

**PLANNING COMMISSION MINUTES**  
**Newberg Public Safety Building - Newberg, Oregon**  
**THURSDAY, SEPTEMBER 10, 1998 AT 7 P.M.**

**Approved at the October 8, 1998 Planning Commission Meeting**

**I. PLANNING COMMISSION ROLL CALL**

**Planning Commission Members Present:**

Steve Hannum                      Matson Haug  
Lon Wall                              Warren Parrish  
Paula Fowler

**Absent:** Myrna Miller (Chair)              Steve Ashby

**Staff Present:**

Barton Brierley, City Planner  
Peggy Hall, Recording Secretary

**II. OPEN MEETING**

**Vice-Chair Hannum** opened the meeting at 7:10 p.m. He announced the procedure of testimony. Citizens must fill out a public comment registration form to speak at the meeting.

**III. CONSENT CALENDAR**

1. Approval of August 13 and August 27, 1998 Planning Commission Minutes.

<b>Motion #1:</b>	<b>Haug/Fowler</b> voted to approve the consent calendar items, approving the minutes of the August 13 and August 27, 1998 Planning Commission Meeting.
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**Commissioners Haug and Wall** noted changes in the minutes.

<b>Vote on Motion #1:</b>	The Motion carried. (5 Yes/2 Absent [5 Yes/2 Absent]).
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**Commissioner Parrish** addressed concerns over the legality of using the word "unanimously" in the passage of motions. Commissioner Wall referenced Oregon Revised Statutes (ORS) regulations. Commissioner Parrish said he would address his concerns at a later time.

**IV. COMMUNICATIONS FROM THE FLOOR (5 minute maximum per person)**

None.

**V. LEGISLATIVE PUBLIC HEARINGS (#1)**

**APPLICANT:** City of Newberg  
**REQUEST:** Language revisions to NDC 10.36.040 Annexation Procedures  
**LOCATION:** City Wide  
**FILE NO.:** G-39-98                      **RESOLUTION NO.:** 98-102  
**CRITERIA:** NDC10.20.030

**Abstentions/ex-parte contact:** None.

**Objections:** None.

**Staff Report:** **Barton Brierley** presented the staff report and identified legislative and quasi-judicial

hearing and procedural formats. Mr. Brierley addressed the time lines in the existing ordinances concerning the annexation process.

**Commissioner Fowler** questioned how long the current annexation process takes. Mr. Brierley said it takes about 7 months due to the quasi-judicial process. Mr. Brierley said it was staff's recommendation to lengthen the time to about 8 months.

**Commissioner Parrish** addressed Section 10.36.040 (1) concerning filing annexation applications and the City Council's policy on placing issues on the ballot. Mr. Brierley reviewed various election times (primary, general and special elections). Discussion was held concerning the Council's ability to provide flexibility in its decisions.

**Commissioner Wall** expressed his views of the City Council's veto power in not allowing annexations.

**Vice Chair Hannum** noted that the annexation process would provide for the Planning Commission and City Council to hold quasi-judicial public hearings upon approval by the Council, it would go to the vote of the people. The alternative method would be to have the Planning Commission and City Council hold only legislative hearings and then forward to the voters at an election.

**Commissioner Haug** said he approved the ordinance as it is presented. Commissioner Haug further clarified his comments concerning costs of election.

**Commissioner Wall** said that the annexation ordinance was not to force applicants to pay for the election.

**Public Testimony:** None.

**Public Agency reports:** None.

**Letters:** None.

**Staff Recommendation:** Mr. Brierley stated it was staff's recommendation to approve Resolution No. 98-102 as changed.

**Hearing Closed.**

**Commission Deliberation:**

<b>Motion #2:</b>	<b>Haug/Fowler</b> voted to approve <b>Resolution No. 98-102.</b>
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**Commissioner Parrish** said he would like to review each section and vote on each issue.

**Commissioner Wall** expressed concerns about the word "may" which gives too much lee-way.

**Vice Chair Hannum** said it appears that the City cannot hide behind the language that "they have met with the quasi-judicial criteria". It still gives the City the option of denying the annexation based on a legislative position in allowing the Council to make a decision not to allow the annexation at a particular time.

**Commissioner Wall** said as long as the word "may" is in the language, it does not provide for them not to hold a legislative hearing.

**Commissioner Fowler** reviewed the context of the word "may" as it pertains to denial.

**Commissioner Wall** said he would not support the word "shall".

**Commissioner Haug** said that the annexation process is a legislative issue. The way the language is

stated, it does not allow the City to hide behind set of criteria allowing for a legislative content which is relied upon in the annexation process. He whole heartedly recommends the paragraph as it is presented.

