

PLANNING COMMISSION MINUTES
Newberg Public Safety Building - Newberg, Oregon
THURSDAY, APRIL 10, 2003 AT 7 P.M.

Approved at the June 12, 2003 Planning Commission Meeting

I. PLANNING COMMISSION ROLL CALL

Planning Commission Members Present:

Dwayne Brittell Matson Haug Louis Larson Dennis Schmitz
Philip Smith Nick Tri, Chair Richard Van Noord

Staff Present:

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

II. OPEN MEETING

Chair Tri asked for a moment of silence for the troops in the Middle East.

Chair Tri 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 February 13, and March 13, 2003 Planning Commission Meeting Minutes
2. Approval of March 18, 2003, Joint Meeting of the Newberg City Council and the Planning Commission

Motion #1:	Haug/Van Noord voted to approve the consent calendar items, approving the minutes of the Planning Commission Meeting.
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Commissioner Brittell noted that Commissioner Smith was not in attendance at the March 13, 2003 meeting. Recording Secretary Peggy Hall noted the correction.

Vote on Motion #1:	The Motion carried (unanimous).
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IV. COMMUNICATIONS FROM THE FLOOR (five minute maximum per person)

None.

V. QUASI-JUDICIAL PUBLIC HEARINGS

1. **APPLICANT:** George Fox University/Newberg School District
REQUEST: Amend the Comprehensive Plan and Zoning designations on 35.76 acre LDR designated lands to P/P-Q; change 23.88 acres of R-1 zoned land to I; remove PD designation from the entire 61.4 acre parcel
LOCATION: West of Villa Road, south of Mountainview
TAX LOT: 3217-1900; 3218AA-200
FILE NO: CPA-20-03/Z-20-03 **RESOLUTION NO.:** 2003-160
CRITERIA: Newberg Development Code Section § 151.122

City Attorney, Terry Mahr addressed the letter from Mr. Paxton regarding the property not being properly annexed by a vote of people to amend Newberg's legal description. The Council took action to follow the state process for annexation. General ground of power is in the City's Charter 22.111 (authority for annexation). In 2000, the City did refer to the ballot another ordinance which reestablished the perimeter boundary lines for the City. Mr. Paxton said the hearing body would be biased. Mr. Mahr said that Mr. Paxton's concerns were not the legal test for bias. Mr. Mahr said the Commission can proceed and the Planning Commission does have jurisdiction.

Mr. David R. Paxton, 812 GreenValley Drive, Newberg, said Mr. Mahr failed to correctly state the meaning of Article 11 of the Oregon Constitution concerning appeal of charters. Section 2 of the 1893 Charter discusses the corporate limits of the City. The 1950 Charter also recites the corporate limits. The 1982 Charter requires the same thing, plus the latest charter provision has different verbiage. The charter relates to the State of other agencies after the vote of the people. Mr. Paxton addressed the powers of the amendment subject to the constitution and the criminal laws of the state of Oregon. The Council by passing the Ordinance cannot change a charter provision. The Charter is subject to the Constitution. Discussion was held concerning Section 4 of the Charter referring to the State Constitution. The other methods authorizing the City to do things simply are controvert and are prohibited by the 1972 provision of the Constitution. To get the 1980 annexation done, it really did not make that much difference that the City Council voted to annex the property.

OPEN FOR PUBLIC HEARINGS:

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

Abstentions/ex-parte contact: None.

Objections: None.

Staff Report and Preliminary Staff Recommendation: **Ms. Mingay** presented the staff report and staff recommended adoption of Resolution 2003-160, approving the amendment to the Comprehensive Plan and Zoning designations on 35.76 acre LDR designated lands to P/P-Q; change 23.88 acres of R-1 zoned land to I and remove PD designation from the entire 61.4 acre parcel. Ms. Mingay reviewed the criteria and the applicant's statements and the record. The Council has the final authority; the Planning Commission has an advisory role. Ms. Mingay reviewed the separate zoning designations. She noted Mr. Paxton's issues regarding the previous annexation issue was addressed by the City Attorney.

Commissioner Smith said he has a conflict of interest because he is employed with George Fox University. Councilor Smith sat in the audience and will not be voting on the matter.

Commissioner Haug addressed the payment of the signal lights and other improvements.

Mr. Barton Brierley said as the property is development, an SDC fee can be set up to pay for that

specific signal. Any development is required to pay SDC charges and once sufficient funds are accrued, signalization would be installed dependent upon general traffic in the community. Discussion was held concerning some areas where the need may not be that defined. Mr. Brierley said that money may have to be sourced elsewhere. Discussion was held concerning non-specific signal locations. Mr. Brierley said that Villa Road will be extended to the north and a signal may be needed at Villa Road and Mountainview Drive (general transportation SDC).

Commissioner Larson asked about minimizing tree removal.

Ms. Mingay said she would defer that question to the applicant.

Proponent: Ms. Stacy Connery, Alpha Engineering (consultant for the Austin family), 9600 SW Oak Street, Suite 230, Portland, 97225, thanked the Austins for their generous donation. This particular statement concerning the tree removal in connection with PQ designation and the development of the property would not create anything less than the facilities it is to house.

