

PLANNING COMMISSION MINUTES
Newberg Public Safety Building - Newberg, Oregon
THURSDAY, April 11, 2002 AT 7 P.M.

Approved at the May 9, 2002 Planning Commission Meeting

I. PLANNING COMMISSION ROLL CALL

Planning Commission Members Present:

Matson Haug Louis Larson, Chair Bart Rierson
Nick Tri

Vacant Positions: Hannum & Parrish

Absent: Lon Wall, Vice Chair

Staff Present:

Barton Brierley, City Planner
Michael Soderquist, Community Development Director
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 March 14, 2002, Planning Commission Minutes.

Motion #1:	Haug/Tri voted to approve the consent calendar items, approving the minutes of the March 14, 2002 Planning Commission Meeting.
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Vote on Motion #1:	The Motion carried (4 Yes/1 Absent [Wall]/2 Vacant).
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IV. COMMUNICATIONS FROM THE FLOOR

None.

V. QUASI-JUDICIAL PUBLIC HEARINGS

1. **APPLICANT:** City of Newberg on behalf of landowners
REQUEST: Annexation of 11 parcels totaling 64.8 acres
LOCATION: Between Crater Lane and Chehalem Drive in NW Newberg
TAX LOT: 3207-1000, 2800, 3400, 3500, 3600, 3700, 3701, 3702, 3703, 3704 and 3218AB-900
FILE NO.: ANX-28-01 **RESOLUTION NO.:** 2002-151
CRITERIA: NDC 10.36.030 and 10.20.030

OPEN FOR PUBLIC HEARING:

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

Abstentions/ex-parte contact:

Commissioner Rierson said that he lives relatively close to the area. Discussion was held concerning Commissioner Rierson's observations concerning the application. Commissioner Rierson said it appeared to be farm/agricultural land and seemed appropriate for annexation, as it is within the Urban Growth Boundary (UGB).

Objections: None.

Staff Report and Preliminary Staff Recommendation: **Barton Brierley** presented the staff report that recommended adoption of Resolution #2002-151. The annexation was initiated by the Newberg City Council as requested by the property owners (rather than having 11 separate annexations and applications). Mr. Brierley reviewed the history of the property involving the installation of a new pump station and sharing of the costs. They held meetings which resulted in the approval for a local improvement district with exceptions so the property owners located outside the UGB could be included. They filed a request to be brought into the UGB. Hearings were held by the City Council, NUAMC and Yamhill County and the Urban Growth Boundary amendment was approved. The annexation included the CPRD property and the Buckley property, inside the UGB but outside the City limits. Staff is requesting recommendation of the annexation as outlined in the criteria.

1. Proposed site complies with Newberg Comprehensive Plan and Map:

Mr. Brierley reviewed the Comprehensive Plan map and proposed zoning designation within the project area. He noted that the proposed designations comply with the current comprehensive plan designations. Discussion was held concerning flexibility and options for revisions to the Concept Development Plan (Crater Lane Annexation Area).

2. Adequate level of urban services available within 3 years of annexation (water/sewer).

Mr. Brierley reviewed the City's plans for providing water and sewer lines (capacity issues, sewage treatment plant update). The City's water plan reflects that when the properties are developed, water lines will need to be installed and tied into the City's supply. The City has on-line a new well in Marion County which has provided sufficient water to serve the City during the summer period. They have plans and permit approval to drill additional wells in Marion County. Discussion was held concerning storage capacity and the plans to place a reservoir around Corral Creek Road. Water to the area is being covered through the City's existing and future plans. Mr. Brierley addressed the storm drainage system which can be provided at the time of development, with detention systems throughout the development. Roads with an adequate design for internal circulation in the area with an extension of Mountainview Drive will occur in conjunction with the development of the property. A traffic study was performed in the area which looked at the various roads and capacities in the area. Crater Lane should be extended up to Foothills Drive. Chehalem Drive should be improved along the east side of the street with curb, gutter and sidewalks. The traffic study also looked at the intersection of Foothills Drive and College Street. Findings show that at the current time and the development time, it does not warrant a signal; however, future growth may warrant such a signal. The traffic study recommended monitoring the traffic and growth in the area.

3. Findings documenting the availability of police, fire, parks and school facilities and services shall be made to allow for conclusionary findings either for or against the proposed annexation.

They did a financial analysis and found that the property taxes generated by the development would be a net gain for funding the number of police and fire officers which could be provided in the area. Regarding parks, the annexation proposal does provide for a 17 acre park and the school facility is in close proximity. School facilities provides for an elementary and middle school in the immediate area. Children will be able to go all the way from kindergarten to the 8th grade - close access. In general, school funding is provided on a per student basis. With more students going to the schools, there would be more funding. There is not the same level of funding for building of new school facilities. The School District is an applicant who owns a large portion of the property. Annexing the property would result in the ability to use the property to sell or trade something for school capital facilities.

