

PLANNING COMMISSION MINUTES

October 11, 2007

7:00 p.m. Regular Meeting
Newberg Public Safety Building
401 E. Third Street

APPROVED AT THE NOVEMBER 8, 2007 PLANNING COMMISSION MEETING

I. ROLL CALL:

Present:	Matson Haug	Phil Smith	Cathy Stuhr
	Nick Tri	Lon Wall	(Acting Chair)

Daniel Foster (arrived 8:25 pm)

Staff Present: Barton Brierley, AICP Planning Manager
Steve Olson, AICP Associate Planner
Luke Pelz, Assistant Planner
David King, Recording Secretary

II. OPENING:

Acting Pro-Tem Chair Stuhr opened the meeting at 7:01 pm. **Commissioner Haug** motioned for the election of current **Vice Chair Foster** to be elected as Chairman (in light of Chair Overbay's resignation, see copy of letter), and for **Commissioner Stuhr** to be elected new Vice-Chairman.

Motion #1: Haug/Tri To replace Chair Overbay in light of her resignation, Foster is nominated as Chairman and Stuhr is nominated for Vice-Chairman (5 Yes/0 No/ 1 Absent[Foster])

III. CONSENT CALENDAR:

Newly elected **Vice-Chairman Stuhr** moved to approve September 13, 2007 minutes. **Commissioner Smith** noted that a comment attributed to him on page 7 was never mentioned by him during the previous meeting. It was agreed to strike the line from the public record.

Motion #2: Haug/Tri to approve the minutes of the meeting September 13, 2007 with the correction mentioned by Commissioner Smith on page 7(Unanimous voice vote).

IV. COMMUNICATIONS FROM THE FLOOR:

Vice-Chairman Stuhr invited commissioners to encourage all the women they know to take advantage of Breast Cancer Month and to obtain regular screenings.

V. LEGISLATIVE PUBLIC HEARINGS:

Vice-Chairman Stuhr presented the applicant's request, and then outlined the procedures.

1. **APPLICANT:** Initiated by Newberg City Council
REQUEST: Amend the Newberg Development Code to provide standards for large scale retail development
FILE NO.: DCA-06-004
RESOLUTION: 2007-235

Vice-Chairman Stuhr asked for any commissioners who needed to abstain, declare a conflict of interest, or had an objection with this jurisdiction. No one mentioned a reason to abstain from this hearing.

Staff Report:

Luke Pelz introduced the commissioners to the overall plan for the evening. The components of the presentation include: The background of Resolution 2007-235, previous meetings to discuss the request, the text amendments, and end with a staff recommendation.

BACKGROUND: The Newberg City Council initiated the process with 2007-235 to address the issues of large scale commercial development.

PREVIOUS MEETINGS: On April 12, 2007 the Planning Commission heard a presentation by Barton Brierley, and the commissioners asked staff to do additional research. This was accomplished in conjunction with a mobile workshop in May. Tonight the planning commissioners are being presented the new options. The final options will be sent to City Council as recommendations.

TEXT AMENDMENTS: **Luke Pelz** presented a color map showing C-2 land adjacent to Portland Road. The text amendments for C-2 land fell into seven general categories. Mr. Pelz presented the information in order just as it is found in the Agenda Packet, pages 11 – 24. On occasion he referenced a photograph taken on the mobile research trip. Theses pictures are spread throughout the Exhibits, pages 25 – 40.

Vice-Chairman Stuhr, after consulting with Barton Brierley, allowed for public comment before commissioners' deliberation, especially with the questions of staff that can be time consuming.

Public Comment:

Michael Robinson, 1120 NW Couch St., Portland, OR 97209, representing Jeff Smith. His two major comments consisted of recommending a test site to practice the numerous changes. He was also concerned about the threshold requirement for buildings over 30,000 sq. ft. He doesn't believe that a conditional use permit (CUP) is needed on individual retail spaces under 60,000 sq. ft. He suggests that the C-2 code be amended to address the litter, light, noise, and parking/traffic issues that are truly issues with large retailers on crowded Saturdays before Christmas.