Commissioner Brittell asked about Mr. Paxton's statements that Mountainview is an arterial, which is designated with minimum impact, minimum driveways and maximum speed controls for the City. The use proposed is for a school and other related uses, requiring a 20MPH speed zone.

Proponent: Mr. Dan Seeman, Kittleson & Associates, 610 SW Alder Street, Suite 700, Portland, OR 97205, stated Mountainview is designated as a collector. One question raised in analysis was whether volumes on Mountainview are high enough to require a left turn lane (west to Center Street). Based on a 15-year projection with the property developed and other properties developed to the volumes on Mountainview Drive, and coming in and out of Center Street do NOT warrant a left turn lane. There is no access off Mountainview but onto Center Street where school zone signage will occur. Discussion was held concerning resolving movement conflicts so that the school zone would be on Center Street and not on Mountainview (speed is about 35 MPH).

Opponent: None.

Staff Recommendation: **Ms. Mingay** said no additional correspondence was received. Staff recommended adoption for the Council's approval.

Hearing Closed.

Commission Deliberation:

Motion #2:	Haug/Larson to amend the Comprehensive Plan and Zoning designations on 35.76 acres LDR designated land to P/P-Q; change 23.88 acres of R-1 zoned land to I; remove PD designation from the entire 61.4 acre parcel.
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Commissioner Schmitz asked about residential needs projections and how it was analyzed.

Ms. Mingay discussed the land data obtained from the City's land inventory database. The LDR acreage was created through the Comprehensive Plan. As of October 30, 2002, there was 73.8 acres of PQ land. Ms. Mingay said the plan amendment would reduce LDR by 35 acres and increase the PQ designation by approximate 35 acres. Project shortage of PQ land by 2010 and LDR land would be short as well. It does not have a great impact on LDR at this time, but could in the latter part of the 20-year projection.

Motion #3:	Haug/Schmitz moved to amend the motion to include the City Attorney's comments.
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Vote on Motion #3:	The Motion carried (1 Abstain [Smith]/2 No [Brittell/Van Noord]/4 Yes).
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Commissioner Brittell addressed the comments made by Mr. Mahr and Mr. Paxton and any potential appeal. Commissioner Haug asked for a roll call vote and to help clarify position and communication technique.

Commissioner Van Noord said he did not have time to review the packet. However, he concurred that it was a good project.

Commissioner Larson said it was a benefit to the community and it was a good deal.

Commissioner Schmitz addressed Mr. Paxton's statements concerning bias. Discussion was held concerning Commissioner's Haug statements concerning the City Attorney's legal status.

Vote on Motion #2 as amended:	The motion carried (unanimously).
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Tape 1 - Side 2:

Commissioner Smith returned to the hearing.

Ms. Mingay noted this matter was scheduled for a May 5 City Council hearing.

QUASI-JUDICIAL PUBLIC HEARING #2

2. **APPLICANT:** Wand Nelson Contractors
 REQUEST: Subdivision approval for Valley Meadows 2; Variance approval to vary the block length standards on Crater Lane adjacent to lots 30-34; Variance approval to reduce the lot size of lots 32, 33 and 34; Conditional Use approval to modify street design standards to allow an alternate design for the end of two dead-end streets; and Adjustment approval to reduce the lot size of lots 26 and 31.
 LOCATION: Between Crater Lane and Chehalem Drive
 TAX LOT: 3207-3400, -3701; 3207DB-7000
 RESOLUTION NO.: 2003-162,163,164
 FILE NO.: S-35-03/V-336-03/CUP-16-03/ADJ-120-03
 CRITERIA: Newberg Development Code Section § 151.242, 151.210, 151.163, 151.176

Abstentions/ex-parte contact: None.

Objections: None.

Staff Report and Preliminary Staff Recommendation: **Mr. Brierley** presented the staff report and recommended adoption of Resolution No. 2003-163, which approves the subdivision request with specific modifications and conditions, approves an adjustment to allow a reduction in lot size for three or fewer lots and grants conditional use approval to modify street design standards to allow two dead-end streets with hammer-head turnarounds; denies variance approval to vary the block length standards on Crater Lane adjacent to lots 30-34; denies variance approval to reduce the lot size of lots 32, 33 and 34; and denies conditional use to modify street design standards to allow two street stubs with no turnarounds.

In order to judge the requests, the Commission needs to look at the adjustment and variance criteria as outlined in the staff report. Granting of a variance cannot be detrimental to the public health, safety and welfare or materially injurious to properties or improvements in the vicinity. Based on the existing structures and lot configurations, the over all variance criteria have not been met. The density goal is 4.4 dwelling units per acre making up 11 lots; they are proposing 12 lots.

The block length at Crater Lane would exceed the standards. The Comprehensive Plan has a goal that the City shall coordinate development with inter-street developments. The Development Code governs block lengths (500 feet). The perimeter would be approximately 1500 feet with a through street. Without streets going all the way through it would double. Mr. Brierley addressed a cul-de-sac versus through street applications. Considering the layout of the subdivision, there are no topographic restrictions or unnecessary hardships to allow the variance for block length. The City has done quite a bit of planning for Valley Meadows I, they were required to place streets in the area. The future street plan shows Hazelnut continuing through to Crater Lane (a through street). When the property was annexed, it also included a street plan.