Mr. Brierley said that all the criteria has been met and he recommended approval. Mr. Soderquist is in attendance to answer questions concerning the utility situation. Paul Frankenburger from the School District is also available to answer questions.

Commissioner Haug addressed the following:

1. Whether the pump station will serve the UGB area and the adjoining areas not within the City at this time and how compatible is it to handle the growth? Discussion was held concerning the Urban Reserve Area (URA).

Mr. Brierley said that the reason other parcels were not included was the preliminary engineering study reflected it would be difficult to serve the area with the pump station due to topographic reasons. He said that it may now be possible, but the City has not engaged the property owners in the conversation about it. Mr. Brierley said that there are a number of parcels in the URA which have 1-2 acre lots with houses which are more challenging. Due to topography, the pump station will not serve the specific property.

2. Discussion was held concerning the decisions made for designations with MDR and LDR. Mr. Brierley said there is a subdivision previously annexed presently being built (streets stubbed to the property line - existing LDR). The City felt it was appropriate to continue the same zoning along same street. Some properties have a great opportunity to provide higher density housing located near the school. Discussion was held concerning the benefits to match the existing neighborhood and go with a little higher density, but not too high.

3. How does the annexation area work with the northern arterial (Hwy 99W to Tigard)? Also, there is a natural extension of streets through the development to areas to the west.

Mr. Brierley said the northern arterial (Mountainview Drive is the northern arterial and a collector street) connects with the new construction of Mountainview between Villa and College Street. The street system continues on with the existing streets. Chehalem Drive is a County arterial. Commissioner Haug reviewed the plans of connectivity and how they relate to County EFU designations. Mr. Brierley reviewed how to connect the utilities in the areas.

Commissioner Rierson addressed the storm drainage retention system. Mr. Soderquist said the City's goal is to limit the off sight flow of water in any particular area. Sometimes detention ponds are placed as part of development (similar to the detention pond located at corner of College Street and Henry Road). Discussion was held concerning the options available for storm drainage systems.

Tape 1- Side 2:

Chair Larson noted that the traffic study did not include N. Main Street which is a fully developed street. Mr. Brierley said N. Main does need to be repaired and system development charges will help improve N. Main and Mountainview Drive. Chair Larson addressed the system development charges relating to the parks. The Oak Knoll development has not produced any parks in the area. Do the development charges really produce the park? Mr. Brierley said that the park is built and is being used and the money is being collected to build the next park. Discussion was held concerning attending the CPRD board meetings to receive more information.

Discussion was held concerning the process for asking questions of the Newberg School District representative who was introduced by the City staff as being available to answer questions. Chair Larson addressed the school capacity issue. Mr. Brierley said the School District has some issues and he encouraged the Commission to address those questions. The school district is part of the annexation request. The annexation will add value to their property. They could use this property directly or indirectly to add school facilities. This annexation should result in a net gain of school capacity.

Proponent:

Allen Sessions, 12380 NE Yamhill Road, Newberg, Oregon, said that Mr. Brierley presented the information correctly and he had nothing further to add.

Paul Frankenburger, Newberg School District, 714 E. Sixth, Newberg, Oregon, Physical Plant Director for the Newberg School District. The primary interest is in the pump station. The School District built the current pump station at the time the schools were built. They want to tie the schools and the senior center onto the new pump station before the existing pump station gets too old and they have to replace it.

Ms. Pamela Bakke, 1419 37th Street, Bellingham, Washington 98226, also said that staff has prepared a good report and had nothing further to add.

Mr. Roger Grahn, 23287 LaSalle, Sherwood, Oregon, said that as a developer, he is not opposed to the development, but that the City would sponsor this application is outrageous. Discussion was held concerning sharing the costs for this development. The City turned down a project over by Springbrook due to lack of City services. Mr. Grahn said that a potential lawsuit resulting from the denial of that property would cost millions. He recognizes the need for an LID but the "sauce for the goose should be the same sauce for the gander". Mr. Grahn addressed how the City was exposing itself for future litigation and potential lawsuits. Mr. Grahn said the City should be cautious in allowing such a process involving the development of the pump station and City services. Mr. Grahn asked if the City would sponsor an annexation for him? He felt the applicants should not be given any favoritism.

Mr. Brierley said the City is acting as the applicant. The property owners are paying all the costs for the application. The City has kept track of their time and it is being billed to the project. The traffic study has been paid for by the applicants. The property owners are not being given a free ride. When the LID is in, it will be paid by the property owners and not by City funding.

