

PLANNING COMMISSION MINUTES
Newberg Public Safety Building - Newberg, Oregon
THURSDAY, MAY 10, 2001 AT 7 P.M.

Approved at the July 12, 2001 Planning Commission Meeting

I. PLANNING COMMISSION ROLL CALL

Planning Commission Members Present:

Steve Hannum Matson Haug Louis Larson
Bart Rierson, Chair Lon Wall, Vice Chair

Absent: Warren Parrish Rob Molzahn

Staff Present:

Barton Brierley, City Planner
Barbara Mingay, Planning Technician
David Beam, Economic Development Coordinator/Planner
Peggy Hall, Recording Secretary

II. OPEN MEETING

Chair Reirson opened the meeting at 7:00 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 April 12, 2001, Planning Commission Minutes.

Motion #1:	Haug/Hannum voted to approve the consent calendar items, approving the minutes of the Planning Commission Meeting.
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Vote on Motion #1:	The Motion carried (5 Yes/2 Absent [Parrish/Molzahn]).
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IV. COMMUNICATIONS FROM THE FLOOR (five minute maximum per person)

None.

V. LEGISLATIVE PUBLIC HEARINGS

1. **APPLICANT:** Alvin Elbert by John Bridges
REQUEST: The Newberg Development Code allows construction of a three-quarter width street as temporary access to lots where a full street will eventually be built when all adjoining lots are developed. The proposed amendment would require that a temporary street could only be constructed if all the abutting property owners agree.
LOCATION: City Wide
FILE NO: CPA-17-01 **RESOLUTION NO.:** 2001-139 (denial)
2001-140 (approval)
CRITERIA: Newberg Development Code Section 10.20.030

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

Abstentions/Objections to Jurisdictions and Conflicts of Interest: None

Staff Report: Ms. Barbara Mingay presented the staff report as amended based on the previous information and testimony. New streets are approved as part of subdivisions or planned unit developments under a Type 2 process. Notice is provided and the property owners are able to participate in the decision making process. Ms. Mingay presented graphics which identified areas in the city that had both developable land and residential structures on the same parcel. She pointed out Aldersgate, Center, and Quail as examples of existing 3/4 width streets. She noted that Quail Street adjacent to the Avamere development was a prime example of how interim width streets served the community. She noted that when the unincorporated parcel to the south of this portion of Quail eventually was annexed to the City and it redeveloped, the balance of Quail would be completed.

Chair Rierson asked for clarification on situations where future developments would require extensions on otherwise allowed 3/4 streets. Ms. Mingay noted that in areas where existing development adjacent to the City limits occurs, there is a potential for extension of existing interim streets. Ms. Mingay reviewed other areas of the City in which interim streets might be allowed. Ms. Mingay presented two resolutions: one in support and one to deny the proposed language change.

Staff Recommendation: Staff recommended adoption of **Resolution No. 2001-140**, denying the request.

Public Testimony:

Mr. John Bridges, 515 E. First Street, Newberg, Oregon, attorney for applicant (Elberts). Mr. Bridges said he is not married to the language that they proposed. They believe there should be some ability of property owners to consent and consideration for the fact that the current language is not going to work for every situation. Mr. Bridges said that no building is allowed in the right-of-way for the street. In Mr. Elbert's case, with an interim street and to redevelop the property, it would require him to tear down his house and remove his pool. As a land owner, there should be options available.

Mr. Bridges presented photographs of the subject property for the Commission's review.

Motion #2 :	Haug/Wall to allow the receipt and review of the photographs from Mr. Bridges.
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Vote on Motion #2 :	The motion carried (5 Yes/2 Absent [Molzahn/Parrish]).
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Mr. Bridges said the purpose of the application is to allow modification of the Newberg Development Code interim street requirements. Mr. Bridges reviewed photos of various streets in Newberg that were not fully developed. He noted that Aldersgate is a little more than 3/4 street, with "no parking" on one side. Center Street is not curbed on the off-side. Discussion was held concerning connectivity. He reviewed samples of streets in Newberg where alignment with connecting streets is not perfect. Park Lane is a half-street, but even putting in the half street, they have not connected to the rest of the street. Hancock Street (off Springbrook Road), identified also in the staff report, was another example of how the interim streets are mis-used to some degree. He noted that cars from the complex still park on the undeveloped portion of Hancock Street across from the duplexes, even though parking is not supposed to occur there.

