



## PLANNING COMMISSION MINUTES

January 12, 2006

7:00 p.m. Regular Meeting

Newberg Public Safety Building

401 E. Third Street

*APPROVED AT THE FEBRUARY 9, 2006 PLANNING COMMISSION MEETING*

### I. ROLL CALL:

Present: Daniel Foster                      Matson Haug                      Louis Larson  
                  Devorah Overbay                      Chair Smith                      Nick Tri

Absent: Cathy Stuhr

Staff Present: Barton Brierley, Planning and Building Director  
                  Dan Danicic, Public Works Director  
                  Steve Olson, Assistant Planner  
                  Elaine Taylor, Associate Planner  
                  David King, Recording Secretary

### II. OPENING:

**Chairman Smith** began with a friendly reminder at the beginning of the new year for the commissioners to speak directly into the microphones.

### III. ELECTION OF OFFICERS:

**Chair Smith** declared that at the beginning of a new year it was time to elect new officers. Commissioner Haug mentioned that by order of seniority and previous positions held, new officers are elected. Everyone agreed.

First the commissioners elected M. Haug as the new chairman.

**Motion #1: Tri/Haug** to elect M. Haug as chairman. (5 Yes/0 No, Larson undecided, Stuhr absent)

Next the new vice chairman (Louis Larson) was elected and a vote taken.

**Motion #2: Smith/Overbay** to elect L. Larson as vice chairman. (5 Yes/0 No, Larson abstains, Stuhr absent).

**Chair Haug** then relinquishes his position to Louis Larson, and Devorah Overbay is nominated for the vice chair position.

**Motion #3: Tri/Smith** to accept M. Haug's resignation, L. Larson's appointment to the chair, and D. Overbay as vice chair. (6 Yes/0/No, Stuhr absent).

#### IV. CONSENT CALENDAR:

1. Approval of the previous meeting minutes.

**Motion #4: Tri/Haug** to approve December 8, 2005 Planning Commission meeting Minutes.  
Motion carried unanimously.

#### V. COMMUNICATION FROM THE FLOOR:

**Chair Larson** invited the guests (32 present at the beginning of the meeting) to bring forth any new topics for the agenda. No new topics were added to the agenda.

#### VI. QUASI-JUDICIAL PUBLIC HEARINGS:

1. **APPLICANT:** Chehalem Park and Recreation District  
**REQUEST:** Annexation of 100 acres  
**LOCATION:** 4500 E. Fernwood Rd.  
**TAX LOT:** 3221-04200  
**FILE NO.:** ANX-05-040 **RESOLUTION:** 2006-203  
**CRITERIA:** Newberg Development Code § 151.262

**Chair Larson** reminded the commissioners and audience of the agenda steps. He then read ORC 197.763 prior to proceeding. (The tape is now audible)

**Assistant Planner** Steve Olson presented a summary of the staff report using a visual presentation. After reminding everyone of the location of the property, he discussed the physical details of the land, showing the flat farm land and wooded stream corridor area. He also mentioned CPRD's intended use of providing the Newberg area another nine holes to complement the current nine hole golf course (see Agenda Packet pages P17 – P25). Annexation Criteria were read by Mr. Olson (the visual list was too small to read). Such criteria include:

- The site being inside the UGB or urban reserve area
- The site must be contiguous to city limits
- The site must comply with the comprehensive plan
- The site must have an adequate level of urban services (sewer, water, roads)
- There must be improvement to the frontage on Fernwood Rd.
- There must be compliance with fire, police and park requirements

The Planning staff also recommends that the applicant comply with the Audubon criteria and with stream corridor regulations. There would also need to be an updated Wetland Delineation Report since the current one has lapsed.

The subject of water supply was then revisited. Who will bear the cost to pay for the improvements of the water system to supply the golf course? Upfront the SDCs help cover some cost, but over time the golf course pays for the improvements through their water bills.

Currently the water treatment plant of Newberg treats 5.6 mgd with expansion plans to be at 9.5 mgd by June, 2006. Otis Springs will also be able to provide 400,000 gd which could supply ~ 90% of the golf course needs.

There is also a proposed reuse system planned for the summer of 2008, which could produce 1 mgd of non-potable water. If heavy users, like a golf course, use such non-potable water, it will obviously reduce the need for treated water.

