

Commissioner Parrish appeared at the meeting at 7:15 p.m.

Proponent: Rob Molzahn, representing AMT Resources, 607 Villa Road, Newberg, Oregon. He said the area supports single family detached homes (same density, but make them single family - make market better, more aesthetic and flow through neighborhood).

Mr. Earl Sandager, corrected Ms. Mingay's statement in which he was the owner of the property, but is not the applicant on the project.

Mr. Bill Rourke, correction on the application (North Valley Friends Church - 50% of the property) he owns the other 50%. He is not opposed to subdividing the property. At the time it was annexed, he indicated some concerns about the road being platted on adjacent property. He said the Church has some concerns about the road and would prefer that it be located on the property instead of the back side of the Church, if any will go in that direction. The amendment would allow the gain of a building site to the adjacent lot.

Another issue is a philosophical one, this property is immediately adjacent to the URA. He is concerned about the density planned on the north side of the property, next to the rural area and would prefer that the property go back to the nine lots.

The last concern he had was that the developers should be required to provide some screening (fencing - possibly laurel hedges) which would look aesthetically pleasing for both sides.

Commissioner Parrish asked for clarification on where the road would be located. Neither he nor the Church felt that the road needs to be extended as noted.

Mr. Shane Boyer, said he is unclear of what type of housing is going to be allowed, he is not a carpenter and would like to see how the whole project would look and what were the intentions of the applicant.

Opponent: None.

Questions to Proponent: **Mr. Rob Molzahn** said that a row of town-homes would not be appropriate, and he would like to see the single family dwelling units.

Commissioner Wall asked Mr. Hanks what he believed to be the biggest problem and objections to the proposal. Mr. Mike Hanks from ATM Resources explained the common wall versus single family dwelling unit proposal (maintain continuity). It was noted that in the Specific Plan, historically, people have decided not to do anything but the single family dwelling units. They want to make it aesthetically pleasing neighborhood. The goal was to achieve better usage for the over-all house plan and the land without taking in additional acreage for households. Discussion was held concerning the original plan (common wall) which is now apparently being changed to single family.

Ms. Mingay stated the language in the NW Specific Plan's final report provided for more affordable housing (attached housing) and the market is noting more of a request for single family housing.

Commissioner Wall said the applicant never specifically noted "attached" dwelling units, but it is something that they choose not to do. Mr. Hanks said that the way it is currently written, although zoned up to 20 units, it cannot be spread up to the maximum amount of lots. Discussion was held concerning if it is not changed and allowed, it would allow for attached units.

Commissioner Fowler asked what type of screening would be considered. Mr. Hanks said that he had not thought about the fencing until it was brought up at the meeting.

Commissioner Ashby noted the \$120-\$129,000 value for the homes (common wall dwelling units). Mr.

Motion #2 :	Ashby/ Fowler to table the motion to reconsider.
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Vote on Motion #2:	The motion carried (4 Yes/1 No [Wall]/1 Absent [Haug]/1 Vacant).
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V. SPECIAL PRESENTATION

1. Planning Commissioner Roles, Presentation by Terry Mahr

Mr. Terry Mahr presented a hand out concerning the roles of the Planning Commission. Mr. Mahr said that he would be available for questions from the Commission. Mr. Mahr reviewed the information contained in the hand out, in particular Ordinance No. 1718. Mr. Mahr noted the Commission members cannot be removed by the Mayor/Council without some type of procedure. Recommendations on legislative matters begin at the Planning Commission. The Commission has a stricter conflict of interest issue than most committees (announcement of conflicts of interest, etc.) Mr. Mahr noted there are also restrictions on whether or not you can make presentations. Mr. Mahr reviewed the duties and responsibilities of the Commission as noted in the City documents (Development Code, Comprehensive Plan, Charter, etc.).

Mr. Mahr said the focus on the Commission relates to land use matters. Documents are reviewed and considered with a great deal of faith in the work done by the Planning Commission. Mr. Mahr reviewed the working relationships between the citizens, the City Planning staff, the Commission and the City Council (4 levels). The Commission is the controlling body which affects the flow of projects.

Commissioner Fowler inquired about a City Council member coming into a Planning Commission meeting and requesting to participate in a matter. Mr. Mahr said that they should be treated as any other citizen and the Commission should not grant them any position except as a citizen for their direct input. Issues relating to the quasi-judicial process which are being affected by a City Council member attending a Planning Commission meeting may cause an issue or give rise to a conflict of interest. Mr. Mahr reviewed further issues relating to testimony provided at a Commission meeting which results in a recommendation to the City Council.