They are proposing a modification of public street standards for through streets. The Code requires a circular bulb at the end of a dead-end street (stub ends). In order to judge this application the Planning Commission must find that the location, size and design of the proposed development are reasonably compatible with the surrounding neighborhood. Staff indicated that as stub streets, they do not meet criteria for the living environment. There is not a major objection from fire services to service the properties. They are looking at other services such as garbage service, etc. and other large trucks not being able to negotiate the street without some sort of turnaround. Staff suggested a hammer-head type turnaround. Discussion was held concerning the definition of a hammer-head design.

Staff recommended a modified approval to deny the variance to lot size and block length standards or deny or modify the Conditional Use Permit. There is one error in the staff report, on page 21, the last sentence of 3rd bullet item should be deleted:

"As part of this transition, install curb and gutter along the east side of Crater Lane adjacent to Tax Lot 32070 DB 4600".

Commissioner Haug asked for clarification of lot size adjustment.

Mr. Brierley said with the street going through, one of the big issues is the house and the future street plan. Discussion was held concerning the staff's recommendation in not allowing a reduction, providing a through street, and the connection between the two. Mr. Brierley said staff recommends the applicant modify the design and allow flexibility to cover the amendment to the existing house. Discussion was held concerning coming back to modify the submittal. The concept design as placed in the packet is not really what the applicant intended to do.

Mr. Brierley said the application is requesting a Conditional Use Permit which requires Planning Commission action. They informed the applicant that the Development Code and standards allow the applications are heard by the Planning Commission at the applicant's request.

Proponent: Mr. Leonard Rydell, 601 Pinehurst Drive, Newberg, Consultant and engineer representing the developer. Mr. Rydell attempted to submit materials and will go over the items.

Commissioner Haug asked that the material be allowed but the Commission be allowed a few minutes to review it prior to Mr. Rydell's testimony.

Commissioner Larson said it is his decision NOT to accept materials as previous rules. Discussion was held concerning an objection.

Commissioner Brittell said it is a good idea that his testimony is given to the recorder and part of the record.

Commissioner Haug said that he would still need to view it and also denies the audience time to review the materials (2 pages).

Proponent: Mr. Rydell retrieved the prepared statements and read the statement. He said the subject property has unusual features which affect development.

Mr. Rydell reviewed the various locations and how the land would be developed (2 lots). The owner of lot 30 wants to keep the house with 15 foot set backs. Crater Lane will be widened to 60 feet with a 34-foot improvement. Discussion was held concerning reduction of property. Adjacent property is too wide for one street and too narrow to have more than one street; hard to develop.

The developer would like buildable lots with wider lots, 3 car garages, 60-70 foot lots to 90-98 feet deep. Any time lots are odd shapes, there are other issues dealing with siting. The developer has a proven track record. The typical lot size is 8121 sq. ft., with 7500 sq. ft. required. Discussion was held concerning the 4.4 dwelling units per acre standard. The applicant feels that they have manipulated the lot size that could be up to 13 and they are proposing 12 lots. The City is requesting 10 lots.

Mr. Rydell said the cul-de-sac is proposed for a dead-end street and they are proposing a pedestrian path. The City is requesting a through street. Will the traffic pattern be improved if a through street? East of Hazelnut it is a dead-end, west is the school property. The people that live on Hazelnut Street will have the same travel distance. Street plugs are not a new idea for Newberg but the ordinance does not allow it. The plan is supported by the residents by Valley Meadows.

Proponent: Mr. Jerome Wand, 23521 Butte Lane, NE, Aurora, Oregon 97002, asked that his comment be read to the Commission concerning "The street layout is best for concerned parties and City in my opinion."

Proponent: Mr. Bart Rierson, 110 Hazelnut Drive, Newberg, addressed the desire of the neighbors to allow the cul-de-sac and support the approval. A cul-de-sac enhances the safety of the children and neighborhood feel. The staff's plan does include a cul-de-sac but not a through street. Discussion was held concerning the staff's argument being removed. The main consideration for block length is for pedestrian access. The builder has chosen to modify plans to propose a 10-foot pedestrian walkway. Students cut through the empty lots and the builder has chosen to provide the access which negates the argument of the block length. We are concerned about the safety of the children, since there is a proposed higher density zone across from Crater School. The traffic pattern could be a concern with over-flow parking on their street. He noted the various letters and the only objection raised was from the garbage company about having difficulty in turning around garbage trucks with basketball hoops being placed out too far. Main Street is a busy street and the kids come on Hazelnut Drive because of safety concerns. As far as the lot size variance, it is appropriate to have some slightly smaller lots. He feels there are some very real reasons to approve the application.

Tape 2- Side 1:

Proponent: Mr. Gordon Hill, 115 NE Hazelnut, Newberg, said he agreed with Mr. Rierson's statements. He feels the applicant is not proposing anything unreasonable. The children's safety is number one (safer place with a cul-de-sac), creates a more livable environment, increases property value.

Commissioner Schmitz asked for clarification where Mr. Hill lived in relation to the development. Mr. Hill said he resides at lot 16, and lot 19 is Mr. Rierson, and lot 17 are the Nielsens who could not be in attendance.

Commissioner Haug asked for clarification of Exhibit B. Does staff recommend approval of hammer-head which is smaller than a bulb.

