#### PLANNING COMMISSION MINUTES Newberg Public Library - Newberg, Oregon THURSDAY, MARCH 14, 1996 AT 7:00 P.M.

#### Approved at the April 11, 1996 Planning Commission Meeting

#### I. PLANNING COMMISSION ROLL CALL

#### **Planning Commission Members Present:**

Jim Harney

Rick Mills

Richard Waldren

Steve Hannum

Myrna Miller

#### Absent:

Jack Kriz, Chair Matson Haug

#### **Staff Present:**

John Knight, Planning Manager Barbara Mingay, Planning Technician Janet Yarbrough, Recording Secretary

#### II. OPEN MEETING

**Commissioner Mills** opened the meeting at 7:02 p.m. and roll was taken. He announced the procedure of testimony for the meeting.

#### Election of a Pro-tem Chair:

**Commissioner Mills** called for the election of a Pro-tem chair. **Commissioner Waldren/Harney** nominated Commissioner Mills.

Motion #1:	Commissioner Miller/Waldren to vote on the nomination of Commissioner
	Mills for Pro-tem Chair.

Vote on Motion #1:
Vote on Motion #1:

#### III. CONSENT CALENDAR

Approval of the February 8, 1996 Planning Commission Minutes.

Motion #2:	Commissioner Harney to approve the consent calendar items, approving the minutes
	of the February 8, 1996 Planning Commission Meeting.

Vote on Motion #2:	The motion carried unanimously.
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### IV. COMMUNICATIONS FROM THE FLOOR (5 minute maximum per person) None.

#### V. PUBLIC HEARING

**PUBLIC HEARING (#1)** 

APPLICANT: Mary & Earl Sandager

REQUEST: Annexation of an 11 acre parcel and zone change from County VLDR-2 1/2 to

City R-1/SP & R-2/SP and withdrawal from the Newberg Rural Fire Protection

District.

LOCATION: 3800 N.E. College Street

TAX LOT:

3208-3000, -3100

FILE NO.:

ANX-6-96

ZONE:

County VLDR-2 1/2 to City R-1/SP and R-2/SP

CRITERIA:

Newberg Development Code Section - 10.36.050

John Knight stated a new public hearing process would be followed this evening for quasi-judicial action.

#### OPEN FOR PUBLIC HEARING.

**Pro-tem Chair Mills** entered ORS 197, relating to the Public Hearing process into the record, and opened the Public Hearing.

**Abstentions/ex-parte contact: Commissioner Hannum** stated that he has visited the site and that there was nothing apparent which would influence his decision this evening.

Objections: None.

**Staff Report:** Barb Mingay, Planning Technician, read ORS 197 into the record and reviewed the staff report.

**Preliminary Staff Recommendation:** Staff recommended approval of the annexation in the absence of public hearing testimony.

Questions: None.

**Proponent:** Michael Gunn, Attorney representing the applicant

P.O. Box 1046 Newberg, OR 97132

Mr. Gunn reviewed the remarks made in the staff report. He reviewed the location of the property and the nature of the zoning. He argued this was a logical progression for annexation and that the project did satisfy the necessary criteria. He stated that the project suited the direction the city was heading because the city would need the housing in the future.

Opponent: Bill Rourke

4016 N. College Newberg, OR 97132

Mr. Rourke said he owns property adjacent to the development site. Mr. Rourke pointed out that he was not opposed to the development, but he was concerned his property may be isolated by this project, and requested that site development consider providing access to his property.

Opponent:

Sid Friedman

31909 NE Corral Creek Rd. Newberg, OR 97132

Mr. Friedman asked the planning commission to delay the annexation to City Council while the ballot measure requiring that the citizens vote to approve annexation was pending. He reasoned that the number of signatures gathered in support of the ballot measure warranted a delay until after the May election.

Opponent:

Keith Hay

15775 Ribbon Ridge Newberg, OR 97132

Mr. Hay said he had no quarrel with the application but he felt that the process should be delayed until after the May election.

#### **Questions to Proponent:**

**Commissioner Hannum** asked when the earliest date of a vote on the annexation would be. **Mr. Friedman** responded the vote would take place at the next general election unless applicants chose to pay for a special election.

**Public Agency reports:** A letter dated February 20, 1996, was received into the record from the Oregon Department of Transportation. They indicated that no direct access to the site from State Highway 219 would be permitted, but had no objection to the proposed annexation to the city.

