

PLANNING COMMISSION MINUTES

January 8, 2009

7:00 p.m. Regular Meeting

Newberg Public Safety Building

401 E. Third Street

TO BE APPROVED AT THE MARCH 12, 2009 PLANNING COMMISSION MEETING

I. OATH OF OFFICE:

The meeting began with the reappointment of Cathy Stuhr and Phil Smith as Planning Commissioners. Norma Alley, CMC, City Recorder swore in/affirmed the two commissioners.

II. ANNOUNCEMENT:

Barton Brierley announced the new student representative on the Planning Commission, Amanda Golson. Mayor Andrews added that she has also been a strong member of the Ford Family Leadership Program.

III. ROLL CALL:

Present:	Thomas Barnes	Derek Duff	Matson Haug
	Phil Smith	Cathy Stuhr, Chair	Nick Tri
	Lon Wall, Vice Chair	Amanda Golson, student PC	

Staff Present:

- Barton Brierley, Planning Director
- Steve Olson, Associate Planner
- Luke Pelz, Assistant Planner
- Jessica Nunley, Assistant Planner
- David King, Recording Secretary
- Mayor Andrews

IV. OPENING:

Chair Stuhr had roll call taken and drew attention to the schedule of future chair positions, as well as the election tonight of Lon Wall as Chair and Nick Tri as Vice Chair.

V. CONSENT CALENDAR:

The commissioners voted jointly for the new leadership positions as well as the approval of the December 11, 2008 minutes.

Motion #1: Haug/Barnes to approve Lon Wall as new Chair, Nick Tri as new Vice Chair, and to approve the minutes from the Planning Commission meeting of December 11, 2008 (7 Yes/0 No, 0 absent).

VI. NOMINATION & APPOINTMENT OF NUAMC ALTERNATE FROM PLANNING COMMISSION:

Commissioner Smith said that his time as an alternate for Mr. Haug has worked quite well, only requiring him to fill in twice.

Motion #2: By Consent to appoint Philip Smith as NUAMC alternate representative from the Planning Commission for 2009.

VII. COMMUNICATIONS FROM THE FLOOR:

Chair Wall offered time for items to be brought forth from the audience, but no citizens were present.

VIII. LEGISLATIVE PUBLIC HEARINGS:

1. **APPLICANT:** City of Newberg
 REQUEST: Amend the Newberg Development Code to provide
 setback and camouflage standards for telecommunication
 towers.
 FILE NO.: G-104-04 **RESOLUTION: 2008-259**

Staff Report:

Luke Pelz summarized where the Planning Commission left off from the December 11, 2008 meeting. Staff has followed up on the Commissioners' requests to better understand potential amendments to the Federal law, to better understand the City of Eugene's code, clarification on Newberg's existing height limits, as well as set back limits for towers on existing structures.

Mr. Pelz talked to the franchise manager in Eugene about the pending change to the FCC requirements. She let Mr. Pelz know that a 30-day approval period proposal has been taken off the table by the FCC. Eugene's cell tower code is similar to Newberg's, with the addition of cell tower setbacks equaling 100% of their height.

Double underlined text amendments, in the Agenda Packet and presented visually, were summarized by Mr. Pelz to the commissioners; followed by a visual set of examples of camouflaged towers.

Commissioner Haug asked about R-1 zoning conditional use for antennas. Mr. Pelz said an antenna doesn't have as many restrictions as a cell tower, and is a conditional use when added to a utility pole in R-1.

Staff recommends adopting Resolution 2008-259.

Questions for Staff:

Chair Wall asked what exactly the franchise manager meant by "off the table". Mr. Pelz said that she said that FCC has reversed its thinking and has decided to drop the issue.

Commissioner Stuhr clarified the definition of antenna and tower (i.e., antenna support structure) in order to ensure the setback requirement for Newberg is properly understood.

Commissioner Barnes asked what would happen when Newberg annexes land that already has a tower on it. Mr. Pelz answered that such a tower would be non-conforming, and any addition would have to meet the city requirements under certain time constraints. Barton Brierley affirmed that anything involved with an annexation that is nonconforming, must be dealt with under certain time restraints (1-10 years as determined by the Council).

Chair Wall wanted staff to clarify the resolution number attached to this request. After plenty of discussion, it was agreed the resolution would retain the number, 2008-259.

