

PLANNING COMMISSION MINUTES
Newberg Public Safety Building - Newberg, Oregon
THURSDAY, SEPTEMBER 11, 2003 AT 7 P.M.

Approved at the November 13, 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		

Absent: Richard Van Noord

Staff Present:

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

II. OPEN MEETING

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. Chair Tri asked for a moment of silence in remembrance of the those lost on September 11, 2001 in the World Trade Center collapse.

III. CONSENT CALENDAR

1. Approval of June 12, 2003, Planning Commission Minutes.

Motion #1:	Haug/Brittell voted to approve the consent calendar items, approving the minutes of the Planning Commission Meeting.
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Vote on Motion #1:	The Motion carried (5 Yes/2 Absent [Van Noord/Schmitz]).
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Commissioner Schmitz appeared at the meeting at 7:05 p.m.

IV. COMMUNICATIONS FROM THE FLOOR

None.

V. QUASI-JUDICIAL PUBLIC HEARINGS

1. **APPLICANT:** Hulse, McLean, Church
REQUEST: Annexation of 4 parcels totaling approximately 3.3 acres to the City of Newberg
LOCATION: 1201 N. Main, 1203 B and 1203 C N. Main, 1303 N. Main
TAX LOT: 3218CA-100, 3218CA-101, 3218CA-300, 3218AC-2300
FILE NO.: ANX-30-03 **RESOLUTION NO.:** 2003-168
CRITERIA: NDC § 151.262
ZONE: LDR-9000

OPEN FOR PUBLIC HEARING:

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

Abstentions/ex-parte contact: None. Discussion was held concerning the location of the creek in relation to the stream corridor.

Objections: None.

Staff Report and Preliminary Staff Recommendation: **Ms. Barb Mingay** presented the staff report and noted staff recommended adoption of Resolution 2003-168. The property is presently in the County with a comprehensive plan designation of LDR. The proposal is to have an R-1 zoning designation which is compatible with an LDR designation. The applicants are asking for annexation because the City Council has requested them to annex in order to obtain City water. They were formerly part of the N. Main Water District which has failed. There are four existing single family homes located on the property. All owners have signed annexation request forms approving the annexation. If approved, the individuals would be required to sign waivers of remonstrance waiving their rights to have a Local Improvement District (LID). They will have to dedicate property for right-of-way frontage (30 feet total). This would occur before the City Council approves the annexation. There is a development plan in the packet which indicates the site could have up to 13 additional residential lots. The applicants are doing the application only because they want City water, not to develop out the property.

Commissioner Smith asked for clarification on issues dealing with the potential development.

Ms. Mingay said that the applicants are required to provide a plan if for potential site development. **Ms. Mingay** said there are protections in the stream corridor overlay and there are limitations in the Code. She said conceivably, the lot could have a buildable space allowing for the stream corridor with some type of crossing. They may have access from Chehalem Drive or can be purchased by the adjoining property owners.

Commissioner Smith noted the development plan shows the future building lot on the extreme western end would have the creek coming through there. If they were to divide and sell the lot, what would have to happen.

Commissioner Brittell asked for clarification about the water hardship situation.

Mr. Brierley said it was a private water district with old leaky lines and several people got off the water district and later connected to the water main. This allowed for only a few people still using the water district who would eventually have to replace the pipes for the entire district at a cost to be borne by them. **Mr. Brierley** said they talked about solutions for the past two years; who pays for it and can they connect and get out of the financial responsibility of the district. At the end, it was determined to get everyone off the water district and connect everyone to the City. They went to the City Council for a hardship and it was granted. This happened about 7-8 months ago. Discussion was held concerning a specific time frame for a May 2004 primary election.

Commissioner Smith asked if there was anyone else on the N. Main Water District.

Mr. Brierley said there was one customer that was not close to the City or on Main Street, which may be the property with a well. They are disconnecting from the water district and going to the well.

Commissioner Haug asked about the property on Creekside Lane and how it dead-ends on the property seemed to suggest continuation of the road in the future. Is Creekside Lane public?

Ms. Mingay said yes.

Discussion was held concerning sub-standard lot size for Planned Unit Development lots (PUD), and servicing undeveloped sites in the future.

Commissioner Haug was curious from a planning point of view, would there be a way to have it as a natural extension and service it back off Main Street or some sort of design including the property above Nicholas Way.

Discussion was held concerning the property providing for 13 lots (raw data at this point). When it is coming up for development extend Creekside for continuation.

Mr. Brierley said they talked with the owners concerning development. They have discussed the possibility of the extension over to Main Street. One of the challenges there is building the street and noting the direction of the lots. It is a financially challenging aspect. The other option is to bring Creekside through terminating a cul-de-sac.

Commissioner Smith asked for clarification of the access to the one property.

Discussion was held concerning the location of the four houses (Attachment F). The primary intent of the application is not for development, but for water service.