Letters: None.

Proponent/Opponent Rebuttal: None.

**Staff Recommendation:** Staff recommended adoption of Resolution No. 96-33 with a correction to the Planning Commission public notice information.

Hearing Closed.

#### **Commission Deliberation:**

Commissioner Waldren said he was comfortable with annexation. Commissioner Harney said he felt the people should have the right to vote on annexation so the commission should hold off, even if until June. Commissioner Miller disagreed, saying they should use the current process until it has been changed. Commissioner Waldren agreed. Commissioner Hannum pointed out that the will of the people was unclear at this time and the commission shouldn't hold up an operation for things that might be.

**Commissioner Hannum** reminded the commission site development was not being discussed (see Mr. Rourke's comments) so access should not be considered at this point. There was some discussion as to where access would be, but **Pro-tem Chair Mills** reminded the commission they would look at development and layout later.

Motion #3: Commissioner Miller/Harney to adopt Resolution No. 96-33 as revised.	
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Vote on Motion #3: The motion carried (4-1). (Dissenting: Harney: Absent 2: Haug, Kriz)

**Barb Mingay** pointed out that this would be referred to the City Council for approval and any further testimony could be heard there before the plans were finalized.

#### **PUBLIC HEARING** (#2)

APPELLANT: Alvin & Jeanine Elbert

John Bridges, Attorney

APPLICANT: Springbrook Estates Limited Partnership

**REQUEST:** Appeal of a Design Review decision to approve an application for a manufactured

home park consisting of 48 units.

**LOCATION:** The site is located East of Springbrook Road, North of Springbrook Estates

Phase I

**TAX LOT:** 3221-03400 **FILE NO.:** DR-46-95

CRITERIA: Newberg Zoning Ordinance Sections 10.3.620, and 10.2.682

**John Knight** reminded the commission and the public of the differences in the process for an open record hearing.

**Abstentions/ex-parte contact: Commissioner Harney** said he drives down the road daily but has observed nothing which would affect his decision. **Commissioner Hannum** said he has visited the property to see the existing development. While there, he visited with a man by the name of Mr. Snow regarding water runoff because Mr. Snow had seen a slight erosion.

Objections: None.

**Staff Report: John Knight** gave a brief history of the item and reviewed the staff report. He reiterated that the staff stands by their original decision.

#### Questions from the Commission:

**Commissioner Harney** asked for clarification on the size of the road. **John Knight** responded the road had to be a minimum paved width of 23 feet. **Commissioner Harney** also asked where the road would end. **John Knight** said it would be at the entrance.

**Commissioner Waldren** asked how the appellant's property would be affected. **John Knight** said the street would be immediately adjacent and the appellant's house would not need to be removed until the appellant chose to develop his property.

**Commissioner Harney** asked for information regarding parking and the enforcement of no parking. **John Knight** said there would be no parking on the half street and the city would enforce the no parking requirement.

**Commissioner Harney** asked what the size of the entrance would be. **John Knight** responded that the entrance would be 28 feet, while the state statute only required a minimum width of 20 feet.

**Commissioner Hannum** asked which streets would be designated for no parking. **John Knight** said he was referring to the street on the North. **Commissioner Hannum** also asked if the internal streets were private. Pro-tem **Chair Mills** referred him to attachment B. **Commissioner Hannum** stated his concern with the internal street width standards.

**Preliminary Staff Recommendation:** Staff recommendation, prior to receiving public testimony, was for the Planning Commission to uphold the decision of the Design Review Committee and approve Resolution No. 96-34, allowing development of a 48 unit manufactured home park.