Commissioner Rierson asked Mr. Grahn if he thought all applications before the City were the same? Discussion was held concerning reasons that the Springbrook development was denied. Mr. Grahn said that he objects to the means on how the proposal is being submitted.

Commissioner Haug referenced Mr. Grahn's statements concerning "potential lawsuits". Chair Larson said that the comments made by Mr. Grahn were not dealing with specific criteria as outlined in the

application.

Mr. Grahn said that he was in support of the criteria. The burden of proof is upon the applicant. He owns property immediately adjacent to the subject property.

Commissioner Haug discussed the City staff representing the applicant (property owners) who are paying for the City time. Mr. Brierley said the property owners gathered a petition and went before the City Council requesting that the process be initiated. City staff presented scenarios to the Council: the City could be the applicant and prepare the staff report with the property owners paying the cost, etc. ; or they could come together to submit the application. The Council weighed the scenarios but agreed that the City should process the application and the property owners would pay the costs associated with the development.

Hearing Closed. Chair Larson closed the public hearing.

Motion #2:	Haug/Rierson to adopt the recommendation from staff and approving Resolution No. 2002-151.
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Commissioner Haug said the issue presented by Mr. Grahn involving the Springbrook Road area property was denied by the NUAMC, the County and the City - it is a different set of scenarios. Commissioner Haug said he was concerned about the comments made by the School District but is relying upon the School District to know what is best for the community.

Vote on Motion #2:	The Motion carried (4 Yes/1 Absent [Wall]/2 Vacant).
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Mr. Brierley said the recommendation will go before the City Council on May 20, 2002. City staff will be sending out notices for the hearing.

Chair Larson called for a break at 8:10 p.m. The meeting reconvened at 8:20 p.m.

QUASI-JUDICIAL PUBLIC HEARING #2

2. **APPLICANT:** Barghausen Consulting Engineers, Inc. for Fred Meyer Inc.
 REQUEST: Construction of a new retail gasoline fueling station at Fred Meyer
 LOCATION: 3300 Portland Road
 TAX LOT: Tax lot 3216-2004, -2005, and -2008
 FILE NO.: DR-161-02 **RESOLUTION NO.:** 2002-152 (Approve)
 CRITERIA: NDC 10.28.050 2002-153 (Deny)

Abstentions/ex-parte contact:

Commissioner Haug said he did a site visit and observed open field apparently owned by Fred Meyer located near the nursery products area.

Objections: None.

Staff Report and Preliminary Staff Recommendation: Ms. Barbara Mingay presented the staff report. Ms. Mingay reviewed the prior application, appeal to the City Council and subsequent appeal withdrawal by the applicant. The applicant is before the Commission to address amendments to the original application. Ms. Mingay reviewed the removal of parking spaces and the new location. Part of the

expansion of the Fred Meyer building will extend the existing parking lot. The facility proposed is to have five fueling stations with 10 fuel pumps and a kiosk, in the north/south direction. No new driveways will be created. Ms. Mingay reviewed the design flow for fueling trucks and customer use. One of the requirements would be regarding limiting Springbrook Road access and to develop a new southern access to Hayes Street (south of the existing building). A new 12" storm drain line and catch basins are proposed. Parking was an issue at the last hearing. Staff recommends removing an additional six spaces. Signage was also an issue at the last application. Discussion was held concerning the sign permit process (Type 1 - animated signage limited to 10 sq. ft.). The Traffic study recommended intersection improvements, restriping and clear signage to provide consistent traffic flow. The conditions suggested by staff supports the recommendation for approval, including the deletion of six additional parking spaces east of the facility previously omitted. The access route language wording "must" should be stricken. Staff also presented an alternate resolution for denial.

LATE CORRESPONDENCE:

Ms. Mingay said that a statement was received from Mr. Brian Francis, Vice President of Francis Enterprises, Inc., 509 North Grant, Newberg, Oregon. Mr. Francis' statement noted issues relating to "ambient" lighting which may prohibit the operation of the drive-in theater located adjacent to the proposed development.

Proponent:

Mr. Chris Ferko, Barghausen Consulting, 18215 72nd South, Kent, WA 98032, said that Mr. Jim Coombes from Fred Meyers' real estate division was also in attendance to answer any questions. The fueling facility is a permitted use and is consistent with the City's Code. In the staff report, City recommends approval with findings. Fred Meyer has approved the conditions as written. The full description of the project is presented in the application. Fred Meyer did submit a previous design review application with a different design and location, which was approved by the City staff, but denied by the Council. Fred Meyer decided to revise their plans according to the City's concerns. Discussion was held concerning the canopy, drive aisles, fuel truck path. Mr. Ferko addressed the issues raised by the Planning Commission involving the one way circulation, emergency vehicle access, primary parking and use of existing intersections. Fred Meyer has resolved the issues raised. The traffic study issues raised by the City have also been resolved. Discussion was held concerning customer traffic flow and City/State standards for emergency vehicles. They added cuts to the existing drive-way throats which eliminates the confusion of the intersection. They added a five foot wide striped pedestrian path. The truck routes were analyzed for flow and connectivity. With the improvements made, the project satisfies the criteria for design review approval. Parking meets code standards. They have approved on-site location. They meet all standards and criteria for C-2 zoning.