Discussion was held concerning whether or not two hearings needed to be scheduled for legislative purposes. Mr. Brierley said the Planning Commission would be one hearing and then the City Council would be two separate hearings.

**Commissioner Parrish** said that even though it appears the applicant does everything that he/she is supposed to do and they meet all the criteria through the quasi-judicial process, the City Council could still deny the application.

**Commissioner Haug** recommended to throw out the quasi-judicial hearing and just have the legislative hearing.

**Commissioner Wall** discussed issues dealing with the Sumitomo project. He also said that if the City Council denies the application based upon a legislative hearing, the applicant could still appeal the decision to LUBA. Commissioner Wall discussed decisions being appealed to the Supreme Court, and how the City needed to be consistent.

**Commissioner Parrish** reviewed issues dealing with findings, the criteria being met, and the purpose for a legislative hearing. Mr. Brierley said that the analogy of Commissioner Parrish's statements are correct.

**Commissioner Haug** questioned the reason for separation of paragraphs (2) and (3). Commissioner Haug stated it would appear to be an idea to delete paragraph (2) and just provide for (3)(A) and (B) (includes legislative hearings, etc.). Mr. Brierley said in deleting paragraph (2), it would make it all a legislative decision. If that is the case, we would have to remove the criteria requirement (provision for City services) because we would be making it a legislative decision.

#### **Tape 1 - Side 2:**

Discussion was held concerning fair and honest rules and the process regardless whether a single piece or large piece of property.

**Commissioner Parrish** reviewed (3)(A) as it pertains to the small and large parcel definitions and process (elimination of quasi-judicial process).

**Commissioner Fowler** agreed to combine both sections together for small and large parcels. Make it one process.

**Mr. Brierley** stated that the staff's recommendation was based upon the result of the experience in the whole process.

**Commissioner Fowler** said that staff will return with a revision with paragraphs (2) and (3) as one item and bring it back for review.

**Commissioner Parrish** said there is no definition of "large pieces of property".

**Commissioner Haug** suggested to use paragraph (2)(A) as it stands, allowing the single hearing at the City Council level. He would also recommend (B) using the same ground rules - quasi-judicial hearing with legislative content and eliminate paragraph (3).

**Commissioner Haug** said that the Planning Commission's recommendation is for a quasi-judicial process (providing details) with further recommendations to the City Council (legislative) to be approved

by the City Council or to be referred to the voters.

**Commissioner Parrish** said he would like to know where staff came up with the revisions and the purpose for them. Mr. Brierley explained that the changes were needed because of staff's experience with the annexation process. The revisions were a product of staff discussion.

**Commissioner Fowler** withdrew the second on Motion #2. Commissioner Haug withdrew his Motion.

<b>Motion #3:</b>	<b>Haug/Fowler</b> voted to have staff return with a revised proposal accommodating the following: 1. Eliminate section (3). 2. Provide for a single process for all annexations. 3. Rules for the City Council hearing are exactly the same for the Planning Commission (quasi-judicial and legislative content).
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<b>Vote on Motion #3:</b>	The Motion carried. (5 Yes/2 Absent [Miller/Ashby]).
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#### LEGISLATIVE PUBLIC HEARING #2

**APPLICANT:** City of Newberg (*CONTINUED FROM 8/27/98 MEETING*)  
**REQUEST:** Approval of an ordinance amending the Newberg Comprehensive Plan policies and Comprehensive Plan Map, and amending the Newberg Development Code and Zoning Map relating to residential needs.  
**LOCATION:** City wide  
**FILE NO:** GR-2-95  
**CRITERIA:** NDC 10.20.030  
**RESOLUTION NO.:** 97-80

**Abstentions/ex-parte contact:** None.

**Staff Report:** Mr. Brierley reviewed the staff report concerning parking, historic preservation, and recommend R-4 zoning changes. Discussion was held concerning Comprehensive Plan policies.

**Public Testimony:** None.

**Public Agency reports:** None.

**Letters:** None.

**Staff Recommendation:** Mr. Brierley reviewed the process for which the Commission should consider, discuss and then either approve or deny.

**Mr. Brierley** discussed the following:

1. Parking. Discussion was held concerning whether or not parking was allowed in front of garages.

<b>Motion #4:</b>	<b>Haug/Fowler</b> to adopt the alternative language (6) as proposed by staff.
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**Commissioner Wall** asked about reasons for this change other than for aesthetic purposes.