Commissioner Wall inquired about State law requirements as to eligibility of Commission members and more than one Commission member being engaged in the same type of business.

Mr. Mahr reviewed the City Manager's role in working with the Planning Commission. Discussion was held concerning joint meetings of the Commission and the City Council. Employees of the City work for the City Manager. Discussion was held concerning the City Manager's role in enforcing the City's ordinances and his interpretation of the ordinances. Mr. Mahr said the City Manager sees, as his duty through City staff, that staff furnishes the administrative support to the Commission in order for the Commission to carry out their duties (agenda, paper, education, copies of the Code, etc). City staff is to provide and furnish professional advice, opinions and support to the Commission. He also sees that the staff carries out the recommendation of the Planning Commission to the Council. However, the final governing body of the City is the City Council.

Discussion was held concerning conflicts with the Commission and the staff on presentations to the City Council. Mr. Mahr said the recommendation of the Commission is presented to the City Council (record of the hearing) and also staff's recommendation (which may be different). Discussion was held concerning prior instances in which the Commission made a recommendation, but was it appeared to have not been represented to the City Council correctly (amended by City staff). Mr. Brierley reviewed the process staff takes in presenting the record to the City Council and providing a copy to the Council of what staff believes is the Commission's recommendation. Further discussion was held concerning political aspects of "over-turning" the Commission's decision. Mr. Mahr reviewed quasi-judicial or legislative issues relating

to the appointment of a Council member to an ad hoc committee, wherein a Planning Commission member was not eligible due to possible conflicts. Mr. Brierley said that it appears that Mayor Cox was open to discussing the Commission's concerns. Mr. Mahr discussed how the Council appears to be quite prepared and informed on the issues presented before them. Mr. Mahr said he will report in his Legal Bulletin that he talked with the Commission about certain issues.

Commissioner Parrish said that if there is a sense of litigation for a specific project, or where an applicant has an attorney present, the Commission could have the City Attorney attend some of the meetings which involved quasi-judicial hearings (the applicant was a professional or represented by an attorney or other professional consultants (land use attorneys). Discussion was held concerning staff asking applicants if they intend to have their attorney or professional consultants present, wherein the City Attorney would be asked to appear at the hearing. Mr. Mahr said that anytime the Commission felt it his attendance is or would be necessary, he would certainly appear. Discussion was held concerning the Commission feeling it appropriate to postpone or table the meeting until such time the City Attorney would be present. Mr. Mahr said that the Commission should allow the testimony to be presented, but note that the Commission would need to seek answers to their questions or address concerns. Discussion was held concerning the Planning Commission holding "executive sessions" (caucus - without public). Mr. Mahr said that Oregon Government Standards and Practices Commission (OGSPC) had noted a two year study in which it appears that a lot of governmental bodies are not adhering to executive session rules. Mr. Mahr addressed the 120 day rule requirements (continuation to a date and time specific).

Commissioner Parrish discussed special conditions the applicant has indicated they would do or perform during the public hearing, the Commission would need to amend the conditions to cover the testimony presented at the hearing. Mr. Mahr said that unless they are included in the conditions and the documents amended to reflect the intent, it would be difficult to hold the applicant to the general condition. Discussion was held concerning annexation request promises which do not come to fruition at the time of the development. Mr. Brierley said that if certain conditions are requested by the Commission, the specific condition should be specified in the motion by the Commission. Mr. Mahr reviewed injunctive relief and exhausting the Commission's administrative relief (not waiving rights).

Mr. Mahr addressed the ethical issues and rules contained in the handout prepared by entitled "Ethics in the Workplace". Discussion was held concerning ethical issues relating to receipt of gifts, money or other stipend received by Commission members in relation to an applicant, which may give cause to question. The Commission members have to file the State's Statement of Economic Interest form (SEI). Mr. Mahr then reviewed a recent Attorney General ruling in which the legislature would be questioned during the legislative session by the house and senate ethics commission. Mr. Mahr discussed e-mail communications and telephone calls to City staff and officials. Further discussion was held concerning legal advice provided to the Commission by the City Attorney.

Commissioner Fowler inquired about an instance of a few Commission members discussing and gathering information outside of the hearing (during a break). Mr. Mahr said if it is a quasi-judicial matter, the Commissioners are committing themselves to a vote before hearing evidence, and the spirit of the open meetings law is to deliberate during the open meeting hearing, he cautioned the Commissioners in what would appear to be improprieties. Discussion was held pertaining to explanations and comments concerning zoning issues (more of an informational exchange to hear what others are saying).