Mr. Brian Freeman, PO Box 69039, Portland, Oregon, introduced the traffic study, impact on the surrounding areas, and the desire to create a more pedestrian friendly service area. Discussion was held concerning the restriping of the crosswalks and how to also provide adequate signage, egress and ingress access. Fred Meyer also realized the ODOT's construction along Springbrook included a concrete barrier which reduced the left turn. They are working with the City and Fred Meyer with entrance at Hwy 99W.

Tape 2 - Side 1:

Mr. Ferko discussed trips generated by gasoline facilities being consistent with trips in which they are already dropping by for shopping purposes. They calculated that there would be approximately 9 new trips, based upon standards in similar facilities. Fred Meyer has 15 fueling facilities operating right now. They are not seeing any problems with their operation of these facilities.

Opponent:

Ms. Estelle Fromm, 1108 Hadley Road, Newberg, said she lives in the City and she sees on paper the theory, she shops Fred Meyer and realizes how busy it gets. Newberg has 7 stations. The Chevron station was built less than 3 years ago. There are local operators who have been in Newberg for many years. The Kroger operation has many Fred Meyer stores which could affect the pricing wars for many of the smaller stations. Ms. Fromm discussed potential loss of jobs for existing businesses.

- Newberg already has enough gas stations per capita
- Worried about people who already own gas stations who would suffer
- Chevron has been affected with higher traffic (garbage tossed)
- 4 gas stations within ½ mile
- There was over 300 residents who signed opposition to this located as part of the previous application. If the citizens would speak, most would be opposed to another gas station.

Mr. George Johnston, 21321 Pacific Hwy., Sherwood, owns the property where the Texaco station is located on Hayes Street. The State of Oregon has a "below" cost operation statute. He read a statement with 5 pumps, 500,000 gallons per month, or 16,660 gallons per day would be pumped. Based on these figures, there would be 1,667 cars going through the gas station on a day; 30% during peak hours and 167 cars between the hours of 4:00-7:00 p.m. Every 21 seconds a car will pull in and get gas. Mr. Johnston reviewed the below cost operations (selling for less than what they pay for it). Mr. Johnston also addressed the tanks being aligned to cause blockage of three aisles (tanks at right angles to gas station). They are having diesel. The prior application did not note diesel. Mr. Johnston said that he does not feel it a good idea to have a gas station located in the parking lot.

Mr. Albert Parson, 1301 Hadley Road, Newberg, Oregon, spoke against the proposal because it would complicate the problem involving Newall Street connecting to Hwy. 99W. Mr. Parson addressed possible "shortcuts" through the parking lot. There are 35 homes in the Newall Addition (located across from the Fred Meyer facility). He felt it was a mistake to grant permission for the gas station.

Mr. Jeff Kleinman, 1207 SW 6th Avenue, Portland, Oregon, attorney for Paul Vollmer, introduced other expert witnesses who would be providing documentation in opposition to the proposal. Mr. Kleinman said the minor modifications proposed by the application are not sufficient for adequate on-site circulation and that parking areas should be designed to efficiently enter and exit public streets. He identified a fatal flaw in the application, and in the proposed conditions of approval, and the draft proposed findings for approval. He discussed the condition that required the applicant to work with the adjacent property owner to the south to develop a new southern access (paragraph 7, page 7 of the findings for approval). Discussion was held concerning staff comments not being consistent with approval. What happens if they do not get consent of the property owner(s) to the south?

- He questioned whether the trip generation analysis (McKenzie) takes into account the addition of the Fred Meyer facility.
- The notation that this fueling station will generate only 9 NET new weekly p.m. and Saturday trips
- Safe pedestrian access and circulation, the notation that the 5 foot striped path as illustrated will achieve safe pedestrian circulation. Striping is striping and not any kind of protection for pedestrian.

Mr. Gary Spanovich, PO Box 1067, Canby, Oregon, read a statement of information regarding the revised analysis and he noted 4 or 5 issues. He agreed with Mr. Kleinman that the reports for the new proposal really address the issue which were articulated by the Planning Commission. Discussion was held concerning allowing a fueling station in a parking lot. Discussion was held concerning a whole new dynamic with fueling vehicles mixing with pedestrians coming from the shopping facility to their parked

vehicles.