Mr. Olson also pointed out two changes to be made to page P16. One was the number of the resolution at the top of the page (2006-203 instead of 2005-203) and the other change was in the last paragraph. After the wording, “. . . of the requested annexation” the clause “*as conditioned*” should be added.

The Planning Department staff recommends annexation of the 100 acres.

**Public Comment:**

John Bridges, representing CPRD, spoke on behalf of the applicant. Mr. Bridges stressed that having a golf course allows a positive income flow from one park to help fund and upgrade the others. He also addressed some of the plans for the other parks that were mentioned at the last.

Mr. Bridges also requested that on page P19 of the Agenda Packet that the third bullet point be modified. He would prefer that “including restoration/mitigation of areas recently disturbed” be deleted since CPRD currently has no obligation to such conditions.

**Commissioner Haug** asked Mr. Bridges about the Audubon guidelines included in the agenda packet. Mr. Bridges responded that such guidelines are in place for construction and for ongoing upkeep.

**Commissioner Haug** also asked Mr. Bridges about the “similar” program. Mr. Bridges said this language was added in case the Audubon discontinued their cooperative sanctuary program.

**Chair Larson** asked Don Clements (who came up to the podium from the audience) how CPRD has financed the expansion of golf course.

**Mr. Clements** clarified that since 1992 there have been plans under way for the city of Newberg to have an 18 hole golf course. If the Planning Commissioners and the City Council approve of the annexation, then the voters will have the opportunity to vote on the annexation.

**Mr. Bridges** added that the Planning Commissioners are being asked to approve the annexation and send the recommendation to the City Council.

End of Side A, Tape 1

**Commissioner Overbay** asked Mr. Bridges where in the packet all the acquired permits are noted. **Mr. Bridges** referred to pages P91, 92 with some explanation that the property is currently under county jurisdiction, where different permits are required. Nevertheless, CPRD has tried to do more than what is required to protect the habitat.

**Commissioner Haug** wanted to ask Dan Danicic what will happen to the habitat around Otis Springs when more water is removed. Will it be drained dry? **Mr. Danicic** didn't believe this would be the case. **Mr. Bridges** also added that the golf course will have water collection sites/surface pumps that will store runoff water to be reused.

Jarrett Rose, a resident of Newberg, wondered if a private entity was given the opportunity to build and operate a golf course. He was concerned that the discussion of a government entity running a business to make a profit was not the function of government.

**Commissioner Smith** wanted to clarify that Mr. Rose believes private citizens should first and foremost pay for and run a golf course. Commissioner Smith then asked if Mr. Rose knew of anyone who would do so. Mr. Rose responded that he suspects he could find someone in the next 30 days.

Public Comment Closed, Final Comments from Staff:

**Barton Brierley** reminded the commissioners that the question before them is whether this piece of property should be annexed into the City, or remain in Urban Growth Boundary outside of City limits. Staff recommends the annexation of the property.

**Commissioner Haug** wanted to know how feasible the reuse water and transmission lines will be for the golf course. **Dan Danicic** said the feasibility study of the reuse water is under way, and that Otis Springs is a spring and not treated. Commissioner Smith asked how other customers would be able to hook of the the reuse transmission lines. Mr. Danicic said that any new construction would find it very economical to build reuse transmission lines.

**Commissioner Smith** wanted to know from staff the current NPDS permit status. **Mr. Danicic** said that agricultural land is exempt under EPA regulations, and therefore the previous work did not have to comply. However, if and when the golf course is under construction, it will fall under DEQ guidelines for erosion control.

**Commissioner Tri** then asked how this will affect the logging that could take place. **Mr. Danicic** said that logging falls under agricultural guidelines.

**Commissioner Overbay** wanted to know when the DEQ permits would be required. **Mr. Danicic** summarized that the proper steps would be development application process and if approved, then submit construction plans, and then in construction phase apply for DEQ permits.