Proponent: Mr. Eric Carlson, 120 Hazelnut, Newberg, (lot 18) said his neighbors have summed it up well and are proponents of the applicant's proposal. Regarding cul-de-sacs, it is difficult on the City basis, but people like them. They have a vested interest and consider the livability in the area and overall aspect of what it would be. The street will only go a few hundred feet more if the street was eventually developed through.

Proponent: Mr. Craig McCourt, 3119 N. Main Street, Newberg, (lot 21) said he agreed with the other neighbors. They lived on Park Court and that was one of the major decisions on whether or not to buy the new house on Main Street (child's safety concerns). He would appreciate the cul-de-sac.

Undecided: Mr. Warren Parrish, 30450 NE Wilsonville Road, Newberg, Oregon, said he was undecided and was in attendance because he wanted through streets and/or did not want dead-end streets. There was a reason to go with the through streets. The development on Main Street, across from Jaquith Field had a couple of one-lane roads that the fire truck had difficulty accessing. He called the police department once because it was blocked and the police department did not do anything. There is an enforcement issue with dead-end streets. He concurs with staff's feelings in working with the developer who is bringing houses to the community. Sometimes we have to look at overall factors involving other problems with dead-end streets causing enforcement problems. The garbage service wants to cooperate with Mr. Nelson but there could be some potential problems with parked cars. He could see it as a problem with children's safety.

Commissioner Haug asked the difference between a hammer-head and cul-de-sacs (mobility issues?).

Commissioner Smith addressed a hammer-head and street plug change. The previous Planning Commission did not approve dead-end streets.

Mr. Parrish said he was undecided and he was concurring with staff. The Planning Commission reviewed these issues a number of years ago (late 1990's). The Jaquith Park Estates issues were a major problem with set backs.

Proponent: Roger Nelson, PO Box 760, Wilsonville Oregon - one of the owners of the proposed development. When they started out, they thought they were doing it right. They talked with the neighbors and a cul-de-sac seemed to make sense, the neighbors wanted it, and it was a good start for a development plan. Staff suggested talking with the Fire Marshal and garbage service. There is no problem with street bulbs which requires a turnaround. They are trying to continue Valley Meadows and build a good product. The one piece of property is a difficult piece to fit. Discussion was held concerning the possibility of losing two lots in the development and who pays for it? We are trying to keep housing affordable. We need to develop land as efficiently as possible. He commended the neighbors for their attendance and support. They are trying to continue a product that sells. He hoped that the Commission takes the statements made to approve their plans. They tried to get a good plan and if they cut into smaller pieces with a varied design because of some interpretation of the Code, it would affect the surrounding neighbors.

Commissioner Smith said there seems to be an open field adjacent to the site.

Commissioner Haug asked the applicant to address the original proposal for annexation that came to the Planning Commission and then to the City Council. It did receive the public vote. Throughout the process, there was some discussion with street designs and standards to be set. He remembers the presentation that was made and voted for the project. What responsibility does the developer have to keep the original design and keep with the through streets as proposed? He feels that it is part of the people's vote for the original design.

Mr. Nelson said he did not own the property at the time. He did own property across the street, a larger parcel. The design is actually different from on the plan. All adjoining properties were not on the market. To assume the design would flow on is dependent upon the property owners and how it would work. They do not know what is going to happen to the property to the right of them, owned by the School District. It was his understanding that it would be reviewed at the time of the subdivision action. The annexation design is a rough conceptual plan and the City knew there would be some adjustments with every application.

Commissioner Haug addressed various lots that were recently built. Lots 23 and 24 are not built at this time. Discussion was held concerning annexation and whether or not some of the lots were in the City limits (lots 23, 24 were already in the City, as the southern part of Lots 25, 26 and 34). The lots were undeveloped at the time of annexation. Before the first home going on the development, was there any consideration as to what the final street for the rest of the buildable lots would be?

Mr. Nelson said yes, and a flag street. Lots 23 and 24 and the back of lot 25, they are going to turn that flag street to a cul-de-sac.

Mr. Rierson said the lots on the west side, Mr. Nelson owned. When Mr. Reed sold the property, kept his home, and specified certain setbacks that were put in because the landowner had specific conditions in the sale that prevented them from following that original plan. Discussion was held concerning responsibility of developer to maximize the development.

Commissioner Smith said he lives on Valerie Drive which is not a cul-de-sac but has similar features. There is a flag street that runs north and south for access to lot 23 which gives a number of possibilities and an east-west access toward Crater Lane much like Valerie Drive which is open on both ends and is not a cul-de-sac. Discussion was held concerning making alterations to put a street on the back of his street to the south having streets on both sides of a parcel.

Mr. Nelson asked about paving some valuable land which would otherwise be used for housing. Mr. Nelson addressed people wanting space and a yard. If they put in a street, they will lose lot size. They provided a pedestrian path due to connectivity issues. Hazelnut Drive is not going anywhere east and Edgewood is going to be the main connector out to College and continuing through.

Commissioner Haug addressed Lot 23 and how it is already a vehicle access for the lot. Mr. Nelson said the lot is undeveloped. There is a paved flag street along lot 23. The problem with a flag is that the code only allows two houses to be served off a flag and will not help in future development. There is a storm water detention pipe in the area.