- How much space does the new facility need? He identified the parking circulation area of the five pump stations and take a ratio (average): for every one (1) sq. foot of area, provided for a parking circulation. There is not enough space to make it safe.
- The gas station is too close to shopper parking spaces. Discussion was held concerning prohibited smoking in a gas station area - what about the shoppers who smoke while leaving their vehicles to get to the shopping facility? Not enough of separation for uses from parking to the fueling facility.
- He talked with Tualatin Valley Fire & Rescue who noted that there are car fires occurring frequently and due to the close proximity of the gas station could be hazardous.
- Trip generation addressed the applicant's comments concerning the "9" new trips generated by the facility. Some of the trips may not circulate through to the Hwy 99W and Brutscher route. On every average week day, there would be approximately 1600 trips going through the gas station. There are estimated 167 trips per hour.

Mr. Spanovich said he has a six year old son who does not just "walk" but skips, runs and darts out sometimes, he would be concerned about the unrestricted parking space in the vicinity of the fueling station.

Mr. Paul Vollmer, 701 Deborah Road, Newberg, 4318 SW Chesapeake Avenue, Portland, Oregon 97201, said he would like to point out the letter from ODOT with the comment that ODOT has given approval. He does not believe that to be true, but in actuality, has deferred to the local authority - asked for clarification.

Commissioner Haug asked for the map from Mr. Spanovich to be part of the record.

PROPONENT REBUTTAL:

Mr. Ferko said that in regard to the fatal flaw comment and good faith conditions, that was a condition for the store expansion approval. The topic is something that Fred Meyer is working on with the City and the adjacent property owner. The discussion involves the store's long range planning. Fred Meyer proposes removing the condition which does not have a relationship to the fueling facility.

Mr. Brent Ahrend addressed some of the issues raised in the traffic study. They attended a neighborhood meeting in Washington County for another facility. Tualatin Valley Fire has indicated that they have had ONE fire at a gas station (car ran into a pump). This rarely happens at a gasoline facility. Contrary to the comments by the opponents, they think it is much better than the original proposal. They are going to improve the striping and signage and provide two entrances off Hwy. 99W which will segregate the gas operations from the shopping facility. Most customers will already be on sight. They do not anticipate much traffic from Fred Meyer that would use Hayes Street. The primary benefit for the Hayes Street access will be for the proposed residential development. When Brutscher is extended south, this will provide additional access. The areas for parking and circulation for the fueling facility, mentioned by Mr. Spanovich, is exaggerated. With the gas facility, the parking requirements are minimal. Trip generations, including the contention there were 167 cars per hour are erroneous. ITE notes the standard acceptable rates. 500,000 gallons per month is optimistic. Most of the trips to the site will be coming from existing shoppers and from the entrance from Hwy 99W. The number of daily trips to the gas station would be approximately 140 (2 trips per vehicle). The 10 gallons per vehicle average fill is low. Regarding

the ODOT letter noting their deferral of the City's decision. The ODOT approach road permit combines the modification of the gas fueling and the expansion of the Fred Meyer facility. ODOT is waiting to find out about the local decision on the gas fueling facility. He did not feel ODOT has any major concerns.

Mr. Jeff Kleinman for Paul Vollmer addressed the record - the City's process is the second review, appeal to the Planning Commission and any appeal to the City Council would be confined to the record.

Tape 2- Side 2:

Commissioner Haug said that when there is an appeal to the City Council, the Council has the option to remand back to the Planning Commission for a new hearing. Mr. Kleinman said he was not aware that the written record was closed. He felt it important for Mr. Spanovich's information to be included along with his oral comments in order to provide a copy for the recorder. Discussion was held concerning requiring submission of written materials prior to the hearings and the difficulty in understanding and absorbing the information into the record.

Motion #4:	Haug/Tri to enter Mr. Spanovich's document into the record. (3 Yes/1 Absent [Wall]/1 Abstain [Rierson]/2 Vacant).
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Mr. Kleinman requested that the new evidence provided by Mr. Ferko and Mr. Freeman, addressing the trip generation and new information presented by the applicants be submitted.

Mr. Freeman reviewed the stop bar (12" white stripe - 12 feet long) which says stop and vehicle is to stop behind the white bar.

Commissioner Rierson asked about the 15 fueling stations in Oregon which are incorporated in a similar parking lot and not in a separate area.

Mr. Ferko said the majority are located within existing parking lots of the store. Mr. Ferko presented an overhead of the site plan identifying the locations of the other fueling facilities:

- Scappoose facility. Discussion was held concerning public access. Discussion was held concerning receiving copies as part of the record.
- Grants Pass facility. Discussion was held concerning the mix of pedestrian and car traffic not associated with the fueling station. .
- Eugene facility. Mr. Ferko addressed the ingress and egress with only one 2-way traffic flow. There are the same configuration with 5 pumping stations.