Commissioner Haug motioned to approve the motion on p. 23/89. Vice Chairman Tri seconded.

Discussion:

Commissioner Haug complemented staff for their work since the last discussion on the topic.

Motion #3: Haug/Tri to approve Resolution 2008-259 (7 Yes/0 No, 0 Absent).

2. **APPLICANT:** City of Newberg
 REQUEST: Amend the Newberg Development Code to require large-scale retail developments to meet "green" development standards and to provide vacancy agreements and economic impact assessments.
 FILE NO.: **DCA-06-04** **RESOLUTION: 2008-261**

Staff Report:

Luke Pelz summarized the request in three parts. Mr. Pelz first reviewed the background with a timeline view going back to 2005 and City Council's desire to understand the impact of "big box" issues. Various workshops were held without any major action being taken. By 2007 text proposals began.

By definition, a large scale retailer is one with a 30,000 sq. ft. building or 50,000 cumulative sq. ft. on one site. With various pictures used to illustrate his points, Mr. Pelz showed green development standards being practiced at large box retailers. For instance, Walgreens in Newberg is installing solar panels on the roof.

Mr. Pelz moved into a discussion of the vacancy agreement details. Amanda Golson asked about the retailer taking more than two years to fill a vacancy. Mr. Pelz explained how the money would be collected at the time of development, and then used at the time the building becomes vacant but not maintained by the owners.

Mr. Pelz checked to see what other cities are doing regarding this issue. He gave examples of other ways to deal with the bond issue, especially in regard to maintaining the landscaping of a vacated facility. The City of Newberg proposes collecting 1% of the value of the development project in a bond.

Commissioner Smith asked about the details of a bond. Specifically, the bond money can be spent and the City can still require more money from the owners if more is needed for maintenance. Pelz agreed.

Mr. Pelz explained L.E.E.D. (Leadership in Energy and Environmental Design). The City of Newberg wants to require new big-box developments to earn at least the minimum L.E.E.D certification, and to earn two points for storm water runoff.

Planning Director Barton Brierley discussed fiscal impact reports at the design review stage to ensure no negative financial impact would hit the City of Newberg. The report, paid for by the developer, could show the existing merchant comparison impact, existing wage earner impact, and the impact on police and fire services. The decision would only be based on the impact to city services.

Staff recommended adoption of Resolution 2008-261.

Questions for Staff:

Commissioner Stuhr asked if staff doesn't already ask for impact on police, fire, etc. Barton Brierley said that annexations do require such impact studies, but not new development in general. She also asked for clarity from an enforcement viewpoint of the language "adverse impact." Barton Brierley said that "no significant impact" is becoming a regularly used phrase that is well accepted in development review.

Mayor Andrews added that on a federal level the term ‘de minimis’ is used, which is a more quantifiable term meaning too small to take into account.

He also asked what provision is available to tap into a fidelity bond or a security bond during the two years. Mr. Pelz responded that it takes two years before being considered vacant. This gives the property owner time to find a new tenant. For example, the old Wilco building sat empty for one year. Existing code requirements would oblige tenants to maintain landscaping, but not maintain the integrity of the building structure.

A late correspondence letter was received this morning, and Chair Wall believed it appropriate to distribute and ask commissioners read it at this time.

Deliberation:

Commissioner Smith moved to adopt the proposed resolution with two amendments: change period for security bond from two years to one year, and remove parts A and B from 116.04. Commissioner Haug seconded.

Commissioner Haug suggested keeping the period as a two year period but have it conditionally approved. Mr. Pelz said that it might work regardless of the time frame because it allows the City to act at any time something is needed. Barton Brierley added that language could be added to alert the owner of City grievances during the first year, but after that the City will act.

Chair Wall addressed the issue of making an issue of economic impact on like businesses. He supports requiring a financial impact statement on the development’s affects on the city, but not on other businesses. Commissioner Smith pointed out that one of his amendments to the resolution requires removal of parts A and B which solves the issue.

Commissioner Haug moved to amend the motion to keep the bond security at two years, but add a means for owners to be contacted, permitting the city to use the money earlier if needed. Commissioner Barnes seconded.

Commissioner Smith recommended that a brief break be taken for staff to fine-tune the language in hopes of resolving the issue tonight.