Commissioner Wall asked for the background of *Anderson v. Peden*. This was an Oregon Supreme Court case defining conditional use permits. Mr. Robinson believes that enough criteria are in place to control the impact, especially for smaller retailers. Of the three definitions, the third one requires certain retail uses to be conditional. He would rather see site design review, for example, to be better used to accomplish what the city wants to establish with the CUP.

Commissioner Smith asked Mr. Robinson about the Bi-Mart building. Though Commissioner Smith did not know what building codes were in place when it was built, the big, boring box-building seems to argue for a 30,000 sq. ft. threshold. Does Mr. Robinson agree? Mr. Robinson said that design criteria could be imposed without using CUPs.

Commissioner Haug wanted to clarify option 1 of Building Size and Conditional Use Permit (p. 22). Mr. Robinson first repeated that design review could avoid the use of CUPs. Mr. Haug saw the CUPs as a chance for a developer to have a chance to bring one's unusual designs, for example, before the Planning Commission to allow some extra flexibility in the code. Mr. Robinson believes the design review could hold new development, regardless of size of square footage, to an acceptable city standard, instead of applying for a conditional use permit. In the end, Mr. Robinson saw the value of Commissioner Haug's point of view.

Deliberation:

There was agreement to go back through the text amendments with Luke Pelz repeating the options, allow for clarification amongst the commissioners, and then have a vote.

1) On-Site Landscaping

a. Parking Area Landscaping

Option 1 was repeated. **Vice-Chairman Stuhr** asked if all the options were considered appropriate and workable for a 30,000 sq. ft. building. **Barton Brierley** responded that staff has checked out other properties—option 1 could work even for smaller establishments.

Commissioners were content with option 1.

Option 2 was repeated. **Commissioner Haug** asked staff what additional changes and impact would occur if Option 1 was adopted as well as Option 2. Staff answered that there is a visual distinction with a sidewalk down the middle of the cars. It breaks up the sea of cars. **Commissioner Wall** asked if these two options were mutually exclusive of each other. Barton Brierley said no.

Commissioners, without an official vote at this time, adopted options 1 and 2 of 1a.

b. Building

Option 1 was repeated, and this is the option recommended by staff.

Option 2 was repeated. **Vice-Chairman Stuhr** stated her preference for windows, and her support for Option 1. **Commissioner Wall** spoke for the business owner, and stated that windows can be a problem. **Luke Pelz** cleared up the fact that two options are really two different issues for two different parts of the building. **Vice-Chairman Stuhr** asked what the current code is for percentage of window, and Barton Brierley said that developers/builders do not immediately design buildings with 40% glass. The code allows flexibility for the designer.

Commissioners adopted options 1 of 1b.

c. Open Space/Water Features/Plazas

Staff recommends Options 1 or 2, both of which were repeated. **Commissioner Smith** asked if option 1 is only effective if the developer asks for one. **Luke Pelz** said if there was a square footage threshold, then a CUP could be required as well.

Commissioners adopted Option 2 of 1c.

2) Connectivity

a. On-Site Streets

Staff recommends Option 2. **Commissioner Smith** cleared up the word “maybe” in the Option 2 wording. Secondly, he requested that a standard be established for connectivity. Barton Brierley said the block standards have been established, though they wouldn’t apply well to a Wal-Mart, for example, that has 15 acres of land for a retail store.

Commissioner Haug wanted more definition; he didn't want it to be a "may". Barton Brierley said perhaps this could be passed over for now in favor of more time to better define the wording. **Commissioner Wall** likes that Option 2 allows some flexibility.

Mr. Jeff Smith—earlier represented by Mr. Robinson—asked if all the issues could be tabled so that he could provide a test-case at his own expense.