Commissioner Wall asked why the Commission members do not do an oath of office. Mr. Mahr said it may be a very good idea (promote professionalism). Commissioner Wall asked about the issues relating having real estate developers on the Commission and what arguments would be in support of same. Mr. Mahr said that with real estate developers/agents involved in Planning Commissions, they may give insight, but they also may be looked upon as unethical. Ms. Mingay noted that it was to provide a balance of industry/profession. Commissioner Wall reviewed the effect of a "clear" financial interest (transaction of

property on a day-to-day basis). Mr. Mahr discussed "actual" and "potential" conflicts.

Mr. Mahr said there are probably instances where the zoning has to be changed (Federal Fair Housing Act - ADA requirements). Discussion was held concerning reasons of denial. Mr. Mahr reviewed a sample where a Comprehensive Plan designation (such as a park) would require the property to be designated as a park. The Commission did not change the zone and it would probably then be appealed to the City Council. If the City Council also chose not to change the zone, the matter could involve a lawsuit.

Chair Hannum called for a break at 9:35 p.m. The meeting reconvened at 9:40 p.m.

2. Planning Commission Priorities

Mr. Brierley reviewed the three categories and the priorities noted in the staff report. The Commission members should review the information and/or offer additional priorities. Discussion was held concerning the riverfront project and an application for grant funds. The Commission discussed moving the "population projections" issue from Category 2 to Category 3.

Commissioner Ashby asked that the following category be added to category 2: "review growth and density policy."

Commissioner Parrish asked that updating the Development Code also be added (C-1 Neighborhood zones, in particular) and all of the Ordinances of the City.

Mr. Brierley said that each Commissioner would get to place three dots (choices) on the respective categories and projects. Mr. Brierley said that he would tabulate the results and report to the Commission.

VI. ITEMS FROM STAFF

1. Update on Council items

Mr. Brierley said the Council adopted the street standards as recommended by the Planning Commission. They included an exception that allows existing private streets to be used. The Council allowed him to continue the partition as originally planned, but no more. At the April 5 meeting, the City Council will hear the Willamette Homes annexation and the Comprehensive Plan amendment (Waterbury/Springbrook Road). Staff's recommendation was to not approve, but the Commission approved it, because they have not identified the specific use on the property. The City Council will also review the request for appointment of the Planning Commission member (Rob Molzahn) filling Commissioner Myrna Miller's position. Mr. Molzahn is a real estate agent and was a prior Planning Commission member. Discussion was held concerning oaths of office for the Commission members. Discussion was held concerning a joint meeting with the Council on April 26, 1999.

Ms. Mingay said that the Comprehensive Plan and Development Codes amendments will have the approved and adopted ordinances.

2. Other reports, letters, or correspondence

None.

3. Next Planning Commission Meeting: March 25, 1999

VII. ITEMS FROM COMMISSIONERS

Discussion was held concerning having two meetings in April.

Commissioner Parrish asked for an excused absence for the next meeting. He wished to state for the he would like to see subdivisions come before the Commission on subdivision projects with 10 houses or more.

VIII. ADJOURNMENT

The meeting was adjourned at approximately 10:12 p.m.

Passed by the Planning Commission of the City of Newberg this 8th day of April, 1999.

AYES: 7

NO: 0

ABSTAIN:
(list names)

ABSENT: 0

ATTEST:

Peggy R. Nicholas
Planning Commission Recording Secretary Signature

Peggy R. Nicholas 4-8-99
Print Name Date

**INFORMATION RECEIVED INTO THE RECORD
AT THE MARCH 11, 1999 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.

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None.

NOTE:

HANDOUTS FROM CITY ATTORNEY TERRENCE D. MAHR CONCERNING PLANNING
COMMISSION AUTHORITY AND REVIEW OF CITY CHARTER, ORDINANCES AND
PROFESSIONAL/WORKING RELATIONSHIPS.

LABELS FROM THE 3/11/99
PLANNING COMMISSION MEETING
FROM THOSE WHO GAVE PUBLIC
TESTIMONY/REGISTRATION CARD

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

THANK YOU PEG

Rob Molzahn, CPA-13-99
Cornerstone Group
211 N. Meridian Street, Suite 101
Newberg, Oregon 97132

Michael Hanks CPA-13-99
14657 SW Teal Blvd., Suite 340
Beaverton, Oregon 97007

Earl Sandager CPA-13-99
3800 N. College Street
Newberg, Oregon 97132

Bill Rourke CPA-13-99
4016 N. College
Newberg, Oregon 97132

Shane Boyer CPA-13-99
3418 Knoll Drive
Newberg, Oregon 97132

Ben Altman ANX-21-98
700 N. Meridian Street
Newberg, Oregon 97132