

PLANNING COMMISSION MINUTES

March 12, 2009

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

TO BE APPROVED AT THE APRIL 9, 2009 PLANNING COMMISSION MEETING

I. ROLL CALL:

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

Staff Present: Barton Brierley, Planning & Building Director
Steve Olson, Associate Planner
Jessica Nunley, Assistant Planner
David King, Recording Secretary
Crystal Kelly, Recording Secretary-in-training

II. OPENING:

Chair Wall asked for roll call.

III. COMMUNICATIONS FROM THE FLOOR:

Chair Wall offered an opportunity for non-agenda items to be brought forth from the audience, but none of the eleven citizens had a different topic to discuss.

IV. QUASI-JUDICIAL PUBLIC HEARINGS:

- APPLICANT:** Charles and Ellen McClure, Trustees.
REQUEST: Annexation of approx. 69.21 acres into the city limits
LOCATION: 30295 Highway 99W
TAX LOT: 3215-500, 502, & 504, and lots 3215B-100 through 4000
FILE NO.: ANX-08-006
RESOLUTION: 2009-263
CRITERIA: Newberg Development Code § 151.261, 151.262, 151.263, Ordinance 2007-2671

Chair Wall asked the commissioners if they had any ex parte contact, biases, and/or conflict of interest. None of the commissioners brought up a reason to abstain. Chair Wall then read from ORS 197.763 (Page 3 of 315) before the public hearing.

Staff Report:

Steve Olson reminded everyone of the location of the property on the eastern edge of Newberg. A more detailed map showed the property in relation to Benjamin Rd. and Hwy. 99W. The request is to approve annexation of 69.21 acres into the city of Newberg. The applicant requests a comprehensive plan/zone change from the current AFLH (Agriculture/Forestry Large Holding) for most of the property, with some VLDR (Very Low Density Residential) on the northwest corner, to LDR -1/A, LDR -0.11/A with Historic Landmark and stream corridor overlays, a Public/Quasi-public designation for a retirement facility, and a zone that allows a winery.

In 2006, Yamhill County and the State of Oregon approved a Measure 37 claim on the property. A majority of the property (47.58 acres out of 69.21) has been platted with a residential subdivision containing 36 one-acre lots. A Development Agreement between the City and the applicant which allowed connection to City water, set the terms for potential annexation, and set the future comprehensive plan/zoning designations upon inclusion in the Urban Reserve Area was adopted by the City by Ordinance 2007-2671.

An aerial photo showed the surrounding properties, including Oxberg Lake Estates to the west and Rex Hill Winery to the east. The next picture showed the Comprehensive Plan, detailing the residential lots, as well as the pond in the southwest corner, and the buildings on the historical register. Steve Olson also showed the 2007 Urban Reserve Area expansion, which has been approved by the City and County but not yet approved by the State. The property has been proposed to be part of the expanded URA. Mr. Olson then handed out a colored zoning map (see handout #1—colored version of Page 49 of 315) with the residential lots to the north in yellow, to the institutional orange in the south, and the historic overlay in the southwest corner, with a winery limited use overlay on the west. The R-P base zone for the winery will also allow some flexibility, even office space for the winery. Next, the stream corridor was viewed (Pages 50,51 of 315). Mr. Olson explained that the applicant is already planning a green buffer zone along the stream channels on the site, and the stream corridor overlays shown will protect the riparian buffer zones that will be planted along drainages A and B.

Criteria:

The site must be contiguous to the City of Newberg and within the UGB/ URA. This specific property has been granted an exception to the UGB/URA requirement by Ordinance 2007-2671 due to the unique circumstances of its location, size, and development approval under Measure 37. The site's Comprehensive Plan and Zoning designations will change upon inclusion into the URA, per the Development Agreement adopted under Ordinance 2007-2671, and with the addition of the Stream Corridor overlay on parts of drainages A and B, and the winery limited use overlay. If the property is annexed before inclusion in the URA then the City will adopt land use regulations for the site identical to the existing county regulations that apply to the site.

A stream corridor/wetlands analysis was completed as required by State Goal 5. The most prominent wetland is the pond/stream in the southwest corner of the property,

which was already identified as needing a stream corridor overlay. The farming nature of the hazelnut orchard has changed the property from any natural, pristine setting. Most of the drainages on the site have little vegetation and little habitat value. The exception is drainage D, which feeds into the pond and will be added to the pond stream corridor overlay. The applicant will also be planting a riparian buffer along drainages A and B which will greatly enhance the existing channels and should be protected by a stream corridor overlay, as well.

Adequate urban services can be made available within three years. Currently city water is available along 99W. The applicant proposes to build a sanitary sewer service on the site with a pump station on the southern edge, with a line extended west to the nearest trunk line across 99W. The properties to the west may be developed prior to this site, which would reduce the extension of the sewer line. Storm water on the site will be directed to detention ponds, which will then flow southwest and southeast to existing culverts under 99W.