Commissioner Haug was concerned with the inconsistency between Mr. Robinson saying they (Mr. Robinson and Mr. Jeff Smith) were in agreement with the entire request except for the square footage threshold, but now he (Mr. Jeff Smith) is concerned with many of the details.

Commissioner Wall was concerned with procedural issues; there is a growing overlap between legislative and quasi-judicial hearings. **Commissioner Haug** said that this body only sends a recommendation to City Council. That is where Mr. Smith could bring his test case design to show how the particular standards of the recommendation would look in a new C-2 development.

The commissioners were thankful for Mr. Smith's participation.

(No adoption of an option was mentioned)

b. On-Site Walkways

Staff recommends Options 3 and 4, and all four options were quickly repeated.

Commissioners adopted Options 3 and 4 of 2b.

3) Building & Site Design Elements

a. Building Orientation

Staff recommends Options 2 and 3, and all three options were quickly repeated. **Commissioner Haug** wondered about the wording for Options 3. Staff explained that it is aesthetically pleasing to have the building facing the main street adjacent to it. It is more public friendly and pleasing. **Commissioner Wall** asked if the real reason for Option 3 was to hide the parking lot. Local businesses, such as Wilco and Blockbuster, were not oriented according to Option 3.

Commissioner Smith questioned what a developer is to do with a long narrow lot in a C-2 zone. **Commissioner Haug** answered that the CUP is the very tool that allows for flexibility in such cases. **Commissioner Wall** added that CUP is a burden to a developer/applicant, and therefore it should only be applied judiciously. Nevertheless, **Commissioner Haug** believes having the longest side of a building facing the street accommodates streetscape aesthetics/pedestrian friendliness and augments a better use of parking.

Group discussion ensued with staff about exceptions to Option 3, how to possibly encourage a door on the narrow side of a building that faces a street, and how to choose when a building faces two main streets. Current code requires the street with the higher classification to be the front, though the code also promotes pedestrian friendliness. **Commissioner Haug** suggests new wording for 3A: The longest side shall be on the public street unless the lot will not accommodate the width of the building. Staff is going to revisit the language of Option 3 as well as the first two sentences of Option 2. Everyone agrees that the orientation of new development needs to make Newberg's C-2 streets pedestrian friendly.

Commissioner Wall questioned if store fronts facing a street make a more pedestrian friendly street. For example, look at downtown Newberg. He wanted to know if other reasons for new development fronting a street were at play other than aesthetics.

Staff was asked to reword Options 2 and 3. Option 1 was not recommended because parking lots can not be located between the street and a building. The one exception is a drive aisle like at the rebuilt McDonalds.

Commissioners asked staff to rework Options 2 and 3 for 3a.

b. Pedestrian Entrances

Staff does not recommend any changes.

Commissioners are content with staff recommendation for 3b.

c. Façade Design

Staff recommends Options 1 and 2. Some discussion followed on how to ensure that all the options are aesthetically pleasing, allowing no short cuts for developers.

Commissioners adopted Options 1 and 2 for 3c.

d. Façade Materials

Staff recommends Option 1. **Commissioner Smith** wanted to reword the option. "Each building façade shall be comprised of at least two building materials, but the lesser comprising not less than 10% of the total façade."

Commissioners adopted *reworded* Option 1 3d.

e. Windows

Staff recommends Options 1, 2 and 3. There was a clarification of the percentage of windows for active space. The 50% that shall allow view into an active space is 50% *of* the 20% of the ground floor facade.

Commissioners adopted Options 1, 2 and 3 for 3e.

f. Pedestrian Scale Lighting

Staff recommends Option 1. **Commissioner Haug** would like the particular lamps to focus the light down for pedestrian benefit, and not pointed upwards thus creating light pollution. It was agreed that staff will reword option one to make sure light is focused down.

Commissioners asked Option 1 for 3f to be reworked by staff.

4) Parking

There are no additional text amendments.