Councilor Haug said that maybe some of the people that work at DCI or other business employees may park on that location. Mr. Elbert said that he has witnessed the vehicles parked there longer than regular employees would be parked. He believes the cars to be residents.

Mr. Bridges also noted Deborah Road and E. Third Street were not fully developed streets. He said the property to the right on E. Third Street is outside the City limits, but inside the UGB. Mr. Bridges reviewed discussions held previously with Ms. Mingay concerning extension of streets into areas outside the City. Mr. Bridges noted that E. Ninth Street contained an area with no curbing on one side. He commented that currently a mobile trailer was parked on the undeveloped side and there was evidence of use on the right side. Mr. Bridges addressed the criteria which is included in the staff report:

- **Development of narrow lots.** He would like to see this kind of "in-fill" development and identify language that would "except" those out of the proposed requirement.
- **Transportation connectivity.** Clearly some of the streets do not have connectivity. He would like to work on language that would allow the City to define connectivity and, if there are no connectivity issues, then the adjacent property owner would be required to consent. Mr. Bridges addressed issues with Springbrook Road and the development of streets.
- **All the properties are open lots.** When an interim street is development, it is usually next to a vacant lot. He would like language to address the completion of the street without disturbing existing structures. It would allow the owner who is not developing, to have a say. He would agree that all the properties would be able to develop later.

Mr. Bridges explained that existing structures in most zones were required to be setback specific distances from streets. He noted that the edge of the proposed interim road adjacent to Mr. Elbert's would have been only six feet from the existing house.

Commissioner Wall asked Mr. Bridges if Resolution No. 2001-139 is too strongly worded to pass? Mr. Bridges said that he talked with his client (Mr. Elbert) and they are willing to work out a compromise solution that takes into account serious planning needs while still allowing the non-developing party a say in where a road would be placed.

Commissioner Wall asked Mr. Bridges if it was likely that most or all the property owners adjacent to a proposed interim road have any idea what could happen? Mr. Bridges said that due to proper notice, the property owners have the ability to comment. The proposed change would allow the adjoining property owner to participate in the process. Most property owners do not hire an attorney to represent them in the hearing process and future problems could arise due to mis-understanding.

Commissioner Haug addressed the language "other owner(s)" rather than singular "owner" (being other than the applicant). He asked whether the developer would have to build the whole width street on their own property if the adjacent owner does not want to participate.

Mr. Bridges noted that it could be a 3/4 street if the adjacent property owners agreed to the proposed street location.

Commissioner Haug asked when the people on the other side have to participate in the cost of their side of the street if the developer puts in the whole street?

Mr. Bridges said the developer would be required to put in the whole street (with sidewalks on the street), entirely on the applicant's property, and not on the other party's property. Mr. Bridges said if the 3/4 street is on the property line, and the other property owner does not want to develop immediately, there would be

a future cost savings to complete the rest of the street. Mr. Bridges said that the adjacent property owner may wish access to be elsewhere and would not necessarily need the road in that location. There is an inducement to the developer to shift the cost of the development to the other property owner, if the developer build the road on the property line. Mr. Bridges said the applicant's property has residential, industrial and commercial designations. His client may or may not receive any benefit from the previously proposed 3/4 street adjacent to his property.

Commissioner Haug discussed setback standards.

Mr. Bridges said there are no rules when placing a road near a house, but there are rules when placing a house near a road. You could not build a house six feet from the road, but under the new circumstances, the pavement would be six feet from the house. The proposal would address this issue. Interim streets are more likely to become full streets faster under the proposed change.

Mr. Bridges said that he would like to find out how long ago the existing interim streets were built.

Commissioner Larson asked for clarification on the location of Mr. Elbert's house and whether or not the house was built in that location prior to the street being constructed. Mr. Alvin Elbert indicated that he bought the house in 1988. The future street access was created some time after that date.