**Opponent:** (Went first by request, no objections from the proponent)

Allyn Brown 501 E. First Newberg, OR 97132

Mr. Brown gave exhibits for written summary to the commission. He asked that the record be kept open for seven days, and he also asked for a continuance if the proponents change the design. Mr. Brown said the plan does not address safety and privacy. He reasoned the fire department requires a minimum 32 foot road, which he said would be further exacerbated by the lack of a parking plan. Mr. Brown said the plan didn't address the preservation of the natural landscape. He said there were a number of trees on the sight which would have to be removed or destroyed by the development. Mr. Brown said that the criteria requires the development to be screened in order to prevent misuse and assess the effect to the property owners. Mr. Brown was concerned with inadequate fencing along the northern boundary of the plan which he said was critical because the appellate's property sits only six feet from the property line. Additionally, he said the signs and graphics of the development needed to be evaluated. Mr. Brown also had concerns with the potential increase in traffic. Mr. Brown said the development did not address the relationship to the environment because there was no portrayal of the neighboring property. Mr. Brown said a closer evaluation would show that eventually the house on the appellant's property would have to be torn down and until then, the interior of the property would be exposed. Mr. Brown stated there was no play area, which violated the code. Mr. Brown asked for denial and that the proposal be sent back to staff with approval for a 60 foot roadway.

**Proponent:** Steve Abel, Attorney at Law

900 SW 5th Avenue #2300

Portland, OR 97204

Mr. Abel said the final request of Mr. Brown for a 60 foot roadway disagreed with the earlier request of the opposition to move the road to the North. Mr. Abel said that the planners did this, and he asserted that the opponents were trying to get a free road out of this.

Mr. Abel responded to the issue of safety and privacy. He said the staff has advised that the size is adequate. He referred to the provisions in the code for mobile homes which do not require a boundary screening. Mr. Abel pointed out there are no native trees to preserve at the site. He said signs and graphics were not an issue because they deal with the existing property. Mr. Abel stated transportation is not relevant to approval in a limited land use setting. He also argued there was no imposition of property taking unless the appellant someday wanted to develop his property. Mr. Abel said the play area is not an issue because the smallest lot is 4004 square feet, which provides ample play area. Mr. Abel reminded the commission this was a limited land use development and it was appropriate to be approved. He also said there was ample time to deal with this and no need for a continuance.

Proponent: Mart Storm

560 Parks Road Dundee, OR 97115 Mr. Storm first asked the staff if this was an all or nothing situation. **Pro-tem Chair Mills** asked **John Knight** to respond. **John Knight** said the Planning Commission can uphold or deny the staff decision, and has some discretion whether or not to modify the resolution.

Mr. Storm responded to errors in the information presented by Mr. Brown. He said the smallest street width would be 28 feet, not 20 feet, and no parking would be allowed. The park would be required to control parking. The 30 foot road would allow parking and would be regulated by the mobile home code. Mr. Storm also pointed out that all sites would be buffered with fencing or landscaping, and if necessary this would be sight obscuring. He pointed out that the roadway had already increased an additional five (5) feet, to 35 feet, to answer the safety concerns. As for lot size, all lots would be 4000+ square feet, and if they were not such, minor modifications would be undertaken. Mr. Storm said the original proposal did not meet the previously voiced concerns and he asked the commission to refer to the map which he distributed. He asked staff to approve this map.

Mr. Storm said traffic was looped and re-routed to eliminate traffic past the house and to avoid people cutting through the park to avoid the intersection. He said the plan gave room for the development of a road on the north boundary if it was decided in a future development plan that that was the best place for the road. Mr. Storm said the storm drain was eliminated because there would not be the development of a public street. He also said the plans allowed screening to take place.

#### Commission questions to the staff:

**Commissioner Harney** asked if staff had seen the new changes. **John Knight** said the staff received the new documents a few days ago. He reminded the commission and the public that the Planning Commission rule requires submission of documents one week in advance, but he also noted the Planning Commission does have the discretion to accept new documents at the meeting. **Commissioner Harney** asked if the fire department had seen the new plans. The staff responded they had not.

#### **Questions to Proponent:**

Commissioner Harney asked about the location of the play area. Mr. Storm responded a play area was not necessary because the size of lots were 4000+ feet which was within the law. Commissioner Harney asked if lot 50 was also over 4000 feet. Mr. Storm said it was, but on the layout it showed up as 52 feet for layout purposes. Commissioner Harney asked if lot 27 and 28 would share access. Mr. Storm said yes. Commissioner Harney asked about lot 26. Mr. Storm said the lot would exit on the property line to the west and would share the entry.

**Commissioner Waldren** asked if in the new lot designation (option A), if the 30 foot easement would be available if needed for access for the Elberts. Mr. Storm said there would be an easement given for access. **Commissioner Waldren** also asked about the buffers. Mr. Brown said the negotiations broke down before this issue could be discussed. Mr. Storm pointed out that they had granted a 60 foot easement right of way so the property owners wouldn't be boxed in. As this point, Mr. Brown said the new plan went a long way to satisfy his clients' concerns, but he had not had ample time to review.