Chair Tri closed the hearing and noted a five minute break at 9:10 p.m. The meeting reconvened at 9:15 p.m.

Mr. Brierley addressed the Commission's options as outlined in the Resolutions and staff report. He would suggest if further amendments are noted, the Commission should provide those instructions.

Commissioner Haug asked Mr. Brierley to review the proposed changes relating to amendment to Valerie Street.

Commissioner Smith asked about how many lots would be allowed with the new configurations.

Mr. Brierley said there would be at least eight, maybe 10.

Commissioner Brittell said he believed there would be about 12.

Commissioner Haug addressed the two dead-end streets and asked if Mr. Brierley had any design

alternatives to make it safer. At page 88 and 89, with standard cul-de-sacs and rectangular lots with straight through streets and the other would be the hammer-head alternative. Comments on Staff Report pages 88 and 89 show useable design to accommodate the development.

Page 88 works, and the lots become more pie shaped lots. There is quite a bit of street construction in cul-de-sacs and generally speaking, it would be approved as a matter of their choice.

Page 89 is what staff had as the concept plan for the annexation. It would end up with deep lots (50 x 140). Discussion was held concerning desirable effect. He would certainly entertain a curve in the street somewhere with less deep and more deep lots on some sides.

Tape 2- Side 2:

Mr. Brierley said there would be 24 lots on the applicant's proposal and The Code allows for 24 lots.

Commissioner Haug - addressed page 90 as a reasonable design with safety and it would have a through street.

Hearing Closed.

Commission Deliberation:

Commissioner Larson said that when a business person goes into business the developer knows in the front end what they can and cannot do. In this case, the annexation went through public hearings by the Planning Commission and the City Council. The voters agreed with the concept in front of them. This evening, a business person is disregarding the concept and wants to do something which is more feasible. The voters voted a specific concept plan. When the City comes along and changes that, we break down the trust of the voters. It comes down to the cul-de-sac issue. He understands the homeowners reasoning for cul-de-sacs, except the idea limits the connectivity of the City. What we have in the east side of Portland is easy to get around. We go to the west side of Portland, and we do not have the same type of connectivity as the east side. We need to address these issues. The City of Beaverton removed cul-de-sacs. We are getting away from the overall aspect of the City. It is more of an issue for the granting of a variance. Stub streets are a bad idea. It is okay to say that the garbage company has width issues. Discussion was held concerning potential risks

It does not appear to fit. He believes it is the responsibility of the citizens of the community to follow as close to the plan as possible. The potential deterioration of the responsibility could arise.

Commissioner Haug said that if the applicant is willing to waive the 120-day rule, he would propose to give them a month's reconsideration for the suggestions, otherwise, his recommendation would be for denial if not waived.

Commissioner Haug suggested the following:

1. Cul-de-sacs be there now and take a look at page 90 that satisfies the applicant's and city's needs. There are street stubs that extend the cul-de-sac for safety. They have the through street and it allows for connectivity. Ask the applicant to reconsider using page 90 and come back in a month, possibly with other designs. He would recommend page 90 as the design.
2. Two street stubs, page 89, he recommends putting a wave in the streets and adjusts the lot sizes and document that those types of streets could build in safety (eliminate difficulty with fire and garbage trucks). They could ask for a variance on street width with possible lot reductions.

If the applicant is willing to waive the 120-day rule, he recommended giving them another month to come

back and make recommendations on the two concepts and findings show that they meet all the applicant's and City's needs, rather than deny, with possible appeal or come back again, we keep the thing going in a smooth and expedited way.

Commissioner Smith said his recommendation on page 90 is staff's recommendation.

Commissioner Haug said of the choices seen so far, it is staff's recommendation that the residents have considered and don't like. The connectivity is almost straight. There will be more traffic.

Commissioner Smith said he would recommend more bending and leave it open, let the developer try something that would meet the needs of the residents and the connectivity of the City (can be curved and still do the job and help the residents).

Commissioner Brittell said they are stepping out and above the rights. Discussion was held that we make the development meet code, and address the needs of the neighbors. Mr. Brittell said one of the proponents indicated that there was one negative response from the City and the statement made by the City Manager (page 102) concerning maximizing the number of lots and the amendment of the Ordinance to accommodate any variances. He encouraged the proponents to comply with the ordinance.

Mr. Brierley said that there are no private streets.

Commissioner Brittell said there appears to be a private street superimposed by a public street. There are curbs, sidewalks and a private street (page 78).

Ms. Mingay said that is an access easement servicing two lots and it is not a public street right-of-way.

Commissioner Haug said if the applicant does not waive the 120-day rule, then he would move for denial. See if there is a way to save the project. The design has obvious flaws.

Commissioner Larson said it is not up to us to propose a design. It is beyond the scope of the Planning Commission.

Motion #4:	Brittell/Van Noord to accept the zone change for higher density and the staff's suggestion for variance if the redesign came in to adjust the lot size that they have to allow them to adjust the lot sizes (smaller and larger). And deny the rest of the variances.
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Commissioner Haug said it would be placing the cart before the horse, by conditionally allowing the density without design. It is probably understood that a variance would be allowed with a good design, providing the applicant waives the 120-day rule. We clearly outlined the flaws that stills need to be addressed.