**Commissioner Haug** said that the design standards are basically for aesthetic standards.

**Commissioner Wall** said he was not in favor of this change. He is reluctant to make laws solely based upon aesthetics. There should be something more than aesthetics involved.

**Vice Chair Hannum** reviewed the allowance for 3-4 family building. The driveway does not count for available parking (allowance is 2 per unit), they could use the driveway as one of the parking spaces.

Discussion was held concerning design standards for higher density structures. Commissioner Haug addressed fraternity type housing around George Fox University. The proposal would allow the use of the front yard for parking. If there are no garages in the front, they would be required for future development not allowing parking to be provided in the front of the structure.

**Commissioner Wall** said he does not agree with the aesthetics criteria issue.

**Commissioner Haug** said he would like to see the amount of parking increase and not decrease, and provide for a quality design to accommodate more cars and a more pleasing environment so that the livability is improved.

<b>Vote on Motion #4:</b>	The motion carried . (4 Yes/1 No [Wall]/2 Absent [Ashby/Miller]).
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**Issue #2 - Historic Preservation.**

**Mr. Brierley** recommended adoption except (v) Fences, but recommended the other historic criteria.

**Commissioner Parrish** addressed the following concerns:

1. Page 8 of the Comprehensive Plan concerning historic resources policies (establishment of museum, sponsorship of touring exhibits and archival and research, encourage historic areas. He also reviewed the Development Code referencing Section 10.44.252 (historic landmarks subdistricts). Commissioner Parrish said he does not believe the City has subdistricts.

Proposal for districts. Would like a more clearly defined use. He is having trouble with this: have a decision to make - do we want to preserve buildings or say that we want to preserve and let happen what will happen. He has problems with Development Code definitions:

**Commissioner Wall** reviewed the following:

1. Is being listed a historic site on the inventory a voluntary or involuntary process, or be both?
2. What are the restrictions for being listed as a historical site and what are the advantages?

**Commissioner Parrish** said that what we have is what we have. We have nothing else. There is not another document that is used to decide what is historical. There is no tax advantage unless it is on the national registry. Commissioner Parrish said that Mrs. Mary Post provided testimony in support of a committee being established that would review issues regarding alterations or replacement of historic buildings.

**Commissioner Haug** said that properties that are listed on the City's historic inventory provide that the City's development fees/permits be waived. Mr. David Beam, the Economic Development Director said the Downtown Redevelopment Committee will review what the community sense is on how far they want to go with historic districts; is there support for a historic district; and whether or not there is support for a separate committee.

**Commissioner Parrish** reviewed Section 10.44.240 concerning historic landmark and subdistricts.

**Tape 2 - Side 1:**

**Mr. Brierley** said that Mrs. Post stated that it was an economic benefit to have a historic property.

**Commissioner Wall** said he is involved in historical writings, history of the Pacific Northwest and other

historic issues. Discussion was held concerning the negative aspects of ownership of historic properties. **Commissioner Parrish** addressed issues dealing with Jacksonville and Sisters, Oregon. He is concerned that there is not a well organized concerted effort to preserve some of Newberg for the future. He thinks the proposal is very liberal. He has seen an attitude expressed concerning removal of properties to replace them with a parking facility. If we do not tighten it up, the concept and essence of the history will be lost

<b>Motion #5:</b>	<b>Haug/</b> Moved to adopt the proposals (A) with modified (v) eliminating (2) and (3). <b>Motion failed for lack of second.</b>
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Discussion was held concerning tabling the issue and not using the criteria noted in the staff report.

**Commissioner Parrish** questioned the purpose of having subdistricts when it is not clearly defined in City documents. Mr. Brierley noted that the section was added to allow expansion for the future and there is not a map designation on the Comprehensive Plan Map.

**Commissioner Haug** said that if the matter is revisited at a later time, it is a valuable tool that would allow for the future expansion.

**Commissioner Parrish** said he would like to remove Section 10.44.250 "H -Sub-Districts" from the title.

**Commissioner Haug** made the following proposal to section (v): Fences. " Fences shall be built with materials which are compatible with materials used in the primary structure."

<b>Motion #6:</b>	<b>Haug/Wall</b> to adopt the proposal except (v) Fences. "Fences shall be built with materials which are compatible with materials used in the primary structure."
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<b>Vote on Motion #6:</b>	The motion carried (5 Yes/2 Absent [Ashby/Miller]).
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**Commissioner Haug** addressed issues dealing with Planned Unit Development (PUD's) and stronger requirements due to conditional use abuse.