Commissioner Miller asked for clarification as to which trees the plan would destroy. Mr. Brown responded they were on both the Elbert's and the mobile park's property. Commissioner Miller stated a letter from February 15, 1996, acknowledges the opponents' are aware they would have to develop the other half of the street only when they choose to develop their property. She asked if Mr. Brown was asking the developer to donate 60 feet for a road. Mr. Brown said he didn't deny that the plan would require no change until further development of the property, but he was concerned that the neighbor would be able to dictate the placement of the roads which could require the removal of the neighbor's house.

**Commissioner Miller** asked John Knight if development of the full road would demand another half of the road to the north. **John Knight** said the burden would be split between property owners.

**Commissioner Waldren** asked if it was conceivable that the buffer would last forever. **John Knight** said yes because the city had no authority over this matter other than condemnation if it is a private access road.

**Commissioner Miller** asked about the nature of the fencing. Mr. Storm said the fencing would be extended on both the north and south, and would be done as the commission deemed appropriate.

**Commissioner Miller** asked for clarification of the net size of the park. Mr. Storm said there would be a net of 49 lots. He clarified that the plan showed 50 lots, but that was to replace the one lot which was being removed from Phase I to create an access road.

**Commissioner Hannum** asked how people with more than one vehicle would park. Mr. Storm said the plan allows for parking in a carport and one in front of the carport. He said this meets the criteria of two parking spaces per lot. He also pointed out that the rules of the park said if you exceed two vehicles you have to rent space in the storage area.

**Commissioner Hannum** asked if there was any concern with the ability of the fire department to get around curves on the 30 foot roads. **John Knight** said the state statute superseded local authority on this issue, and that any road which is less than 30 feet wide had to be signed for no parking. He also said the applicants were willing to look into this, and it could be included in the conditions for approval, if necessary.

Mr. Brown asked that the record reflect the appellants prefer the chain link and slats fencing.

**Commissioner Hannum** asked about the concerns with plans for dealing with additional traffic. **John Knight** responded that one concern was parking. Mr. Storm said that during the staff review, it was determined that as many roads as possible be 30 feet wide, and only one road with a width of 28 feet was included in Phase II. At this point, **John Knight** read the ordinance on minimum width of entrances and roads.

**Commissioner Hannum** asked how runoff water would be dealt with and what was proposed for the original park. Mr. Storm said the water would run into a swale, which he defined as a graded low area to guide to water. He also said the original plot was engineered to handle the additional water.

**Commissioner Hannum** pointed out that the park sits at boundary of urban growth (UGB). He then asked what the land use constraints were because he was concerned with the possible expansion of the UGB toward the creek without any restraints for oil, grease and other possible problems. **John Knight** said they would have to meet standards at that time. Currently, the standards deal with runoff and erosion.

**Commissioner Miller** asked what would happen to the buffer on the North in the event of future development. Mr. Storm responded the road would be viewed as unnecessary at this time because it does not access the park. **Commissioner Miller** also asked for clarification as to the location of the 60 foot easement. **John Knight** said the easement was shown on the plan, right behind the existing first phase. He pointed out that the neighbors, the Hickerts, were anticipating development and they had plans with NSP Development for access to Wilsonville Road.

**Pro-tem Chair Mills** asked if the commission had the authority to continue the issue. Mr. Knight said they did, but that they needed to close the hearing and deliberate on the issue. **Pro-tem Chair Mills** asked if Mr. Brown had any feeling on the issue. Mr. Brown responded that he had feelings, but not authority over the issue of continuance. **John Knight** reminded the commission they were under the 120 day rule and thus needed to keep the proceedings moving forward.

#### **Public Agency reports:**

**Letters:** Two letters were received: 1) From Mr. John Bridges, Brown, Tarlow & Berry, P.C., dated 2/15/96, to the City of Newberg; it addressed the main concern of the proposed street. The appeal was also submitted on behalf of Mr. Bridges clients, Alvin and Jeanine Elbert. 2) From Mr. John Bridges, Brown, Tarlow & Berry, P.C., dated 2/26/96, to Mr. Steven Pfeiffer (representing Springbrook Estates); it proposed a resolution prior to the appeal, requesting that Springbrook Estates provide dedication to the City of 60 feet across the northern boundary of their property, and complete one-half of the street construction.