Commissioner Brittell noted we are out of order in designing the project.

Commissioner Haug said he disagrees with the comments that the Planning Commission is designing the project. The scope of the Planning Commission is to help the applicant comply with the creation of a quality design to be presented to the Commission for approval. On the face, it is not acceptable. It is the Commission's job, to expediently get through the process without denying the entire project. Discussion was held concerning re-zoning. Commissioner Haug said it should be one bundle. Discussion was held concerning the Commission's authority to review the subdivision and use.

Commissioner Brittell said it is not fair to go with an open-end and unfair issue.

Ms. Mingay advised the Commission that another hearing was on the agenda.

Motion #5:	Smith/Haug to accept the testimony for the next hearing if we can do so before 11:00 p.m.
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Vote on Motion # 5:	6 Yes/1 No [Larson]. Motion carried.
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Commissioner Schmitz said he has worked with the staff to come up with the solution. They are trying to come up with something. There are some connectivity issues and conflicts with the overall problem. The applicant can work with staff and what they intend to do.

Mr. Roger Nelson said he has no problem waiving the 120-day rule. There are so many things that were said after the hearing has been closed that are not true. He feels uncomfortable with statements that are not true. They are not asking for increased density. The zone change is not part of the application.

Motion #6:	Haug/Smith to open testimony to limit with the total for all speakers not to exceed 12 minutes, allowing 3 minutes for each speaker
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Vote on Motion #6:	6 Yes/1 No [Larson]. Motion carried.
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Mr. Leonard Rydell said of all the alternatives discussed:

1. Jaquith Park is a private street - police did not go out there.
2. Private streets - only need a cul-de-sac to go more than 150 feet
3. A depth ratio on the lots (50 foot lots cannot exceed 120 feet - the one proposal would make them 140 feet). The developer wants a quality house which requires a certain size lot. You make a decision on the housing standards for the neighborhood and enforce the standards.
4. Regarding connectivity - what people are they trying to drive through, what are they gaining? More streets to maintain. There are more conceptual drawings to consider. They are trying to conserve land, etc.

He encouraged the proposal as submitted.

Mr. Bart Rierson said City Manager's comments concerning the Hazelnut Drive cul-de-sac statements are incorrect. He directed the Commission to review the Fire Marshal and Police Chief's comments regarding the layout. The builder places larger homes with 3-car garages and RV parking. Consider keeping the two sections of the subdivisions separate. The Commission could approve one and make a recommendation for the other one.

Commissioner Brittell said his comment may not be correct regarding the ordinance requirement for the cul-de-sac. Mr. Brierley said the minimum radius for a cul-de-sac is 45 foot pavement and a right-of-way radius is 53 feet. They have 91 feet and makes the City Manager's statements correct.

Mr. Rierson addressed cul-de-sacs and through streets as alternatives according to the letter of the law Development Code.

Chair Tri closed the hearing.

Commissioner Haug addressed the variances, conditional use modifications, adjustment approval, and the requests the applicant has made.

Discussion was held concerning the clarification that it was an adjustment and not a variance as originally stated in the motion.

Tape 3- Side 1:

Vote on Motion #4:	5 No/2 Yes [Brittell/Van Noord]. Motion failed.
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Commissioner Schmitz said the applicant has agreed to waive the 120-day rule. He said from what he is hearing that we could clearly state what we are not okay with. He would like to see some consensus for the applicant to work with the staff.

Commissioner Larson said that we should not preclude clear-cut statements.

Motion #7:	Smith/Van Noord to reject the application because it does not contain connectivity of Hazelnut Drive to Crater Lane and dead-ends off Edgewood Drive which are not acceptable.
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Ms. Mingay noted the Commission appears to be adopting Resolution 2003-162 denying the request. That was confirmed by the Commission.

Commissioner Larson called for the question.

Vote on Motion #7:	Unanimous. Motion carried.
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Mr. Brierley said the decision may be appealed within 14 days, and any party may file an appeal. Contact the Community Development Department for information.

QUASI-JUDICIAL PUBLIC HEARING #3

3. **APPLICANT:** R.P. Grahn, Inc.
 REQUEST: Comprehensive Plan Amendment from LDR to MDR and Zone Change from R-1 to R-2. This application will be heard in conjunction with a subdivision request for a 13-lot subdivision to be known as Clifford Court.
 LOCATION: 800 Block N. Main
 TAX LOT: 3218DB-700, -2400, -2401
 FILE NO.: CPA-22-03/Z-21-03 **RESOLUTION NO.:** 2003-161
 CRITERIA: Newberg Development Code Section § 151.122, 151.242

OPEN FOR PUBLIC HEARING:

Abstentions/ex-parte contact: - None.

Objections - None.

Staff Report and Preliminary Staff Recommendation: **Ms. Mingay** presented the staff report and the staff recommendation to adopt of Resolution 2003-161, approving the Comprehensive Plan Amendment from LDR to MDR and Zone Change from R-1 to R-2. This application will be heard in conjunction with a subdivision request for a 13-lot subdivision to be known as Clifford Court.

Ms. Mingay said most of the property has been vacant for some time. The house is located on the property in such a way that there is not sufficient space to bring a street out to Main Street. A cul-de-sac is requested and meets the City Code standards. There is a recommendation for a pedestrian pathway between the cul-de-sac and property to the east for connectivity.

