

PLANNING COMMISSION MINUTES
Newberg Public Safety Building - Newberg, Oregon
THURSDAY, DECEMBER 12, 2002 AT 7:00 P.M.

Approved at the January 9, 2003 Planning Commission Meeting

I. PLANNING COMMISSION ROLL CALL

Planning Commission Members Present:

Matson Haug	Louis Larson, Chair	Bart Rierson	Dennis Schmitz
Nick Tri	Richard Van Noord	Lon Wall, Vice Chair	

Staff Present:

Barton Brierley, City Planner
Barbara Mingay, Planning Technician
Peggy Hall, Recording Secretary

II. OPEN MEETING

Chair Larson 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 October 10, 2002, Planning Commission Meeting Minutes

Motion #1:	Haug/Tri voted to approve the consent calendar items, approving the minutes of the Planning Commission Meeting.
-------------------	--

Vote on Motion #1:	The Motion carried (6 Yes/1 Absent [Van Noord]).
---------------------------	--

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

None.

V. OPEN FOR PUBLIC HEARING:

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

LEGISLATIVE PUBLIC HEARINGS

1. **APPLICANT:** Initiated by the Newberg Planning Commission at the request of Jarrett Rose
REQUEST: Amend the Development Code Text to allow various food processing uses outright or conditionally in manufacturing zones, particularly the M-2 zone.
FILE NO.: G-90-02 **RESOLUTION NO.:** 2002-157

Staff Report: Ms. Barbara Mingay presented the staff report. The options were noted on pages 3 and 4 of the packet. Staff supported Option #3.

Commissioner Van Noord appeared at the meeting at 7:05 p.m.

Ms. Mingay reviewed the location of the proposed changes. The subject site is an M-2 zone and the proposed changes would allow change in all M-2 zones.

Commissioner Haug asked for clarification as to odor (controlled by DEQ) and sound limitations for residential areas where contractors cannot operate during regular hours.

Mr. Brierley said there are nuisance standards which are handled through the City's Municipal Code.

Commissioner Haug said that the zones are imbedded in some residential areas. Are there other communities (Forest Grove/Tualatin) who have existing ordinances who put administrative constraints on odor and/or noise issues (potential neighbor complaints and how they are handled).

Mr. Brierley said there are different ordinances involving noise (sound detection decibel limitations). The odor level is much more difficult to measure and harder to regulate.

Ms. Mingay said the conditional use is the best way to handle this type of issue.

Commissioner Wall discussed zoning rules concerning noise, odor and other similar nuisances that appear to be much more lenient in commercial and industrial zones and whether there remains an ability to complain. Discussion was held concerning the reality of enforcement and commercial and industrial zones. Do the zones decrease any ability for the residential citizens to do anything about potential nuisances?

Mr. Brierley said there normally is not any limitation. Construction cannot be done in the middle of night in residential zones, near schools or hospitals. Noise that disturbs comfort, peace and safety of others. There is a greater likeliness for complaints and disturbance of health, safety and peace in a residence versus a business.

Commissioner Wall asked about changing the code which would allow possible problems with dilution of potential arguments in specific nuisances. He referenced a complex in Hillsboro that had issues with residents in commercial or industrial properties abutting their property. Realistically, we cannot cover all bases. However, is there a reasonable likelihood that some things that would be offensive to residential neighbors in instances where they are abutting industrial and commercial properties.

Mr. Brierley said that in potential lawsuits, the business has the right through change in permitted use.

Ms. Mingay said that in the table in the packet, manufacturing and working with the food products is allowed in M-1, permitted in M-3, and prohibited in the M-2 zone. Discussion was held concerning specific prohibitions in the M-2 zone.

Commissioner Haug reviewed Option #3: allowing permitted uses in manufacturing except not permitted for fish, meat, sauerkraut and alcohol and split between outright and permitted.

Jarrett Rose, said he looked over the staff report and Commissioner Wall's statements concerning prohibited use in M-2 and the various uses in M-1, M-2 and M-3. He said that it would be better to be a conditional use in M-3. He concurs with the staff's recommendation for Option #3.

Staff Recommendation: Ms Mingay said staff recommended that the commission adopt Resolution 2002-157, Option #3.

Motion #2:	Wall/Rierson to adopt Resolution No. 2002-157, Option #3, recommending that the City Council amend the M-2 (light industrial) district outright permitted use list to allow manufacturing, compounding, bottling, processing, packaging or treatment of food and beverage products (except fish, meat, sauerkraut, vinegar, yeast and alcoholic beverages); and amend the M-2 conditionally permitted use list to allow manufacturing, compounding, bottling, processing, packaging or treatment of fish, meat, sauerkraut, vinegar, yeast, and alcoholic beverages.
-------------------	---

Commissioner Wall called for the question.