**Proponent/Opponent Rebuttal:** Mr. Brown said many of the alleged inaccuracies stem from the old plan. He responded to the accusation that the property owners keep complaining by saying that the owners are not planners and are concerned with what will happen to their property. He addressed the new plan, saying it was much better from his clients' standpoint. He said he favored the second plan, but he was unsure if it met all of their needs due to time constraints.

John Knight asked if the commission would accept the new testimony and documents received during the meeting. Pro-tem Chair Mills called for a discussion. Commissioner Harney voiced his concern that the staff did not have adequate time to review the new plans. Pro-tem Chair Mills stated he felt the commission was obligated to accept the plans since they had already heard testimony and discussed the new plans in detail.

Motion #4:	Commissioner Waldren/Mr. Storm to accept option A from Mr. Storm and the map
	presented.

Vote on Motion #4:	The motion passed unanimously.
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The commission took a five minute recess at 9:05 p.m.

The commission was back in order at 9:10 p.m.

Staff recommendation: The staff had no final recommendations at this time.

**Hearing Closed.** 

#### **Commission Deliberation:**

Commissioner Harney asked the staff if this could be postponed until next month to allow the commission more time to review the new plans. John Knight responded a delay would be within the authority of the commission, but would not recommend this move without a continuance request from the applicant. Pro-tem Chair Mills reminded the commission that they needed to be careful of the 120 day rule. Since November 27, 1995, would be the date the clock started, the commission only had 13 days to act. Commissioner Harney remained concerned with the new information. Commissioner Miller asserted a decision should be made this evening, with which Commissioner Harney concurred, but he didn't want to make a judgement on the new evidence. There was some discussion as to whether or not there would eventually be a road up north, but the commission agreed that such a future action would have to go before the Planning Commission. Commissioner Harney asked for a specification that a road could not be made to the north. Commissioner Waldren asked for the understanding that the barrier would be a chain link fence with slats. Pro-tem Chair Mills indicated the commission had three options: 1) to go ahead with the original design; 2) to implement the new design; or 3) to create a hybrid plan from both plans.

Commissioner Harney asked that his objection to go ahead with the plan at this time be noted.

**Commissioner Miller** said she was in favor of the second option, and **Pro-tem Chair Mills** asked the staff for help in developing an appropriate motion. **John Knight** said the resolution should be revised and then voted on for approval.

At this time, the buffer was discussed. **Pro-tem Chair Mills** asked Mr. Brown what type he preferred, and Mr. Brown said his clients' wanted a chain link fence with slats.

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Mc	otior	າ #5:

**Commissioner Miller/Waldren** to approve Planning Commission Resolution No. 96-34 with the following modifications: the first whereas will read November 11, 1995; adopt plan A for the physical layout; Phase II would not have access to Springbrook Road; the fence on the northern boundary would be chain link with slats; the number of units be 50 instead of 49; and the remaining conditions of the applicant to replace the staff conditions.

Staff noted the appeal process.

#### VI. OLD BUSINESS

None.

#### VII. NEW BUSINESS

John Knight pointed out that this was new business which meant the proceedings were informal.

#### 1. Decision to re-hear the Stream Corridor Ordinance

A handout was given to commissioners outlining the activity on this project. At the January 1, 1996 City Council meeting, the council approved a motion to return the item to staff, along with a provision to return it to the Planning Commissioners with a majority vote of the Planning Commissioners to take it back for further investigation. Staff has scheduled a workshop for March 21, 1996, to be held at the Senior Center, and recommends that the Planning Commission appoint two-three members to attend the workshop, along with staff, three Stream Corridor members, property owners and other interested citizens. Request that if commission is not satisfied with decision of workshop to come back to the table.

#### **Public Comments:**

Torrey Lindbo 32850 Kramien Road Newberg, OR 97132

Mr. Lindbo stated he felt the new view of the stream corridor was extremist and violated the previous compromise. He asked that no exemptions be given to builders, and that all building into the creek be terminated. He asked for approval of his ordinance so it could be sent to the City Council.