Commissioner Hannum asked if the Code problem could be resolved by requiring the adjacent property owner sign who receives Type II notice to sign off that they understand the proposed development would commit them to building the street as a full street sometime in the future. Mr. Bridges said they would not sign the document if they objected.

Commissioner Haug discussed the Springbrook Road development which is presently going through the hearing process. He noted that Quail Drive was stubbed out and that the future design allowed for street extension and build-out. He discussed connectivity, how the adjacent property owners and the developer expected the street to be built in accordance with the plan. **Mr. Bridges** said that the City does not have perfect street connectivity. Quail Drive is not a square street. If the developer had been required to shift the street location 10-15 feet over, there would not have been any substantial development plan changes. Discussion was held concerning "stubs" which were already planned for future extension and which are a reason why some projects are allowed to be developed (Hancock and Springbrook).

Mr. Bridges said that not all the City streets are straight. Some developments install curbs to slow down traffic. He said he would like to propose additional language for connectivity purposes. Mr. Bridges reviewed the interim street standards (adopted in 1995). He stated that when Mr. Elbert bought his house, the City would not have allowed an interim street.

Ms. Mingay said staff is in support of the resolution for denial. If the Planning Commission approves the applicant's proposed Code change, modification of the criteria relating to the location and setback of existing structures from the right-of-way should be considered.

Mr. Brierley said that it is important to allow interim street standards in the City's Development Code. The City provided for interim streets due to expansion which allows growth to meet the City's future street plans. The current code language allows for discretion where full streets will eventually be developed. Property owners do have rights through the public hearing process. The property rights issue is one of the big reasons to allow interim streets, in order for property owners to develop their property.

Chair Rierson said the proposal is to re-word the Resolution so that the home/set-back language was acceptable to everyone.

Hearing Closed. Chair Rierson closed the public hearing.

Motion #3 :	Wall/Haug to adopt Resolution No. 2001-139.
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Commissioner Wall said that if there are any additional language or comments that do not substantially weaken the intent, the Commission should not adopt the Resolution. Commissioner Wall referenced page 27 of the packet and the language contained in paragraph "B" (last sentence).

Commissioner Haug expressed the following concerns:

- Assuming the Commission accepts the proposal so that the owners on the other side would have some say in whether or not the full street should be built, the City needed to find exceptions to allow 3/4 streets to be built under reasonable conditions. Some streets have the connectivity planned for a specific area. If the connectivity is expected, needed or planned, the adjacent or opposite side property owner can't deny the 3/4 street going in if that connectivity is already established on the Master Plan.
- If a full street goes in and it limits the development on the opposite property owner's land so that they have unusable lot sizes, it appears that the opponent to the full street going in should have some remedy to protect themselves against limited or reduced property.
- There is no rule that prevents a road from being built within a specific distance from an existing home. An adjacent property owner has some property rights and can object if it entails an existing structure. He said the rules have to be in balance.

Motion #4 :	Haug/Hannum to delay final decision on the matter and to continue the review next month and obtain additional language to accommodate the temporary street improvements and set out some conditional language which would be more balanced.
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Commissioner Hannum said that given the nature of the motion under discussion, there appears to be a problem with the Development Code and changes need to be made. The question is, does the Motion as proposed, shift the balance the other way. Commissioner Haug said it does. There has been enough discussion to address and review for further consideration.

Discussion was held to **withdraw** Motions 3 and 4. **The Motions and seconds were withdrawn.**

Commissioner Larson said he does not believe that what is presented will bring the Code closer to being perfect. The applicant's attorney did not appear to be prepared, but rather to come into a public hearing and negotiate with the Planning Commission. The applicant should have consulted with City staff to work out specific conditions. Commissioner Larson said he does not believe that the proposal is in the best interest of the City at this time. Connectivity and future development of the City has been thought out and with the build-out of any community, there will be imperfections. Commissioner Larson said that if City staff wants to come back with adjustments, he would consider the proposal, but right now, he would agree with the staff's recommendation for denial.