Deliberation:

**Motion #5: Tri/Haug** to approve Resolution 2006-203 recommending approval of the annexation.

An amendment was then proposed by Commissioner Smith, which includes the following change to the wording to bullet point #3 on page P19. *“Compliance with stream corridor regulations, including restoration/mitigation of areas which may be disturbed in the process of development.”*

Additionally, a second amendment was proposed which changed the wording to bullet point #2 on page P19. The proposed new wording reads: *“Compliance with Audubon Cooperative Sanctuary Program guidelines (Attachment J at the time of annexation) or equivalent program of the time of adoption.”*

**Motion #6: Smith/Tri** to approve the additional amendments to Resolution 2006-203. (6 Yes/0/No, Stuhr absent).

The commissioners now voted to accept and pass on to City Council Resolution 2006-203 with the additional amendments.

**Vote on Motion #5 Overbay/Haug** to approve Resolution 2006-203 with two amendments. (6 Yes/0/No, Stuhr absent).

**Chairman Larson** allowed for a ten minute break at this time.

<b>2. APPLICANT:</b>	Coyote Homes	
<b>REQUEST:</b>	Annexation of 16.38 acres	
<b>LOCATION:</b>	2200 Block of E. Third Street	
<b>TAX LOT:</b>	3220-01300	
<b>FILE NO.:</b>	ANX-05-042	<b>RESOLUTION:</b> 2006-204
<b>CRITERIA:</b>	Newberg Development Code § 151.262	

**Chair Larson** asked for any commissioners who needed to abstain or declare any previous involvement with this development. No one mentioned a reason not to be involved with the hearing.

Staff Report:

**Barton Brierley** summarized the staff report by using a visual presentation that included an aerial view. The current Newberg comprehensive plan that includes Medium Density Residential (MDR), works well with this proposed development which would be zoned R-2.

There is an airport master plan that is under consideration that could affect the development of the property. The Airport Plan Concepts include: Promoting industrial development on the east side of the air park that could use airport services and shipping. On the west side of the air park the plan would promote housing where the owners want to have airplane hangars for their privately owned airplanes.

Barton Brierley reminded the commissioners that they are being asked for their approval of an annexation, even though the airport master plan will affect this property in the future if Resolution 2006-204 is adopted.

End of Side B, Tape 1

The recommendation of the staff is that the Planning Commission approve the annexation.

**Commissioner Smith** asked staff how the potential concept plan allows for such large lots on the east side. Barton Brierley responded that such lots, and the associated low density, will be made up for with smaller lots/greater density on the west side.

Public Comment:

Michele Tyson, a representative of Alpha Community Development of Portland, spoke on behalf of the applicant. She appreciated the report given by staff, and then introduced Mr. Schiewe.

Joe Schiewe, from Portland, wanted to clarify that the sewer system on both sides of the creek would be gravity systems. He also pointed out that any new hangars would be removed from the incoming flight path of airplanes. Due to a question by **Commissioner Haug**, Mr. Schiewe showed where the gates would be located south of 3<sup>rd</sup> Street. He pointed to the project map that the gate would be far enough south of 3<sup>rd</sup> Street to allow for cars to completely pull off of 3<sup>rd</sup> street. He believes that a private street would encourage more potential buyers who want a hangar for a privately owned plane. He also believed that the gate is helpful for the security around an air park.

(Both Ms. Tyson and Mr. Schiewe spoke without having filled out a Public Comment Registration Card).

**Commissioner Smith** asked Mr. Schiewe if the west side of the plan will include ordinary city streets. Therefore, the private street would only be on the east side of the creek. Mr. Schiewe said that would be the case.

**Commissioner Foster** wanted to clarify the cost of crossing the creek forced the developer to make two separate areas. Mr. Schiewe agreed, and added that the development would not have been proposed without being able to develop two separate areas within the proposed annexation.

Jerry Dale, owner of Sportsman Airpark, encouraged the annexation and that such airplane hangars are the perfect development for such property. He foresees that this new road would be the primary access to the airport, and that a gate would stay open during business hours. The current airport street access is within 25 feet of the northern end of the runway. Having a single, gated access to the airport away from the runway would be ideal for security and safety reasons.

**Commissioner Haug** wanted to know what the airport overlay zoning required of such residential development done so close to the airport. Mr. Brierley explained the different details related to Agenda Packet page P122.

**Commissioner Haug** also asked when the Airport Master Plan would be brought before the commissioners. Barton Brierley believed it would be April, 2006 with a possible May ballot date for the annexation.