Chair Wall suggested a short break

Staff referred to p. 72, (10); change two years to one year in the last line, keep a-d, and add e, which reads as follows: “If at any time prior to one year vacancy the director finds the property is in need of maintenance, the director shall notify the owner of the need to maintain the property and the intent to use the bond. Unless the owner provides the needed maintenance, or objects within thirty (30) days of the notice, the surety may be

used to maintain the property. If the owner objects, the City Council will hear the matter and decide if the surety is to be used.”

Commissioner Stuhr asked if more specific language would be helpful, especially in regard to “notify in writing.”

Motion #4: Smith/Barnes to approve the amendment to Resolution 2008-261 (7 Yes/0 No, 0 Absent).

Commissioner Smith explained how and why he made the motion, especially regarding items 116.04. a. and b. He didn’t believe City codes have criteria for them, and that it is not the place of City code to decide which businesses are established in town.

Commissioner Haug believes that the City doesn’t have any criteria but the language of parts A. and B. would allow criteria if the commission wanted to pursue that approach.

Commissioner Smith followed up with 116.05 as an example of proper criteria.

Chair Wall added that having such issues in the code means that it carries a certain weight, even if it is not a decision criterion.

Commissioner Duff wondered why additional consultant information is needed if the City already knows about adverse impact affects? Chair Wall said that the resolution as amended reduces the need for the consultant.

Commissioner Stuhr brought up p. 74 and the change of grammar of item B.

Commissioner Tri wanted to call for the question.

Amanda Golson added that the removal of items A. and B. makes sense.

Commissioner Stuhr said that fiscal impact is quantifiable. On p. 74, 116.05, no significant adverse impact might not be specific enough.

Commissioner Smith added that it is worded as a high standard, but it allows some leeway to ensure that the planning department can move forward.

Commissioner Stuhr discussed the storm water issue. She moved to amend Resolution 2008-261 so that a minimum of two (2) points come out of the water efficiency section. Commissioner Smith seconded.

Commissioner Haug moved to amend the amendment to make it one (1) point. Commissioner Duff seconded.

Commissioner Barnes believes that one point would be better because of the balance in relation to the other point categories. Commissioner Duff pointed out that innovative wastewater efficiency is a high criterion.

Motion #5: Haug/Duff to approve the amendment to Resolution 2008-261 amendment to have one (1) point on the storm water issue (7 Yes/0 No, 0 Absent).

Motion #6: Stuhr/Smith to approve the amendment to Resolution 2008-261 (7 Yes/0 No, 0 Absent).

Motion #7: Smith/Haug to approve Resolution 2008-261 as amended (7 Yes/0 No, 0 Absent).

IX. ITEMS FROM STAFF:

Barton Brierley clarified that the appointment of a Planning Commission alternate representative to NUAMC is a recommendation to the mayor that he will decide on soon.

The Traffic Safety Commission will be discussing the multifamily access & parking issue, and sending a recommendation on to the City Council.

The next Planning Commission meeting is scheduled for February 12, 2009, and the commissioners will hear about putting in a filling station at Fred Meyer.

X. ITEMS FROM COMMISSIONERS:

Commissioner Haug met a citizen who was concerned about the setbacks and screening of residential properties around Chehalem Springs retirement center.

Commissioner Smith hopes that the Ad Hoc group on Affordable Housing will be making a summary report soon. This report will include recommendations for the development code.

Chair Wall thanked the mayor for his attendance tonight. Would a joint meeting with City Council be possible in the near future? Mayor Andrews would like to see this happen by early summer. Mayor Andrews also thanked the Planning Commissioners for their hard work on behalf of the City this past year.

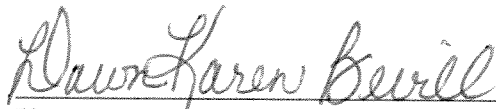
Commission Barnes pointed out that the Gish property is for sale, as well as Chehalem Mill.

VIII. ADJOURN

Chair Wall adjourned the meeting at 9:01 p.m.

Approved by the Planning Commission this 12 day of February, 2009.

AYES: 7 **NAYES:** 0 **ABSENT:** 0 **ABSTAIN:** 0



Planning Recording Secretary



Planning Commission Chair