Commissioner Haug discussed the negative impacts concerning livability and economic impacts as well as Measure 7 implications on all property owners which may or may not be affected by the proposed changes.

Commissioner Wall said that the language in the City's Code which allows for 3/4 street may, in fact, need to be modified.

Commissioner Hannum addressed meeting the needs of all parties and changing the Code language. He agreed somewhat with Commissioner Larson's statements that the system seems to work fairly well, but issues have arisen concerning the location of 3/4 streets.

Chair Rierson said that it appears that 3/4 streets make sense due to the whole plan and connectivity, although placing a street next to the Elbert property may not be good idea.

Commissioner Haug commented that if the undeveloped property owners can demonstrate that reasonable alternatives exist, that would be another reason why they should not be forced to take a negative impact on their own property. He pointed out East Third Street as an example. The airport is located near the subject property. He does not see reasonable future development occurring on the opposite side because it is too close to the airport. The developer should have been required to put in a full street because the development on the opposite side would not be appropriate.

Ms. Mingay pointed out that a portion of the East Third Street property identified by Mr. Haug is developable following future annexation.

Commissioners discussed how to identify locations where a 3/4 street is allowed and that there is no way due to practical reasons, that the whole street would ever be built out.

Commissioner Wall asked staff if they had enough information on what the Commission has identified. **Ms. Mingay** confirmed the primary issues expressed by the Commission.

Motion #5 :	Wall/Larson to table the matter to the June 14, 2001 meeting.
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Chair Rierson asked that negative impacts to property values be added.

Vote on Motion #5 :	The motion carried (5 Yes/2 Absent [Parrish/Molzahn])
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Ms. Mingay stated that the matter would be continued to the June 14, 2001 meeting.

2. *CONTINUED FROM THE 4/12/01 MEETING*

APPLICANT: City of Newberg
REQUEST: Amendments to standards in the C-2 & C-3 zones, expansion of the C-3 one.
TAX LOT: Various around City
FILE NO.: GR-18-99
CRITERIA: Various as listed in the staff report

RESOLUTION NO.: 2000-134

Staff Report: **Mr. David Beam** presented the staff report which contained the notes, testimony and information from the prior meeting. The staff report also included maps of the City's historic landmark properties. Mr. Beam reviewed the nine decision points.

Commissioner Wall said he would move to adopt unless there were other changes by other Commission members. Commissioner Larson said he supported Commissioner Wall's decision to approve.

Commissioner Haug addressed animated signs (Decision 3). He said the definition of animated sign was

based on the frequency of the changes (every 10 minutes it changes).

Mr. Brierley said that the frequency of text change is identified as more than once in a ten minute period.

Commissioner Haug said that he was concerned about the disruptive nature of animated signs. He suggested reducing the time in the definition from 10 minutes to 10 seconds. Discussion was also held concerning the content of the signs and attractiveness.

Mr. Brierley noted that the definition could not include content-based restrictions such as allowing time/temperature but not other kinds of content. Under the current code, time/temperature signs were classed as an animated sign.

Motion #6 :	Haug to change animated signs frequency of 10 minutes or faster to 15 seconds or faster. Motion failed for lack of second.
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Discussion was held concerning other types of signs which may or may not contain offensive language and how the City could not regulate contents of the signs.

Commissioner Larson said he would like to proceed with the proposal.

Commissioner Haug expressed concerns about drive-ups.

Commissioner Wall said he agreed with Commissioner Haug's concerns about the proposed changes and even though he too has serious objections about drive-ups in the C-3 zone, the property owners have not complained about them. It may be best to let things go and see what happens. It bothers him about banks not being allowed to have drive-thru's which may or may not be the "right kinds of businesses for the downtown area". He would suggest that banks be included with no exceptions in having drive-thru's prohibited in the C-3 zone (First Federal and Wells Fargo have drive-ups).

Commissioner Larson said he would prohibit drive-ups and grandfather existing businesses that have drive-ups. If the idea is to create a historic downtown area, the City should eliminate drive-ups entirely.