Final Comments from Staff:

**Barton Brierley** believes that the various parties involved with the annexation have worked well together so far, and would again recommend the approval of the annexation.

**Commissioner Smith** mentioned that he was excited for density transfer between the east and west sides of this development in order to stay within the targeted density guidelines for development.

**Commissioner Haug** wanted to know how this annexation would affect the intersection at 3<sup>rd</sup> Street and Highway 219. Barton Brierley replied that this intersection, and its improvements, is in the Transportation System Plan (TSP). Previous discussions about this intersection proposed a medium on Hwy. 219 to divert some of traffic entering 3<sup>rd</sup> Street.

**Commissioner Overbay** pointed out that a memo on P147 would require that the intersection of 3<sup>rd</sup> Street and Hwy. 219 have improvements carried out as part of the development of the property. Barton Brierley reminded the commissioners that any transportation ramifications would be dealt with via future design review processes.

**Chair Larson** asked staff about what details go on the ballot.

**Barton Brierley** said there is limited information on the ballot.

End of Side A, Tape 2

**Commissioner Foster** added that transportation issues are valid but could be postponed until after the vote is put to the people.

**Chair Larson** asked each commissioner if he or she approves of moving forward with the resolution this evening. Foster was in agreement. Smith agreed. He felt the median needed installed on Hwy. 219. Haug was in favor but would like to see the public vote put off until November so the Airport Master Plan could be completed. Tri was in approval. Overbay agrees with all the concerns.

**Commissioner Haug** asked staff if the Airport Master Plan including the airport within the city limits. Barton Brierley said the plan will consider annexation.

**Motion #8: Haug/Tri** to approve Resolution 2006-204. (6 Yes/0/No, Stuhr absent).

## VII. LEGISLATIVE PUBLIC HEARINGS:

1. **APPLICANT:** City of Newberg  
**REQUEST:** Industrial Zoning Revisions  
**FILE NO.:** G-115-05, G-117-05

**Chair Larson** reminded the commissioners that this is a continuation of a process that began back in September, 2005.

Staff Report:

**Elaine Taylor** reviewed previous efforts to provide public notice of meetings and hearings on industrial zoning, and advised the commissioners and audience that staff provided notice of the continuation of this hearing beyond the legal requirement. Mailers were sent out to everyone who has participated or indicated interest in previous hearings.

She then reviewed the reasons that revisions are being proposed: to provide greater opportunities for industrial businesses to locate in Newberg, make more efficient use of existing industrial land base, reduce potential for land use conflict, clean up old language on the books, and make the use categories easier to use.

She reviewed the issues that had been brought up at previous meetings: 1) lengthy vacancies where industrial land is reserved for industrial uses; 2) hardships of becoming a nonconforming use; and 3) compatibility of industrial uses with adjoining residential uses.

While it is important to have land and/or buildings available for siting or expanding industrial uses, the problem with reserving industrial land for industrial uses is that industrial property is generally slower to move than commercial or residential. Options include accepting the fact that industrial land and buildings move slowly; allowing temporary or interim uses; increasing efforts to recruit and retain industrial tenants, and closely monitoring the supply of industrial sites to avoid an excess of inappropriately zoned land.

Hardships of becoming a nonconforming use are that it is harder to find a new tenant when a nonconforming use tenant leaves; the use is not able to expand; and it may be harder to get insurance and loans. In regard to the effect of nonconformity on lending and insurance, Ms. Taylor stated that she had contacted lenders and insurance agents, and did not find nonconformity to be a problem for business insurance or for local lenders. Some alternatives include living with the current zoning code; changing non-industrial uses into conditional uses to avoid creating nonconformities, which would allow expansions or new uses on a case-by-case basis; and realigning industrial districts to accept what exists currently exists, but limiting new industrial areas to industrial uses (area-based zoning).

She then discussed compatibility with adjoining residential uses, which would also lead to certain choices: 1) make no changes and depend on existing codes to address noise, lighting, and design compatibility; 2) identify specific things to be done when the site is developed to mitigate potential conflicts; and 3) provide additional detailed performance standards.