Sid Friedman 31909 NE Corral Creek Road Newberg, OR 97132 Mr. Friedman asked that the discussion not be limited to the five specific issues outlined in the memo, and instead, all concerns to be considered. He asked what the setup of the workshop would be. **John Knight** replied the setup would be semiformal. The workshop would be to gather additional input and prepare an advance draft to take to City Council.

Keith Hay 15775 Ribbon Ridge Road Newberg, OR 97132

Mr. Hay was concerned that the Stream Corridor Ordinance only affected one of many corridors within the city. He wanted the Planning Commission to take back the ordinance now to resolve this issue.

**Commissioner Waldren** said there should not be a vote to take back the ordinance until all commissioners were present. **Commissioner Miller** agreed.

**Pro-tem Chair Mills** outlined the Planning Commission's options: 1) to hold a public hearing; 2) to wait until after the workshop; or 3) to take the ordinance back now to deal with it in May.

The commissioners discussed the options, the time schedule, and the role of the City Council in the issue.

	Motion #6:	Commissioner Harney/Waldren moved to send the Stream Corridor Ordinance back
-		to City Council as it comes out of the workshop.

Vote on Motion #6:	The motion carried unanimously.
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The commission discussed which members to send, and it was tentatively decided that Commissioners Harney, Haug and Waldren would attend the workshop.

**New Items:** The staff wanted the commission's input on a proposal for projecting signs downtown which are in the city's right of way. The issue arose over a proposed sign by Northwest Tax Accountants. The staff was concerned about dealing with the issue since there is no current policy. After discussing the issue, the consensus of the commission was that the staff should carry on like they have been.

#### VIII. STAFF AND COMMISSION REPORTS

- Update on Council Items:
  - a. Priority list. **John Knight** asked for a change in the priority list because of the receipt of a \$40,000 grant to do land use infrastructure planning in the reserve area. City Council approved this.
  - b. Staff noted that there was a vacancy on the City Council. Interested members should contact Duane Cole, City Manager.
  - Staff reported there were several annexation hearings coming up next month.

- 2. Other reports, letters, or correspondence:
  - a. Permit Processing Handout. Informational handout given to commissioners.
  - b. Stream Corridor Conflict of Interest Memo. Memo given to commissioners addressing the concern on conflict of interest.
- 3. Next Planning Commission Meeting, April 11, 1996.

#### VIII. ADJOURNMENT

The meeting was adjourned at approximately 10:20 p.m.

Passed by the Planning Commission of the City of Newberg this 11th day of April, 1996.

AYES: 6

NO:

ABSTAIN:

0

ABSENT: 1 - Mills

(list names)

ATTEST:

Planning Commission Recording Secretary

(print name)

Date

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## INFORMATION RECEIVED INTO THE RECORD AT THE MARCH 14, 1996 PLANNING COMMISSION MEETING.

# THIS INFORMATION IS ON FILE AT THE COMMUNITY DEVELOPMENT OFFICE ATTACHED TO THE MINUTES OF THE MEETING AND IN THE PROJECT FILE IT PERTAINS TO.

#### PROJECT FILE # DR-46-95

- 1). The appellants' issues on appeal were submitted by Allyn Brown.
- 2). A map of the Elbert's property was distributed.
- 3). The final conditions of approval were submitted for review.
- 4). Option "A", the redesigned layout of the park, was submitted for reference.

Labels for those who gave testimony at the 3/14/96 Planning Commission Mtg.

Micheal Gunn, Attorney P.O. Box 1046 Newberg, OR 97132

Anx-6-96

Bill Rourke 4016 N. College Newberg, OR 97132 Anx-6-95

DR-46-95

Sid Friedman Anx-6-96 31909 N.E. Corral Creek Road Newberg, OR 97132

Keith Hay Anx-6-96 15775 Ribbon Ridge Road Newberg, OR 97132

Allyn E. Brown 501 E. First Street Newberg, OR 97132

Mart Storm 560 Parks Road

Dundee, OR 97115

DR-46-95

Steven W. Abel 900 S.W. 5th #2300 Portland, OR 97204 DR-46-95

Sid Friedman CPA-1-95 31909 N.E. Corral Creek Road Newberg, OR 97132

CPA-1-95 Keith Hay 15775 Ribbon Ridge Road Newberg, OR 97132

Torrey Lindbo 32850 Kramien Road Newberg, OR 97132

CPA-1-95