Mr. Brierley said the intent was to require people to get out of their vehicles and be more in tune with the pedestrian element of the downtown area; however, he did agree with the bank exception.

Mr. Beam said the customers downtown are the people walking downtown, not necessarily the people in vehicles.

Commissioner Wall addressed issues allowing the banks to have drive-ups and not allow them with fast food or other similar type businesses.

Ms. Mingay said that existing businesses would be grand fathered. In the C-3 zone, banks do not have language addressing drive-up windows. In the Code, language exists which separates the types of businesses.

Motion #7 :	Haug/Wall to adopt Decision Point 4/position (C) which prohibits all drive-ups in the C-3 zone.
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Vote on Motion #7 :	The motion carried (5 Yes/2 Absent [Parrish/Molzahn]).
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Motion #8:	Wall/Haug to adopt Resolution No. 2000-134, Project No. GR-18-99. As for the Decision Points, The Planning Commission recommended Alternative "A" on all items, except decision point #4 which should be Alternative "C."
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Commissioner Haug asked that the decision points and alternatives be presented to the Council for review.

Vote on Motion #8:	The motion carried (5 Yes/2 Absent [Molzahn/Parrish])
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VI. ITEMS FROM STAFF

1. Update on Council items

Mr. Brierley addressed Springbrook Estates in which the City Council asked staff to prepare findings for denial. The Council initiated the Crater Lane UGB amendment (42 acres outside the UGB). NUAMC will be reviewing the matter in which no annexation is requested. The Council approved the amendments to the Development Code concerning temporary merchants. The Council is initiating the formation of an Urban Renewal District (specific improvements to the downtown and other areas of town); ways to finance specific improvements to induce private investment (tax increment financing).

Mr. Beam discussed the Riverfront Master Plan Community Meetings. Consultants brought out alternatives for review by the public. The alternatives included many possible zoning designation combinations. The result was that a majority's interest was in a commercial/tourism, residential and open space). The next meeting is scheduled for Tuesday, May 15, at Edwards School Cafeteria. The consultants will better define the preferred alternative more clearly. A market analysis is in the works to better support the decisions and alternatives.

Mr. Rierson said the whole prospective of connecting the wine country, Newberg historic district, French Prairie, the St. Paul bridge, the downtown core area and the river front would be good idea. Discussion was held concerning providing a bicycle access out to Champoege Park utilizing the St. Paul bridge. Mr. Beam said that connectivity is a vital part of making the project work. Discussion was held concerning information on whether or not the paper mill would relocate to a different area. The paper mill has made significant impacts on improving the area.

Commissioner Wall asked about running the trolley down to the SP Newsprint mill and towards the riverfront. Mr. Beam said that there has been some discussion and they have received a favorable response. There has been a discussion about connections with College Street and the school property as well. The City has a unique situation where the rail lines go almost to the riverfront area. SP Newsprint has provided funding for the project and has been tremendously supportive. Discussion was held concerning tapping into the Urban Renewal District Funds. Mr. Beam noted that DEQ said that the contamination at the riverfront is "minimal" and they are encouraged in proceeding with the project.

2. Other reports, letters, or correspondence - None
3. Next Planning Commission Meeting: June 14, 2001

VII. ITEMS FROM COMMISSIONERS

None.

VIII. ADJOURNMENT

The meeting was adjourned at approximately 9:30 p.m.

Passed by the Planning Commission of the City of Newberg this 12th day of July, 2001.

AYES:

6

NO:

0

ABSTAIN:

0

(list names)

ABSENT:

1 (Hany)

ATTEST:

Peggy R. Hall
Planning Commission Recording Secretary Signature

Peggy R. Hall

Print Name

7-12-01

Date

**INFORMATION RECEIVED INTO THE RECORD
AT THE MAY 10, 2001 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 #

CPA-17-01 Photographs presented by John Bridges

ABELS FROM THE 5/10/01
PLANNING COMMISSION MEETING
FROM THOSE WHO GAVE PUBLIC
TESTIMONY/REGISTRATION CARD

CPA-17-01

Mr. John Bridges (Alvin Elbert)
515 E. First Street
Newberg, Oregon 97132