Proponent: Applicants were not in attendance.

Opponent: None.

Commissioner Haug asked if the stream corridor adjacent to Lauren Court is now park property? Is the corridor on this site being donated to the Park and Recreation District.

Mr. Brierley commented that the Lauren court Subdivision stream corridor portion was donated to the CPRD.

Commissioner Schmitz asked how many private water districts within the City?

Ms. Mingay said about 10. They originated from the various spring sources and then eventually connected through the City water system. Discussion was held concerning wells going dry and the water situation has been stressed. We will be seeing more of this.

Ms. Mingay reviewed the properties located in the UGB.

Motion #2:	Haug/Smith to adopt Resolution No. 2003-168
Vote on Motion #2:	The motion carried (6 Yes/1 Absent [Van Noord]).

Ms. Mingay said the matter was scheduled for City Council action on October 6, 2003.

VI. ITEMS FROM STAFF

1. Update on City Council items

Mr. Brierley said the City Council heard and approved the annexation of Fernwood Road and it will go to the May 2004 primary election. The Council also adopted the business license fee. It is actually minimal: \$50 per business per year and they are struggling with the implementation. The funds are dedicated to Economic Development activities, some to the Chamber and then the City's activities. It is about \$35-36,000. Discussion was held concerning a hardship on any development. Discussion was held concerning Fire Marshal inspection. Mr. Brierley said it is a revenue raising issue. The Fire Marshal does inspections for many businesses. Discussion was held concerning NUAMC matters. It will be set before NUAMC again on September 15.

Commissioner Haug said he did not receive the City packet for the NUAMC meeting.

Mr. Brierley said there is another UGB amendment on the north side of Fernwood Road east of Springbrook Creek. It was the property in the URA and immediately adjacent to the Springbrook Oaks property. The City Council will hear the matter on October 6. It may come back to the Planning Commission. Discussion was held concerning the golf course developments in Sherwood.

Commissioner Haug said it is a 100 acre non-regulation course. The proposed Newberg course is a 9-hole and will compete with the Sherwood course. The economic analysis did not include Sherwood's actions.

Discussion was held concerning the Sherwood course not being a full course.

Commissioner Larson said a newspaper article mentioned the first four stages of residential development is being planned (DR Horton).

Mr. Brierley said DR Horton has purchased a portion of the Springbrook Oaks and they have developed the first phase and are getting ready to do the remainder of the lots. The total is 148 lots. There is other land available for other subdivisions, but none of those have been applied for.

Ms. Mingay said there is a 55 year and older subdivision application being reviewed and circulated for neighbors etc. on the parcel that is one lot south of Brutscher and Hayes Streets on the east side (about 10 acres) - across from senior housing. This is all part of the Springbrook Oaks Specific Plan.

Commissioner Haug said there was a discussion about the land donated to the park and the decisions made to expand and change the park proposal.

Mr. Brierley said the park is in an required and includes grass, play structures, etc. There is a requirement for two parks. The second one will likely occur on the east fork of Springbrook Creek. Discussion was held concerning the acreage set aside for the second park.

Mr. Brierley said that he thought it was a total of five acres for the parks.

2. Other reports, letters, or correspondence

None.

3. Next Planning Commission Meeting: October 9, 2003, for a hearing on an appeal of the design review conditions for the Providence Hospital. It has been appealed by the applicant who has concerns about the required conditions. It has been appealed by a group of neighbors who do not like the lack of the conditions.

Commissioner Haug asked if he would need to step aside because of his wife (Julie) is on the Hospital Board.

Tape 1 - Side 2:

Mr. Brierley said they have been working on transportation system plan. They are now ready to bring it to the Planning Commission and do a series of workshops to talk about issues and try to make some decisions on various choices. He had proposed to have the a series of three meetings to be held on October 23, November 6, and November 20. There will be a regular Planning Commission meeting on November 13.

Commissioner Larson said he may have a conflict on October 23.

Commissioner Haug asked where we are with transportation utility fee.

Mr. Brierley said they will pick-up and continue discussion, but there is no schedule.

Discussion was held concerning the bypass. Mr. Brierley said things are going well. One of the items that they are working on now is around interchanges. There is a desire that they not be shopping center magnets and they are looking at land use limitations or planning around the interchanges. ODOT has to apply for exception to the State wide farm goal. The part that is disappointing is getting property acquisition and the latest forecast is not good for funding with the government. It is hopeful that it will happen in 8-10 years.

Discussion was held on the Lewis & Clark application that has been withdrawn. When will they get into the study of UGB/URA and how much growth?

Mr. Brierley said a schedule has not been established but it should be soon in 4-6 months. The scope of work has not been established. How is the community made aware of the analysis. Mr. Brierley said it is going to be at least a year. Certainly we will be involving the public and they are discussing ways to do so. Public involvement is important.