Commissioner Haug asked if the Commission was willing to do background checks for other communities in Oregon who have faced this type of reclassification and possible recourse (other ordinances and codes).

Commissioner Wall said that in the absence of any kind of explanation and why only the M-2 has this exclusion in M-1 or M-3, this becomes an issue of housekeeping unless there has been a problem in the past.

Commissioner Haug said he is not talking about this specific change request, but in the future applications which may show potential weaknesses in the City's Development Code (get ahead of issue and not wait for something to happen). As the City grows, there may be situations where there may be future problems. He would suggest that the staff investigate what is out there with other communities.

Chair Larson said as an expedited process, it only appears as a housekeeping matter. Some of the concerns raised by Commissioner Haug is how they are being addressed now.

Commissioner Haug said that in past discussions, there possibly may be weaknesses in the Code to be discussed at a later date.

Vote on Motion #2:	The motion carried unanimously.
---------------------------	---------------------------------

Ms. Mingay said the issue will be placed on the Council agenda for the January 6, 2003 meeting.

Commissioner Tri said that he believes Commissioner Haug's statements are a concern and should be addressed in the coming months. If we do not have sufficient policy for the noise, pollution, lighting and odor, it would be worth looking into what other cities are doing.

Commissioner Schmitz asked how much was discussed in the past: decibel reading on noise, measurements for lighting, etc.

Mr. Brierley said they did a similar process about 1.5 years ago and defined a lighting limitation but nothing has been done on noise or odor.

Commissioner Haug said that we have administratively adopted a policy for additional requests for lighting exceeding the City's standards (auto dealerships). We need to keep an eye out on the microwave tower issue.

Discussion was held concerning noise standards (general nuisance standards in municipal code). Loud disturbing and unnecessary noise are covered (generally) in the code. Occasionally, some cases do

go to court. Discussion was held concerning updating the code addressing decibel measurements, and odor constraints. The Commission unanimously requested staff to investigate the issues raised.

VI. OLD BUSINESS

1. Citizen Involvement G-88-02, continued from the November 14, 2002 Planning Commission Meeting

Mr. Brierley provided a memorandum and follow-up on several issues. The next step is to have a meeting with the City Council to discuss the Planning Commission's ideas and amendments to the City's code. Mr. Brierley said Mr. Bennett (City Manager) will schedule after the first of the year with the new Council members (probably a February meeting). Discussion was held concerning holding the meeting outside the regular City Council and/or Planning Commission meeting days.

Commissioner Haug asked if the first, third or fourth Thursday of February could be chosen by the Council or Mondays other than Council meeting dates (first and third).

Commissioner Haug addressed citizen involvement, pro's and con's before meeting with the City Council. He suggested the Planning Commission have nine members with full representation of the community. About six years ago, the City cut it down from nine to seven members. The advantage of nine is that if the Council looks for sufficient diversity, keeping in mind that most Planning Commission decisions are recommendations to changes in policies and with more members, there is more likelihood in getting better diversity. Is it worth the Planning Commission's time to recommend increasing the number of members during the discussion with the Council?

Mr. Brierley said the biggest issue is getting people to fill the positions. There is also a quorum issue (requiring five at a meeting). There is a little extra expense in training and copying which is negligible. Ms. Mingay said the biggest issue was a quorum issue.

Tape 1 - Side 2:

Discussion was held concerning the quorum requirements. Commissioner Haug said it is the policy statement that it is the goal of the Planning Commission to be a full representative of the community. This is a community review body and we need to try and represent everybody. Further discussion was held concerning having the Council approve the members of the Council. Commissioner Haug addressed Comprehensive Plan position statement and guided philosophy.

Commissioner Rierson addressed prospective Planning Commission members and the diversity that would make up the Commission. Discussion was held concerning a policy statement on the Planning Commission's role in citizen involvement.

Commissioner Wall said he would support rules and code changes with the Council keeping senior Planning Commission members for experience. Discussion was held concerning interpretation of diversity. The Commission agreed in additional members of the Planning Commission going to nine members. The Commission agreed on a philosophy statement that addresses the fact that the Commission feels broad representation of the community is the core of the Planning Commission.

