with flood protection.

Terry Mahr stated that it is beyond the scope of the Planning Commission on a rationing program for the City. Those City policies are all in place.

Commissioner Mills stated that in case of an emergency, Sumitomo would have to abide by a City ordinance like anyone else. Commissioners Waldren, Morrison and Post agreed.

Commissioner Morrison noted for the record, that if a bypass goes through that Sumitomo have no objection to the bypass.

David Bowden said the site plan provides for consideration of a bypass.

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Motion #4:	Commissioners Mills/Post to approve DR-18-95 adopting Resolution 95-25 as amended with the following conditions: add possible "additional conditions" as listed in the staff report on pages 3 and 4; and a new condition stating: "applicant shall staff and maintain an emergency response team for hazardous materials. This team shall be required as part of a Hazardous Material Management Plan which shall be coordinated with the Fire Department and TVF&R. The Plan shall also provide for periodic technical inspections of the facility by both the Fire and Building Departments."
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Note: See list of final conditions attached to the minutes.

Vote on Motion #4:	The motion carried (6-0).
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Greg Scoles noted that this item can be appealed to the City Council in the next 10 calendar days.

Chair Kriz noted if you want to appeal you may go to the Community Development office and they will assist you.

PUBLIC HEARING (#4)

APPLICANT: Chehalem Mobile Park
REQUEST: Annexation of a 3.28 acre parcel; zone change from county AF10 to City R2/OS; and withdrawal from the Newberg Rural Fire District
LOCATION: SW of 217/Old Hwy. 99W, adjacent to Chehalem Mobile Park
TAX LOT: 3219BD-3700, -3790
FILE NO.: ANX-4-95 / Resolution: 95-26
CRITERIA: Newberg Annexation Ordinance 2012, Section 4

Abstentions/ex-parte contact: none

Objections: none

Staff Report: Refer to the staff report.

Preliminary Staff Recommendation: In the absence of testimony at the Public Hearing, staff recommended approval of Resolution 95-26.

Proponent: none

Questions to Proponent: none

Public Agency reports: none

Letters: none

Proponent/Opponent Rebuttal: none

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Staff Recommendation: Moved to adopt resolution 95-26.

Hearing Closed.

Commission Deliberation:

Commissioner Haug agreed with the staff report.

Motion #5:	Commissioners Post/Haug moved to adopt Resolution 95-26.
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Vote on Motion #5:	The motion carried (4-2). Abstained: Mills and Morrison.
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VI. OLD BUSINESS (none)

VII. NEW BUSINESS (none)

VIII. STAFF AND COMMISSION REPORTS

1. Update on Council Items: No reports.
2. Other reports, letters, or correspondence: No reports.
3. Next Planning Commission Meeting: October 12, 1995

REMINDER: Special study session at the library on 9/28/95 on Open Space.

VIII. ADJOURNMENT

The meeting was adjourned at approximately 2:05 a.m.

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Passed by the Planning Commission of the City of Newberg this 12 day of October, 1995.

ATTEST:



Darla Baldoni, Planning Commission Recording Secretary