VII. ITEMS FROM COMMISSIONERS

Commissioner Larson asked about the conditional use for the auto repair business.

Mr. Brierley said they have been in contact with them (Wednesday) and discussing the issues. It may come to the Planning Commission as a public hearing item. A 4-wheel drive parts store at the corner of First and Meridian streets (formerly the antique mall). The challenge is that the downtown business community wants to make sure we do not place restriction on businesses. Discussion was held concerning the Conditional Use Permit (CUP) application was not brought before the Planning Commission. Mr. Brierley said he appreciates the concerns. Discussion was held concerning payment of business licenses before October 14, 2003. What is penalty for not paying business license? It accrues with penalties. Discussion was held concerning the City giving the business a license and ignoring the fact that they are in violation of zoning use standards. He said they have no approval from the City to locate there. Who is the person that controls the use. Mr. Brierley said it is planning and building departments. The property is designated C-3. Discussion was held concerning the location of the property. Ms. Mingay said that it happens all the time. What is procedure? How does the City react to violations without doing code enforcement. Mr. Brierley said in general they educate the people and tell them the rules, etc. It depends on their willingness to comply. There is a municipal court that will issue code violations they have abatement procedures. There is other legal action to remedy the situation. Who can they go to for seeking suitable relocation? The Chamber of Commerce development coordinator helps them. Ms. Mingay reviewed some particular instances where inquiries come up with conditional use issues, hardship situations. What is the criteria and the judgment call? Mr. Brierley said there is criteria in the Code which is part of the application. The Planning Commission has a lot of leeway to make the application fit the premises. Discussion was held concerning appeals to the City Council for a final determination.

Commissioner Schmitz asked about the criteria for approval. The code has a C-3 list of uses and other review items. Discussion was held concerning noticing the Downtown Development Committee of the process. Mr. Brierley said they would be contacting them for feedback to the Planning Commission.

Commissioner Larson noted an e-mail from Commissioner Haug about stream blockage.

Commissioner Haug said the issue is still in the back of his mind. When something comes in front of the Planning Commission and gets adopted by the City Council, occasionally an applicant will request to administratively change the process which does not go to the Planning Commission. The City can administratively approve the change without knowledge of the Planning Commission. Is there a way for the City staff to keep the Planning Commission informed on those sort of administrative applications and pending decisions which would modify an item already approved by the Planning Commission. Discussion was held concerning infrastructure changes being done administratively. The issue is community involvement and not having citizens receive mis-information. Some mechanism for pending changes is needed before final decision is made and they can make comments.

Mr. Brierley said that in this case, they read the plan as adopted and policy and do what they can to implement the plans and policies. It is not a matter of change of plan but to implement the City goals and policies. Sometimes the plans are changed and there is a process for doing that. They still meet the intent if the plan.

Commissioner Smith said there would be a different procedure if there is a change in the plan. There has to be administrative authority but it appears there are some things that are more than substantive changes. The application revision was done at the administrative level without the requirement for a Planning Commission approval. At this particular instance he thought it was a change by the developer and not as a requirement by the City to change. It is not a matter of changing the plan, but was revised to comply with policies.

Ms. Mingay said there are staff review for adjustments. Discussion was held concerning what Commissioner Haug has requested to be notified of substantive changes.

Commissioner Smith said there must be flexibility as in lot line adjustments, but nothing significant.

Commissioner Haug said that he was notified by a neighbor and did not receive the full information which led him to inquire. He met with Mr. Brierley and was informed that the change was allowed. He left the meeting with the lack of sufficient information which drove his concern. The scenario is that the applicant applied for a change which was significant and the Planning Commission was not advised. Discussion was held concerning advising the public. In the particular instance, it appeared to be an engineering problem, not as much as a planning problem. In administrative decision from small to significant changes. The staff will come back with significant changes.

Mr. Brierley addressed the proposed central plaza (now is a round-about with a fountain with a park). That implements the specific plan as approved rather than a "plaza".

Commissioner Brittell said that it does create a precedent for creation of dry-wells (where run-off is placed into the ground); dig a hole in the ground filled with gravel. They allow them, but the issue is that it is a matter of soil and because of the clay soil, it fills up the land area. Discussion was held concerning

appropriateness of sending out copies of the administrative requests. Discussion was held concerning justification of the staff's administrative decisions made.

VIII. ADJOURNMENT

The meeting was adjourned at approximately 8:30 p.m.

Passed by the Planning Commission of the City of Newberg this 13th day of ~~October~~ ^{NOV.}, 2003.

AYES:

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NO:

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ABSTAIN:

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ABSENT:

Brutell

(list names)

ATTEST:

Peggy Hall

Peggy Hall

Planning Commission Recording Secretary Signature

Print Name

Date

**INFORMATION RECEIVED INTO THE RECORD
AT THE SEPTEMBER 11, 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.