Ms. Mingay said the Planning Commission was reestablished in 1957 and went to seven members in 1997. There is limitation on membership, occupation limitation and whether a member lives outside the City limits (one member allowed). Discussion was held concerning a member living outside the City limits and not being accountable for what goes on within the City limits.

Chair Larson said that he is not in favor of allowing outside City limits members. The outside City limits'

member has to live within the UGB.

Commissioner Wall said that on land use issues which may or may not have affect on the City.

Commissioner Schmitz said they are involved in community and they cannot not vote on issues because they do not live within the City limits.

Mr. Brierley said there will be an annexation application. He spoke with neighbors that are outside the City who do not have a vote on what is going on. He said the Planning Commission does have one representative they can contact.

Commissioner Tri suggested the outside City representative gives one more perspective on the greater community.

Commissioner Haug said that a CPA was removed from the Budget Committee because he moved two houses outside the City limits (they are still part of the community). The Commission recommended new policy to the City Council and provide viewpoints for discussion.

VII. ITEMS FROM STAFF

1. Updates on Council items
 - The Council approved the grant applications:
 - Bulb-outs on First Street (School, Blaine and Main Streets). Lessens distance pedestrians have to cross the street, better lighting.
 - Entrance (First Street and Hancock Street - tree barkdust area owned by the State) formerly the bowling alley. The State will be declaring it as surplus. The City is trying to ask ODOT to donate the property and they are trying for grant funding to purchase it. Possibly a nice place for a "Welcome to Downtown" sign. Mr. Brierley said the property has had a gas station and underground contamination. The assessor puts \$50,000 value on the property. The property also has limited access points. If just doing landscaping and signs, they will not have to remediate the property due to contamination. The City is applying to the State's Small Community Incentive Fund for up to \$50,000.
 - The food processing amendment will be placed on the agenda.
2. Other reports, letters, or correspondence
3. Next Planning Commission Meeting: **January 9, 2003**

Mr. Brierley said the new Planning Commission will be electing officers: Chair and Vice Chair, staff will be bringing back noise and odors information and then discussing future goals, prioritizing what to accomplish.

Commissioner Haug addressed replacing the NUAMC appointee due to Mr. Rierson leaving the Commission as he is a representative to NUAMC. Mr. Brierley said the Council also has to appoint a new member to the NUAMC because Councilor McCain's term has expired. Mr. Brierley said the NUAMC committee is a committee representing City and County members.

VIII. ITEMS FROM COMMISSIONERS

Commissioner Schmitz addressed Mr. Rose's application for a conditional use for the food processor. Discussion was held concerning the time line. The soonest is the first meeting of the Planning

Commission in February. Discussion was held concerning expediting the process. Mr. Rose has not made an application at this point. Discussion was held concerning an applicant applying for a prohibited use through an application (Type 3) before the code change is approved.

Commissioner Haug addressed having an earlier Planning Commission meeting to accommodate the Rose hearing. Discussion was held concerning limiting further discussion about the proposed project prior to a possible future hearing. Commissioner Haug said that the Commission could entertain a discussion on further hearings to be addressed by staff. Discussion was held concerning any opponents which may feel the Commission is trying to proceed without public input.

Mr. Dwayne Brittell and **Mr. Phil Smith** (new Commission members) were in attendance.

Mr. Brierley thanked Commissioners Wall and Rierson for their assistance and doing the best for the community.

Commissioner Wall welcomed the new Planning Commission members. He has concerns about the direction the Commission was going to take. He told the Commission that we are here to defend the property rights of every single property owner in the City of Newberg. The Commission has to keep in mind that what the Planning Commission decides affects all citizens.

Commissioner Rierson said he too enjoyed the working of the staff and community.

Commissioner Tri said it is wonderful to see the reader board advertising the Planning Commission Meeting and other meetings. Commissioner Tri is also on the Library Board.

IX. ADJOURN

The meeting was adjourned at approximately 8:25 p.m.

Passed by the Planning Commission of the City of Newberg this 9th day of January, 2003.

AYES:

6

NO:

0

ABSTAIN:
(list names)

0

ABSENT:

1 (Schmidt)

ATTEST:

Peggy Hall
Planning Commission Recording Secretary Signature

Peggy Hall 1-9-03
Print Name Date

**INFORMATION RECEIVED INTO THE RECORD
AT THE DECEMBER 12, 2002 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

LABELS FROM THE 12/12/02
PLANNING COMMISSION MEETING
FROM THOSE WHO GAVE PUBLIC
TESTIMONY/ REGISTRATION CARD

NONE