Commissioner Rierson addressed the path of the fueling truck which would be limited to night time hours.

Mr. Brierley said the City has not placed a limitation on fueling hours.

Mr. Ferko said that it is Fred Meyer's desire to not have fueling done during peak hours. In regard to actual delivery, Fred Meyer cannot control the delivery trucks. They work with the companies to schedule times, not within peak hours. Discussion was held concerning the consent of the neighbors to the south, and for the Commission to place a condition of approval pending approval by the neighbors to the south.

Mr. Brierley said that the Commission could place this condition, but staff recommends not doing this.

The approval condition is that the applicant make a good faith effort to work with the neighbors. He said he has talked with the property owners to the south and they have expressed a willingness to effect the property purchase for the access road to the south. The adjacent property is owned by the Werth family/company. Mr. Brierley said the criteria requires minimizing conflicts with traffic flow and congestion.

Commissioner Haug said the current entrances to the west will be eliminated. Do the traffic studies take into consideration the removal of this entrance. The Eugene fueling facility utilizes many accesses.

Mr. Freeman said they did an access analysis and one of the recommendations was to close the left turn entrance. The impact in the future with the store's expansion, on the Hwy., 99W and Springbrook Road intersection would be a service level "D" with the slightly lower .82 and .86 levels which would happen in the future with the Springbrook Oaks development.

Discussion was held concerning deteriorating traffic due to the change in traffic flows with the expansion of the store facility.

Commissioner Rierson asked for clarification of the trip generation analysis. Mr. Freeman said that they have noted 74 vehicles to go through the fueling station.

Chair Larson addressed trip generation analyses for Saturday, mid-morning, in the summer between 10:00- 4:00 p.m. (June, July, August and September). Mr. Freeman said the counts were taken in June and July, including Saturdays (11:00 - 1:00).

Commissioner Haug questioned the absence of a sign program. What the proposal seems to be is a "stop bar" with more paint and not appropriate signage.

Mr. Ferko said that they would install stop signs as well. Painted stripes are inadequate and the applicant has provided sufficient testimony to the contrary. He agreed there are faded striping. The addition of stop signs would be added. Discussion was held concerning the legal radius for "no smoking" around a fueling facility. The parking spaces on the diagram are outside the radius (what is the legal distance?). Mr. Ferko said he could not remember the distance.

Mr. Vollmer said the fire marshal says it is 50 feet from the pump station and the underground tanks. Discussion was held concerning customers who smoke who could cause fires walking from the parked car to the shopping center. Staff presented a marked up copy of the area for the fire zone. Discussion was held concerning the plans submitted which does not provide for parking requirements as well.

Ms. Mingay said that there is no restriction as to parking.

Mr. Chris Ferko addressed no smoking signage. He noted signs prohibiting smoking could be installed where needed.

Commissioner Haug addressed the petition signed by 300 residents which is not part of the record.

Ms. Fromm said that she brought up the petition because they felt it was too many residents who were concerned about another gas station. Discussion was held concerning admission of additional written testimony.

Commissioner Tri addressed the illumination of lighting issue and what type of lighting would be added or changed.

Mr. Ferko said the lighting plan is contained in the packet (safety of operation and trying to avoid glare - nuisance impact). The lighting is a "Richmond lighting fixture" imbedded into the canopy with no side glare with a special lens.

Commissioner Haug asked about the hours of operation - 7:00 a.m. - 11:00 p.m. He asked if the lights similar to the Chevron station across the street.

Mr. Ferko said he is not familiar with the type of lighting the gas station has.

Discussion was held concerning the "break even" point for the price per gallon and the number of gallons to break even. Mr. Ferko said he was not privy to this information.

James Coombes, Fred Meyer real estate division, said they would be pumping considerably less gallons. There is no store that is doing the volume that is purported by the opponents - 500,000 gallons per month. The parent company Kroger has 200 fueling stations. Mr. Coombes said they do have a marketing analysis. It is between 150,000-250,000 which is a guess.

Mr. Spanovich said:

- Map xeroxed - performed a ratio of land uses on the existing site to get an average (1 sq. ft. of building area - there are 8 sq. ft. of parking and circulation areas). It is relevant. Similar to the gas station is the Jiffy Lube which is not 1 to 8, but 1 to 25. If that ratio was applied, they would need a much larger area.
- The trip generation analyzed with gas stations with convenience stores, car washes, etc. - they picked 168 trips, half come to the use and half leave. With the 162 pm peak hour trips, 81 trips come to the fueling station, get their gas and leave. If the capacity analysis was redone with a more accurate trip rate it would result in a worse traffic flow.
- If the right turn in and left turn is prohibited, traffic must go through the signaled intersection.