The possible option of Area-Based Industrial Zoning was then discussed. Six different industrial areas were visually presented and then individually discussed according to their current unique features and future viability (shown on page P154). These areas were characterized as the older "traditional industrial" area along the railroad tracks; the landscaped "campus industrial" area that include A-DEC; the "commercial industrial" area south of Portland Road designated in the City's comprehensive plan for mixed use; the "flexible industrial" area along Hwy 219 and Springbrook Road; the "heavy industrial" area of city and County land in the south; and the proposed new "large lot industrial" area that was recommended by the Ad Hoc Committee on Newberg's Future.

The staff recommendation was to review the staff report in the agenda packet, consider the options available, and then give staff direction on how to proceed.

**Commissioner Smith** wanted the chart (page P154) to be more specific about where and whether restaurants would be allowed.

**Commissioner Foster** wanted to know if staff had asked the local lenders if they sell their loans to other lenders. Elaine Taylor said she asked First Federal, and they do not sell their papers. She also called a mortgage broker in Portland, who thought it could be an issue for lenders who sell loans out of the area. He also questioned staff if they knew what percentage of local loans are industrial loans. She did not know the answer to this.

He also asked if area based zoning had been used in other cities. **Barton Brierley** replied that the whole concept of zoning is to consolidate similar uses of the land.

End of Side B, Tape 2

**Commissioner Foster** was concerned that industrial zoning could expand in a haphazard way, with too many industrially zoned areas.



Public Comment:

Ed Bartholomy, owner of the building used by Gold's Gym, came forward this evening as an opponent *and* proponent because he is ready for a solution that helps everyone. He felt that property coming into the Urban Growth Boundary can have new uses. He felt it was important for the business community to know that things won't change. He was opposed to making existing uses into conditional uses. He prefers the zoning to be clear-cut, as it is now. It would be OK to add uses.

**Commissioner Foster** double checked if Mr. Bartholomy wanted the zoning to stay the same. He distinctly said that he invested in M-2 zoning for a reason.

**Commissioner Smith** wanted to express how some of the testimony seems incongruent. Mr. Smith wondered if Mr. Bartholomy could see any difficulty to neighbors within M-2 zoning. He believes in the wisdom of the business owners knowing what they want to do, and would therefore be good neighbors in a mixed zoning situation.

**Commissioner Haug** asked if Mr. Bartholomy liked the idea of the six industrial zones. He replied that he prefers the current zoning as is.

**Commissioner Overbay** asked if he felt certainty was important. He responded that businesses like certainty. Mr. Bartholomy felt that the most important criteria for zoning were clarity and consistency.

Rick Olson, a resident of Newberg, agreed with Mr. Bartholomy. He believes that changes should apply to new industrial property but not the current property. He believes that such land is self-regulating. If the business works, then it stays. If it doesn't, then it goes away. Mr. Olson said he owns an auto repair shop, and wants to be able to count on the potential uses for his property that were available when he bought it. The property will be the basis of his retirement, and he doesn't want to see its potential diminished via rezoning. Too many conditions on property diminish its value.

Charles Harrell, representing the Normans of Normans Carpets, came forth as an opponent. Too many conditions on current business owners will restrict their flexibility in the future. He favors current businesses being able to work within the zoning conditions that existed when the owners bought the property. Area-based zoning is a step in the right direction, but putting conditions on land makes it hard to sell.

David Craig, owner of Springbrook Industrial Park, wants to go on record for being opposed to new zoning changes, especially to the M-2 zoning. He believes that plenty of current industrial land is not being utilized. Bringing on new land for industrial use won't be helpful.

Richard Clay, an industrial property owner in Newberg, said he agreed with his neighbors. The Airpark Industrial Park has had a lot of different tenants, and there is very little conflict between businesses. He wants the city to be careful with industrial zoning changes. He picked his business properties because they came with so many use options.

Daniel LaVeine, representing Action Equipment, was concerned that two criteria would conflict with their plans to build on property by Parr Lumber. In the 11/3/05 draft, the requirement to be "oriented away from residential streets" concerned him, since it would preclude access from Hancock. He thought the rest of the conditions were good. He appreciated the presentation of the new zones, but would like to be able to work within the guidelines currently in existence.