<b>Motion #7:</b>	<b>Haug/Parrish</b> to have R-1, R-2 and R-3 zones be moved to permitted uses rather than conditional use.
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<b>Vote on Motion #7:</b>	The motion carried (5 Yes/2 Absent [Ashby/Miller]).
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**Commissioner Wall** said that he would like to eliminate PUD's. Discussion was held concerning PUD's.

**3. R-3/R-4 Issues.**

**Commissioner Parrish** reviewed Section 10.20.010 and questioned the location of the historic district on the listing provided in the staff report.

<b>Motion #8:</b>	<b>Haug/Parrish</b> to amend Section 10.20.010 to add H - for Historic Districts which can be used somewhere.
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**Vice Chair Hannum** noted that it was addressed later in the Development Code (page 52).

**Commissioner Haug and Parrish** withdrew their motion and second.

<b>Motion #9:</b>	<b>Haug/Wall</b> to table Issue #3.
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<b>Vote on Motion #9:</b>	The motion carried (5 Yes/2 Absent [Ashby/Miller]).
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**Issue 5:**

**Mr. Brierley** stated that the Commission should approve the proposal (delete (a)).

<b>Motion #10:</b>	<b>Fowler/Haug</b> moved to approve Issue 5. Discussion was held to split the question.
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**Commissioner Wall** stated that he wished to divide the question. Vice Chair Hannum reviewed the items in Issue 5.

**Commissioner Fowler** said she would propose to add:

POLICIES: 1(b): Medium density districts for mobile home parks/subdivisions.  
(Addition of mobile home before "subdivision").

**Commissioner Haug** to remove (d) and renumber (e) to (d) and (f) to (e).

**Commissioner Parrish** asked for clarification concerning (f) and the need for a residential densities' credit. Mr. Brierley discussed as an example: the use of a land for a reservoir.

**Tape 2 - Side 2:**

Discussion was held concerning the use of manufactured home parks rather than mobile home parks or subdivisions.

**Commissioner Haug** said that some people will fight against higher densities. Additional discussion was held concerning higher densities.

Discussion was held concerning page 33 of the Development Code dealing with "Energy". Commissioner Haug said he would recommend to leave the language as it is on page 33.

**Commissioner Wall** expressed concerns with putting incompatible density in certain areas. As long as we have some of the lower density zoned areas, the market pretty much drives the ability to afford these areas.

<b>Motion #11:</b>	<b>Haug/Fowler</b> to delete the section (a) on Energy. To leave the language as originally presented in the Comprehensive Plan.
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<b>Vote on Motion #11:</b>	The motion carried (5 Yes/2 Absent [Ashby/Miller]).
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**Mr. Brierley** explained the population growth projections not having been received which would provide a clearer definition. Mr. Brierley also reviewed the proposed changes.

**Commissioner Haug** asked whether or not we need to mandate certain number of year supply within the urban reserve. Discussion was held concerning the urban growth boundary's involvement in the proposal. It forces the City to accommodate additional growth.

**Commissioner Wall** said he has problems with the proposal. Mr. Brierley said the urban reserve area has already been established. The policy justifies the boundary already set. Staff recommends the adoption of the alternative.

<b>Motion #12:</b>	<b>Fowler/Wall</b> to adopt Issue 4 as modified herein above.
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<b>Vote on Motion #12:</b>	The motion carried (5 Yes/2 Absent [Ashby/Miller]).
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**Commissioner Parrish** reviewed Roberts Rules of Order dealing with division of the question and alternative processes (amendment to motion).

**VI. ITEMS FROM STAFF** None.

**VII. ITEMS FROM COMMISSIONERS** None.

**VIII. STAFF AND COMMISSION REPORTS**

1. Update on Council Items

**Mr. Brierley** reviewed the Council's actions:

1. Appointed steering committee for the review of the Werth property. Commissioner Haug asked why he was asked not to participate on the steering committee. Two Council members were appointed to the steering committee (Deborah Sumner and Fred Howe). They are ex-officio members. Discussion was held concerning their ability to vote on the matter.

<b>Motion #13:</b>	<b>Wall/Fowler</b> directed that staff prepare a memorandum/letter for the Planning Commission Chair to sign a recommendation that the City Council remove the City Council members from the Steering Committee and to avoid any conflicts of interest on the basis of the quasi-judicial nature of the application.
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<b>Vote on Motion #13:</b>	The motion carried (5 Yes/2 Absent [Ashby/Miller]).
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Discussion was held concerning having Chair Miller sign the letter to the Council requesting a response to their inquiry. Mr. Brierley stated he would draft a letter for Chair Miller's signature and present it to the Council.