Mr. Spanovich presented photographs of re-fueling trucks at peak hour time periods at the Scappoose location referenced by the applicant.

Motion #5:	Haug/Tri to accept the photos into the record. Motion carried (4 Yes/1 Absent [Wall]/2 Vacant)
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Mr. Spanovich referenced the trip generation manual without convenience stores or car washes (4 types of rates that could be used).

Tape 3 - Side 1:

Mr. Freeman said that they used the standard rates and used the mathematical model to fit the days.

Commissioner Haug said he would like to deliberate with the maps from the Eugene site.

Hearing Closed - Public Testimony Closed.

Ms. Mingay add a condition that the pedestrian walk be designed as a five (5) foot raised pedestrian walk, rather than striping, and that the applicant provide a signage plan and appropriate signs for no smoking as required by state law, and deleting the six parking spaces . She noted that staff recommended adoption

of Resolution No. 2002-152, approving the application.

Motion #6:	Haug/Rierson to accept Resolution 2002-153 denying the design review approval by the applicant.
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Commissioner Haug suggested denial because the site plan is not sufficient for the 50 foot smoking prohibition radius. When comparing the site plans submitted, including the Eugene site and the current site plan (Exhibit B), it seems that there is inadequate separation of the fueling station from the parking area. The Scappoose site shows a significant amount of pavement before the traffic pattern and parking area. Until they come in with a design with comparable space (children trying to get through the intersection), he would recommend denial. It is the on-site circulation, distances available in conjunction with safety. They need to remove additional parking spaces due to the safety issues. It is a workable plan but needs more space. The design is inadequate.

Commissioner Tri concurred with Commissioner Haug. His main concern is that the fueling station is located in the middle of everything. The three other plans from existing facilities are located off to one section, not in a major part of the parking lot. It will be a safety hazard for Newberg Fred Meyer as planned (easy access for all customers).

Commissioner Rierson said he is sympathetic with the other station owners. Whether they agree or disagree, he understands their feelings, but it is not within the Commission's guidelines in reaching a decision. He gives some credence to the testimony by Mr. Spanovich as to the ratios, not 100% and he rejects the other statements with the other businesses with flow-through traffic. The amount of the site as compared to other fueling stations, is much greater than the "shoe-horned" effect. Discussion was held concerning placing the fueling facility at another location which may not be as successful. Commissioner Rierson said that it is a better proposal than the last time. Discussion was held concerning the times the facility would be re-fueled during the day and trying to navigate through the traffic and flow. He was also concerned about people smoking in a "no smoking" area. He cannot rely upon common sense of others for the safety of others. Signage would help, but it definitely is a safety hazard. His main concern is the mixture of pedestrian and fueling traffic. He appreciates the staff's recommendation with a raised walkway.

Motion #7:	Haug/Rierson to amend the Motion/Resolution No. 2002-153 findings for denial as noted below:
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1. The Finding for denial as noted in Resolution No. 2002-153 stands. However, add the following paragraph:

" Since these parking spots are used by non-gas station customers, smoking in this area by non-gas station users can be expected. Hence, the spacing, even with no smoking signs, is, from a practical point of view, inadequate."

The following additional Findings are to be included:

2. Presence of fueling trucks during the day time hours as evidenced in the Scappoose photos, further exasperate the spacing problem and indicate further that the distance from the existence parking uses is inadequate.
3. The longer average fill time by diesel users versus gasoline users further adds to the projected congestion of this site. It indicates even more that more adequate spacing separate from the existing usage is required.

Vote on Motion #7 amending Motion #6:	The motion carried (4 Yes/1 Absent [Wall]/2 Vacant).
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Commissioner Haug addressed the conflicting information from the opponent and the proponent. Discussion was held concerning the spacing issue being the problem. Commissioner Haug said the conditions added by staff, the site design with adequate spacing, are necessary. The conditions of approval, although denying application, they are required conditions if the site plan was more generous in parking spaces.

Chair Larson said it was his belief that the location of the fueling station is not in the best interest of Newberg. There are several factors:

- A 105 foot tanker truck coming into a public parking lot that is already congested doesn't make any sense.
- The fueling station is going to draw in different types of vehicles - not just passenger cars. He would never go into a place such as this, but there are other drivers that would.
- The proponent for some reason had not presented the viability of this. In his mind, the arguments of the opponent estimating the amount of gallons are viable since the proponent did not have such information.
- The trip generated will probably exceed what the proponent has indicated.
- The new location, has not set down the basis for access for emergency vehicles and has a new dimension, increased amount of traffic into the parking area. It does not make any sense. He would propose to the proponent that a new fueling location would be better. Anytime a major attraction at the front of a location such as Fred Meyers occurs, it does nothing but add to the problem.