Discussion was held concerning a potential public utility easement. The street dedications would be required as part of approval process; The subdivision was named Clifford Court in honor of Mr. Clifford Wilhelmson. The site currently accommodates 10 units. If rezoned it would accommodate 13 dwelling units rather than the 20 units allowed by the R-2 Zone.

Staff recommendation is approval subject to the conditions of the subdivision.

Commissioner Brittell addressed comments concerning drainage (applicant will do). That is one of the negative comments.

Commissioner Haug addressed street light maintenance and costs associated with such lights. Discussion was held concerning the design of state Hwy. 240. There are some issues relating to signaling on state highways. At the time of the development transportation SDC would be applicable.

Commissioner Brittell asked if we are supposed to comment or review the subdivision.

Ms. Mingay said you are welcome to make comments, the subdivision conditions meet or can be made to meet City requirements and those conditions of approval be attached to subdivision approval. Discussion was held concerning when it would be appropriate to approve the subdivision if the Planning Commission approves this project, subject to the Council's approval.

Commissioner Schmitz asked about SDC's (future road improvements) which are identified in the transportation plan. Ms. Mingay said that the applicant can apply for reimbursement through SDC's for putting money into the fund to help pay for capital improvement projects (streets, etc.). Discussion was held concerning street lights. They are required to be installed, and are the responsibility of the applicant.

Commissioner Larson addressed a 5-foot paved easement between lots 6 and 7. What is the width of lot 6 from the flag street?

Ms. Mingay said minimum width is 25 feet and the easement can be part of that. How wide is the driveway? It is 18 feet. What is the width of lot 7?

Mr. Brierley said it is approximately 25 feet.

Commissioner Brittell addressed the cul-de-sac radius is 45 feet paved and 51-1/2 to the edge of a property boundary which is 103 feet through.

Commissioner Larson noted street trees were required to be put in and is there a bond performance? Who signs off?

Ms. Mingay said she does. She physically goes out to the site and makes sure they are installed. They are required to be City standard in size. How will we know that we will have the correct caliper and species of tree. Mr. Brierley said they are inspected. Ms. Mingay said she does not measure each individual street.

Commissioner Van Noord said the proposal appears to save the oak trees on the property.

Commissioner Haug confirmed establishment of needs.

Proponent: Mr. Roger Grahn, 23287 LaSalle, Sherwood, Oregon, said he has no problem with staff's recommendation. He commented:

1. Conditions of requirements providing an engineer storm drain outfall for Chehalem Creek concerning detention. They are putting the storm to the manhole. This is a tough site. There is big drainage issue on the site. They are going to fill it in and there are about 4,000 yards or so to the land. The sewer project on Main Street is planned and they can provide a spot for dirt. The trees in the gully are going away. The existing house will be removed. He is a part owner of all the property. One of the issues is connectivity. Discussion was held concerning the economics of the project. He is opposed to the walkway because we are trying to mix oil and water. Mr. Grahn said he built Valerie Drive. Generally speaking the people in the cul-de-sacs do live there because of privacy. Some of the dimensions are missing on the plat due to computer problems. Discussion was held concerning the mixing of residential and single family dwellings. Mr. Grahn said that there may be a future project with multi-family housing east of the site.

Commissioner Haug said that there is a long piece of property to be developed and Main Street has a certain amount of development. If this gets densely populated with children, they will want to escape to other areas and have an adequate foot path for access. Mr. Grahn said from his own experience - multi-family and single family residences don't mix. Concerning trees, he will guarantee that a certain type of street tree will be installed on each lot.

Commissioner Larson said he was concerned about the 12-foot driveway with 2.5 feet paved walkway. Discussion was held concerning compatibility of pavement and fencing issues.

Commissioner Brittell asked about existing trees. Mr. Grahn said the mature trees that are in the back will go away (they are going to die). Most of the oaks by the back house will stay and there are big oaks that will be saved. Discussion was held concerning preserving trees. Mr. Brittell said that he hates to see trees go down. Mr. Grahn reviewed the location of some of the trees that will remain. Discussion was held concerning filling on the property.

Mr. Grahn addressed the improvements and traffic concerns on Main Street with or without an LID project.

Commissioner Larson reviewed the change to an R-2 zone. Discussion was held concerning the validation of Mr. Grahn's statement that the Austins' are not developing 80 acres.

Mr. Grahn said that he does not have a statement from the Austins'. He has been understanding that the Austins will sell if someone or company would buy the whole thing. There are very few parcels left for building.

Tape 3 - Side 2:

Mr. Grahn said he is not going to build at this time pending requirements for storm drainage, etc.

Commissioner Haug addressed the pedestrian pathways with circulation and where does that run into.

Mr. Grahn said into the corner as identified on Staff Report page 41.

Commissioner Haug said the purpose of the pedestrian pathway is for circulation. He was confused as to the relationship of the cul-de-sac and how it would service the circulation of the adjacent properties.

Commissioner Brittell discussed the extension of the walkway to the parameters of the property.

Commissioner Larson asked what kind of houses are going to be built. Mr. Grahn indicated from 1300-1400 square feet two stories. Discussion was held on repeat housing construction (similar houses) in the range \$145-\$160,000 price range.