Commissioners said they were in agreement with no changes.

5) Green Design

Staff recommends adopt no option at this time. Much will happen in this area in the coming years.

Commissioner Haug mentioned that the new hospital's award winning design standards need to be reviewed, considered how to be brought into general city ordinances to promote green design throughout the city. **Commissioner Wall** pointed out that green design does require the city to be proactive and have staff get some standards in place for future development.

Commissioners concur with staff for 5.

6) Building Size and Conditional Use Permit

Staff recommends Options 1 and 2, and discussion quickly ensued about these. Staff then reviewed Options 3 and 4.

Commissioners adopted Options 1 and 2 for 6.

7) Adaptive Refuse and White Elephant Clauses

Staff recommends no options at this time though Option 1 was explained. Much discussion followed on how to implement this. Like insurance someone might not want to pay it, but it truly saves the city from having an abandoned building. Staff was asked to find other examples in Oregon and what standards they use.

Commissioners asked staff to do some additional research.

Commissioner Smith moved to approve all the parts adopted, while reserving options 2a, 3a, and 3f for further study, and only after further study and discussion is complete, while the entire recommendation be sent to City Council. **Commissioner Haug** seconded the motion. Much discussion followed on 1b, and the commissioners are still not adopting it.

Motion #3: Smith/Haug to approve the adopted Options while allowing for further study on 2a, 3a, and 3f. Motion passed (6 Yes/ 0 No).

Commission Haug wants public testimony to stay open. Barton Brierley concurs and added that he would talk to Jeff Smith about his potential site plan. Mr. Brierley would let Mr. Smith know that he can take the site plan to City Council.

Motion #4: Haug/Wall to keep the public testimony open for Resolution 2007-235. Motion passed (6 Yes/ 0 No).

Motion #5: Smith/Foster to ask staff to pursue Green Design. Motion passed (6 Yes/ 0 No).

Motion #6: Smith/Haug to ask staff to pursue white elephant standards. Motion passed (6 Yes/ 0 No).

VI. ITEMS FROM STAFF:

Barton Brierley recapped the beginning of the meeting and Foster being voted Chair. Mr. Brierley will bring a card for everyone to sign.

Barton Brierley updated the commissioners on City Council issues, such as the URA proposal brought by NUAMC.

The commissioners will next hear the SE Transportation plan.

Three Planning Commission appointments expire at the end of the year. Commissioners Foster and Tri are two of them. There is also an opening for a Student Representative.

The next meeting is scheduled for November 8, 2007.

Barton Brierley referenced some training opportunities. Commissioner Smith related the animosity between staff and commissioners that he has heard from other cities. Conversely, Mr. Smith appreciates the openness and relationship with the Newberg staff.

There might be an hour-long planning commission training workshop presented via the internet from PSU.

VII. ITEMS FROM COMMISSIONERS:

Haug brought up an issue concerning the spring water expenses.

VIII. ADJOURN:

Acting Chair Stuhr adjourned the meeting at 10:28 p.m.

Approved by the Planning Commission this 8th day of November, 2007.

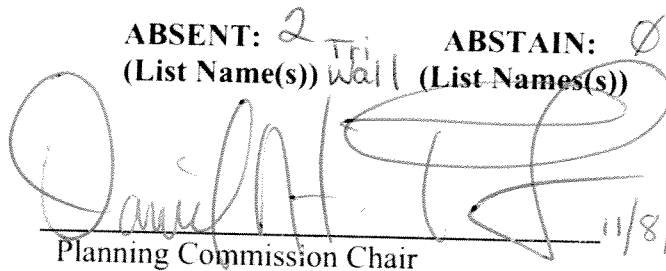
AYES: 4

NO: 0

ABSENT: 2
(List Name(s))

ABSTAIN: 0
(List Names(s))

 11/8/07
Planning Recording Secretary

 11/8/07
Planning Commission Chair