Commissioner Haug said that the Eugene site map comes closest to the Newberg site. The Newberg site looks like it would be more congested than the Eugene site. If the Eugene site were reviewed here, it does not pass acceptability with this community on spacing and adequate circulation. It does not show how many other facilities are within this station. There are three (3) existing stations near the Newberg facility. Discussion was held concerning the loss leader approach. It is a common sense understanding where it has occurred in other locations. Finally, on the Eugene map, there is no evidence by the proponent to indicate how well this is working in Eugene - nightmare? blessing? Discussion was held concerning Newberg not innovating a new idea. The applicant has failed to provide the proper analysis that this is a good idea.

Commissioner Rierson said that he would use the Fred Meyer facility as a matter of convenience. However, it comes down to spacing and safety issues.

Vote on Motion #6 as Amended.	The Motion carried (4 Yes/1 Absent [Wall]/2 Vacant).
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Ms. Mingay said the appeal procedures and information will be available at the Community Development office.

VI. ITEMS FROM STAFF

1. Update on Council items

The sign program for Newberg Dodge was reluctantly approved. It is being appealed to LUBA by a concerned citizen. In response, the Council repealed the discretionary sign program (variance) portion of the code. The Council held a hearing on the commercial code amendments and they were adopted. Upcoming City Council meetings: annexation is scheduled for the second meeting in May. The Riverfront Master Plan will be discussed at the Council meeting on April 15, 2002. Discussion was held concerning changing the zoning. Walgreens store is being developed at the Nazarene Church site. The Yamhill County Commissioners held a hearing on the UGB amendment for Providence Hospital. They closed the hearing to oral testimony, extended the comment period for written testimony, but have not made a decision - they expect a decision within two weeks. The matter will come to the Planning Commission as an annexation request at the next hearing.

2. Update on NUAMC appointment of Bart Rierson and the Planning Commission appointments to be filled at the May 6 Council agenda. Discussion was held concerning a diversity of members.
3. Other reports, letters, or correspondence
4. Next Planning Commission Meeting: May 9, 2002

Commissioner Haug said he will be out of the country at the next meeting.

VII. ITEMS FROM COMMISSIONERS

Commissioner Haug addressed the Wilco store intersection limiting the ongoing traffic views and the problems associated with it. If approaching from St. Paul, the road opens up with two lanes, visibility for on-coming traffic is impaired; the striping is bad. Mr. Brierley said the traffic flow issues will be addressed during the development of Walgreens.

Mr. Brierley addressed citizen involvement. They contacted real estate agents about putting up signs for land use matters. City staff is investigating and will have a more full report. The signs posted for the Crater Lane land use matter was very effective due to the construction of the signs. Discussion was held concerning requiring the applicants to have better signage.

Tape 3- side 2:

Commissioner Rierson addressed traffic studies being supplied by proponents and opponents. He would like to see a third party prepare an independent traffic study which could be paid for by the applicant through the application fees.

Chair Larson said that a consultant would be hired, but it was rare that the two consultants would be consistent. The City could hire a traffic study consultant to prepare a traffic study. Mr. Brierley said that there are registered engineers, with a certain level of professionalism, but there is some license in there to say that there is a range. The City does have engineers on staff and they review it for reasonableness.

Commissioner Rierson reviewed the railroad traffic crossing issue. There is a statutory jurisdiction that limits the time a rail car can restrict the time the train stops (10 minutes). A report can be filed. They have to get numbers off rail car at the time (start and stop times). Usually, the first complaint will be a warning, with a maximum fine of \$3,000. Rail traffic is important, but so is getting home or to travel on the road. Discussion was held concerning emergency vehicle blockage at the railroad crossings. There is a department within ODOT that handles complaints "blockage complaints". Commissioner Rierson said that

he would be talking to the *Newberg Graphic* about preparing an article. He will talk with the ODOT representative about the process in getting appropriate signage at the rail intersections.

VIII. ADJOURNMENT

The meeting was adjourned at approximately 11:25 p.m.

Passed by the Planning Commission of the City of Newberg this 9th day of May, 2002.

AYES:

5

NO:

0

ABSTAIN:

0

ABSENT:

2 (Wall/Hays)

(list names)

ATTEST:

Peggy R. Hall

Planning Commission Recording Secretary Signature

Peggy R. Hall 5-9-02

Print Name

Date

**INFORMATION RECEIVED INTO THE RECORD
AT THE APRIL 11, 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 #

ANX-28-01 - None.

DR-161-02

LABELS FROM THE 4/11/02
PLANNING COMMISSION MEETING
FROM THOSE WHO GAVE PUBLIC
TESTIMONY/ REGISTRATION CARD

Be sure to add file number by name
on each label

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