Proponent: Mr. Thomas M. Thacker, 728 N. Main Street, Newberg, said he was in favor of the subdivision.

Opponent: Ray and Laura Turchetti, 1020 N. Main Street, Newberg, they own property next to the subdivision and part of the drainage is on the property and he does not know how that will be filled in. She said most of the trees will be gone, one lot has already taken down the trees, she is concerned about property values going down. She is concerned about the beauty. Ms. Chichetta said there are some trees that have already been removed. Ms. Chichetta reviewed the slope of the drainage and the trees being removed. The trees in the front of the lot are gone. The trees are not on the subject property. Their concern is that they have the opposite slope to the property. They are concerned about future children safety, sidewalks, curbs, and street improvements.

Commissioner Larson expressed concern about the drainage being filled and how it would affect their property. Discussion was held concerning new development and flooding.

Mr. Grahn said there is a 16' oak and other scrub trees will be removed. Engineering will require that he maintain the fill and catch basin improvements and provisions for draining out onto the street.

Opponent: Douglas Delano, 729 N. Main, Newberg, across from the project. He has no objections and wanted to address the fact that Main Street and other developments that will be placed on Main Street. There are not direct avenues for directing traffic. There are no sidewalks, road narrows and widens, there are some things that we keep adding projects, but no improvement on the sides of the streets. Until there is other development in the area, nothing will get done. Discussion was held concerning signaling and there could be a problem not just because of the new 13 homes, but in addition to the other developments being planned. He also made a statement that with the reduction of the site, there should be a common area, but with small density and small cul-de-sac and other cities requiring some of that, is there a common area for 13 house community. He is really concerned about Main Street. He has repeatedly talked with the City and County about it, and nothing has been done. The City should correct the problem before adding more.

Hearing Closed.

Staff Recommendation: Ms. Mingay said that one of the things discussed about Main Street, she can only restate for the benefit of the Commission. A LID can only be used when the Council approves it. The sidewalk and widening requirements will be completed as each adjacent parcel develops. The applicant has agreed with conditions of approval and she recommended approving the request as stated. Mr. Brierley noted one modification on page 18, Number 2 - engineering data required. Add a condition stating drainage impacts to the property to the north shall be mitigated. The conditions of approval allow for pedestrian foot traffic to the property east of the site. Discussion was held concerning detention provisions and capacity. The preliminary plat does not require detention planning.

Commissioner Brittell discussed his concerns with detention issues and unimproved Main Street and feels there will be a lot of problems with dumping large volumes of water onto Main Street, not only from the subject property. There is going to be some drainage on the neighbor's yard.

Ms. Mingay explained that the property on the other side of Main Street has sidewalks and curbs.

Discussion was held concerning credits for SDC's if they develop the gutter and drainage adjacent to them. Discussion was held to address the issues up front to make sure they do not happen.

Mr. Grahn said they are on the lowest point of elevation on Main Street. The property north of them is higher. There are storm laterals which do not dump the water onto the street. The Commission reviewed engineering issues with the storm drainage system.

Commissioner Schmitz addressed others' concerns about the LID for N. Main Street improvements and how it is handled. Mr. Brierley reviewed how a LID works (petition from property owners, the City does an engineering design and cost estimate and there needs to be a majority agreement to proceed). The City will build it and the property owners will pay for it. It has not happened, it is a big project and it will be costly. In the last couple of years, the City proposed a street utility fee to get money to do projects such as this. Other than that, it comes down to getting to the project financially.

Commissioner Haug reviewed the number of housing projects that will be developed along N. Main Street. There has been a delay in the development of N. Main Street improvements.

Motion #8:	Haug/Brittell moved to adopt the Comprehensive Plan Amendment from LDR to MDR and Zone Change from R-1 to R-2. This application will be heard in conjunction with a subdivision request for a 13-lot subdivision to be known as Clifford Court, with the changes and recommendations provided, including addressing concerns regarding storm drainage addressed by the adjoining property owners.
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Vote on Motion #8:	The motion carried (6 Yes/1 No [Larson]).
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Ms. Mingay said the zone change hearing will be routed to the Council.

VII. ITEMS FROM STAFF

Mr. Brierley said there is an NUAMC meeting on May 7 (UGB for golf course) and also in July 2003.

1. Updates on Council items - the Council appointed members to the Newberg Downtown Revitalization Committee (Louis Larson) and approved the Hospital zone change
2. Other reports, letters, or correspondence. - None
3. Next Planning Commission Meeting: May 8, 2003.

VIII. ITEMS FROM COMMISSIONERS

Commissioner Brittell addressed issues relating to the joint meeting with the Council.

IX. ADJOURNMENT

The meeting was adjourned at approximately 11:40 p.m.

Passed by the Planning Commission of the City of Newberg this 12th day of May, 2003.

AYES: 7 NO: 0 ABSTAIN: 0 ABSENT: 0
(list names)

ATTEST:

Peggy R. Hall 6-12-03 PEGGY HALL 6-12-03

Planning Commission Recording Secretary Signature Print Name Date

**INFORMATION RECEIVED INTO THE RECORD
AT THE APRIL 10, 2003 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