Arnold C. Fuchs, of Harris Thermal Transfer Products, also felt that if something is “not broke don’t fix it.” He agreed that we need to be careful when making changes with what people have been led to expect. It is important not just to court new business, but to facilitate the health and growth of what we already have

**Commissioner Overbay** asked if he liked the proposed “area-based” zoning and the names that go with it. Mr. Fuchs thought we were headed in the right direction, and liked the M-4 idea. He believes what is in place right now is working just fine.

Jarrett Rose summarized that people are saying they like the way the zoning is now. If a use is present now, it’s some type of use that has been approved. People need to eat. If you starting changing things, it’s going to be worse, not better.

End of Side A, Tape 3

John Finkly, a Portland architect, said that he uses Sportsmen’s Airpark. Speaking for Hazelden-Springbrook, he said that they would like to have the Planning Commission recommend taking their property out of industrial and into institutional zoning. He thought that the Planning Commission was on the right track.

**Chair Larson** handed Commissioner Overbay the sheet submitted by Dale Goldsmith to be read out loud.

#### **Deliberation:**

**Barton Brierley** summarized that the Planning Department wants local businesses to succeed. Over the years the department has flexed with the needs of the local businesses. The code has been improved so that businesses can grow in this community.

**Commissioner Overbay** asked what the new zoning would have done for Stanton Furniture, for example. Staff responded that there were very few locations for Stanton to locate in the community. The changes would hopefully have preserved industrial land for industrial uses.

**Commissioner Haug** didn’t believe that the examples shared from staff are the problems that the public brought up tonight.

**Commissioner Foster** wanted to know if staff was convinced that such changes and their short term cost would benefit the long-term success for Newberg. **Barton Brierley** responded that the mistake of the past was not giving enough space to industrial space. He believes the changes will be helpful.

**Commissioner Haug** reminded the commissioners that lots of industrial use land has been available but it has been turned over to residential use.

**Commissioner Foster** asked if the flexible industrial space area, represented by the people that have come to the various meetings, could have their own special district, and then apply the zoning changes to the rest of the industrial land in Newberg.

**Commissioner Smith** asked if the chart on page P154 is specific enough to be the basis for an ordinance.

**Elaine Taylor** said no, this is just an outline of possible changes.

**Chair Larson** asked for a summary of each commissioner's position.

**Commissioner Foster** understood the public comments shared tonight, but also is still thinking through the ramifications for the city's future. He wondered whether we could create a special district for "flexible industrial" zoning. He asked which of these proposals will get us where we need to be 25 years from now. He liked the idea of making specific, permitted uses in this district.

**Commissioner Smith** agreed that we need zones that work over the long-term, and we need to stick by them. Commercial will drive out industrial; residential and commercial land is always easier to develop than industrial. We need to have zones where we say, "This is industrial."

**Commissioner Haug** said that he believes in well defined zones, but that the current zoning is working. The problem is the shortage of industrial zoning. Additional industrial land will need to be annexed. Good planning does not disrupt this many people. We have to be fair to all, not just those who have been talking. We should allow new uses in these six areas where they fit, and set aside new land with fixed uses.

**Commissioner Tri** felt that current areas need to be allowed to flourish. We should work with foresight about how each area should improve.

**Commissioner Overbay** said that she was ambivalent. We need to ask what's working, and what's not. How can we support their success? What she heard was "predictability." Business owners need consistency and clarity from the Planning Department. This is tough because we're growing and changing, and have conflicting wants and needs. She thought that expanding for greater industrial users is possibly at odds with tightening up the current users.

**Chair Larson** said that the message he has been hearing is to not tamper with what is currently working.

**Chair Larson** asked staff to explore two or three of the options presented. He closed the public hearing.

#### **ITEMS FROM STAFF:**

Barton Brierley mentioned that the next meeting will be February 9, 2006.

#### **VIII. ITEMS FROM COMMISSIONERS:**

**Commissioner Foster** thanked Commissioner Smith for his previous year of leadership.

#### **IX. ADJOURN:**

**Chair Larson** adjourned the meeting at 11:56 p.m.

Approved by the Planning Commission this 9th day of February, 2006.

AYES:

5

NO:

0

ABSENT:

(List Name(s))

SMITH

ABSTAIN:

~~ABSENT:~~

(List Names(s))

Stuhr



Planning Recording Secretary



Planning Commission Chair

09 FEB 06

Date