Mr. Brierley reviewed the Council's decision on the adoption of the sign code in voting to postpone the



matter to October 8th to revisit the sign code decision and other specific issues.

**Commissioner Parrish** presented a handout of the staff report on the sign code. He feels that this was handled poorly by staff. Commissioner Parrish reviewed with the Commission the procedure that was taken in providing additional alternatives or direction as proposed by staff. Offering a suggestion for the future, Commissioner Parrish said it would be a courtesy to let the Planning Commission know if changes are made by either staff or the Council (inserting new data when the information was presented to the Council).

**Commissioner Haug** said this decision by the staff was similar to the Young property issue. He suggested that when staff knows that when they make a recommendation not consistent with the Planning Commission decision, that allow the Commission to select a spokesman and allow the spokesman to go in as a part of the staff report.

**Commissioner Parrish** voiced dissatisfaction with the present policy of notifying the Commission if the staff makes changes to the Commission's decisions on issues.

**Commissioner Wall** said he would recommend that a representative from the Planning Commission attend the City Council meeting and voice the Commission's decision.

**Vice Chair Hannum** said that if he knew there was an alternate proposal, he would have attended the meeting of the Council.

**Commissioner Fowler** asked why staff provided an alternative proposal? Mr. Brierley responded and reviewed the staff's responsibilities as noted in his memorandum.

### **Tape 3 - Side 1:**

**Commissioner Wall** discussed comments concerning staff's responsibility of having to wear two hats in responding to the Commission and the Council. He recommended that if there are future conflicts, a Planning Commission should be advised and a representative appear before the Council.

**Mr. Brierley** said that the direction will be to communicate to the Commission and he would coordinate communication to the Commission prior to the Council meeting.

**Commissioner Haug** said that if staff is aware of the change at the time the Commission has deliberated, staff could have communicated their alternative decision at the Planning Commission's meeting. The Chair and Vice Chair will communicate on how to appoint a representative. If that is not feasible, staff should contact the Chair or Vice Chair. Discussion was held concerning discussing controversial issues and aspects, notifying each member by telephone, mail or e-mail.

**Commissioner Fowler** suggested that each Planning Commission member alternate attendance at the City Council meetings. Discussion was held concerning staff communicating issues raised at the Council level.

**Commissioner Parrish** asked that any matter in which the Commission has reviewed which will be addressed at the City Council level at a later time, that a Commission representative be present at the City Council meeting in which the matter will be heard.

**Commissioner Haug** asked that staff initiate contact and advise the Commission members of the issue before the Council in order to formulate a response.

**Mr. Brierley** continued to report the Council's actions at the recent City Council meeting. Mr. Brierley said that the Council approved an architect for the City Hall remodel project. Discussion was held concerning

beautification of the historic building.

**Mr. Brierley** presented a handout concerning an elected official training session dealing with land use issues, roles and responsibilities, findings and conditions of approval, bias and ex parte contact, etc. The training session is scheduled for October 17, 1998.

2. Other reports, letters, or correspondence

None.

3. Next Planning Commission Meeting, **WEDNESDAY** September 23, 1998.

<b>Motion #14:</b>	<b>Haug/Wall</b> moved that the annexation issue (rewrite by staff) be returned to the Commission at their first meeting in October, 1998.
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<b>Vote on Motion #14:</b>	The motion carried (5 Yes/2 Absent [Ashby/Miller]).
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**Commissioner Parrish** asked about Type II decisions coming before the Planning Commission. Mr. Brierley said it was scheduled for the next meeting with a couple of options to be reviewed by the Commission.

**VIII. ADJOURNMENT**

<b>Motion #15:</b>	<b>Fowler/Hannum</b> to adjourn at 10:40 p.m.
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<b>Vote on Motion #15:</b>	The motion carried (5 Yes/2 Absent [Ashby/Miller]).
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Passed by the Planning Commission of the City of Newberg this 8<sup>th</sup> day of October, 1998.

AYES: 5 NO: 0 ABSTAIN: 0 ABSENT: (2) Ashby  
(list names) Fowler

ATTEST:

Peggy Hall \_\_\_\_\_  
 Planning Commission Recording Secretary Signature Print Name Date

**INFORMATION RECEIVED INTO THE RECORD  
AT THE SEPTEMBER 10, 1998 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 #

None.

PROJECT FILE #

None.

LABELS FROM THE 9/10/98  
PLANNING COMMISSION MEETING  
FROM THOSE WHO GAVE PUBLIC  
TESTIMONY/REGISTRATION CARD

***Be sure to add file number by  
name*** on each label

NO AUDIENCE IN ATTENDANCE