For the roads in the area, the applicant has already improved a portion of Benjamin Road. Benjamin Road must be the access road for all new development on the site. ODOT is requiring the applicant to apply for an access permit for the historic property from 99W, or show they already have an approved access. A trip cap has been proposed by the applicant at 65 PM peak hour trips for the institutional portion of the property (see Agenda Packet Page 126 of 315 and following), which will keep it from having a significant impact on transportation facilities. The subdivision of residential homes is not considered in this figure since that portion of the development has already been approved by the County. ODOT agreed that with the trip cap the annexation would not have a significant impact on transportation facilities.

The intersection of Springbrook and Benjamin Roads has a sight distance issue that the applicant will help pay for at the time of future improvements. The applicant will also share in the cost of the future improvement at Springbrook Road and Hwy. 99W, based on the trips from the Institutional parcel, and as previously required for other adjacent annexations.

The timing of the extension of Gueldner Drive between Crestview Drive and Benjamin Road is the tricky issue for this proposal. When the properties along 99W west of the site are developed they will construct Gueldner Drive, which will allow the closure of Benjamin Road at 99W. If the institutional (retirement facility) parcel on the McClure property is developed prior to the construction of Gueldner Drive it would create traffic difficulties at Benjamin Road and Hwy. 99. The traffic study suggests that the Benjamin/99W intersection could be reconfigured, possibly to right-in, right-out, and ODOT suggested conditions of approval that would require the applicant to apply to ODOT on behalf of the County for an approach road permit for Benjamin/99W. Staff thinks that reconfiguring the Benjamin/99W intersection would address some issues but potentially create other access/safety issues. Because of this staff recommends delaying the institutional parcel development until Gueldner Drive is built between Crestview and Benjamin.

The impact on city services should be minimal. The subdivision will develop whether or not the site is annexed into the city. The institutional retirement facility should not create much demand for parks or schools. Fire department emergency services might be more needed in the institutional area than the others. Overall, the proposal is in accord with the adopted Development Agreement, as well.

Staff Recommendation

Approve as conditioned with the future land use changes upon inclusion in the URA as shown in Exhibit E. Also, upon annexation, adopt Comprehensive Plan and zoning designations for the site identical to current Yamhill County land use regulations. The applicant will share in future road/intersection improvements at Springbrook/99W and Springbrook/Benjamin. The existing home would have to connect to city services when they are extended to the subdivision. The next available general election date for annexations would be the May 2010 election.

The applicants proposed some revisions to the conditions of approval (see handout #2). Steve Olson presented the handout by reading it as he handed out color copies to the commissioners. Most of the suggested changes were clarifications and were acceptable to staff. The significant issue is (6) regarding the Benjamin/99W.

The applicant's language is straight from ODOT's suggested conditions, and they propose that the institutional land be allowed to development prior to the construction of the new Gueldner Drive. Staff still prefers the original condition of having Gueldner Drive developed before the institutional parcel, because of potential access/safety issues at Benjamin Road/Hwy 99W.

Questions of Staff:

Commissioner Haug clarified that the residential section can proceed without the annexation process being approved and without improvements to Benjamin Road. Steve Olson said yes the residential section can proceed, but that the County subdivision approval and the development agreement do require improvements to the Benjamin Road frontage. These improvements are partially completed. Then Mr. Haug asked a multi-part question, "Who approved the residential development?" and "What are the standards that they have to uphold?" Are there design standards that have been approved by the county, and how will they be upheld? Lastly, for connectivity, would it be appropriate now to consider stub streets design to the north for any future development?

Steve Olson said that the subdivision was approved by the county, and the standards were set by the county. There are also requirements in the development agreement. Mr. Haug asked what happens to county standards that don't meet city standards if the annexation is approved? Steve Olson said that the streets don't have to be improved to come up to city standards, i.e. the streets will be 22-foot wide with 5 feet of sidewalk, and will not be widened if annexed. This issue was discussed at the approval of the development

agreement. Barton Brierley added that these issues were anticipated, and that the roads would be developed as first agreed. The City did have a chance to agree to such standards at the time of the Development Agreement.

Commissioner Smith brought up the upgrade costs. Why would the institutional parcel have to pay for upgrades at Providence Drive, for example, and not the residential neighborhood? Steve Olson said that institutional parcel will pay for certain road improvements as already discussed, but not the Crestview extension because that intersection is being covered by the three properties previously annexed and adjacent to the intersection. The subdivision has already been approved, but the institutional parcel would develop some time after annexation. Mr. Smith also wanted to know how the trip count can be capped. Steve Olson explained that the trip cap will be used at the design review stage once the exact use of the institutional parcel is identified. The trip cap will limit the size of the development that can be approved.

Commissioner Smith also asked what the addition of these homes will do for the affordable housing stock in Newberg, and what will it do for city density. Steve Olson said that the institutional parcel *could* be developed like Friendsview, and therefore might increase density, but the one acre residential lots will be high-end homes, and will decrease density. The single family homes will probably not be affordable, but the retirement facility could have a range of housing costs (not known at this point).

Chair Wall asked what this annexation would do for the projected use of land needs in the future. Barton Brierley said that this property was included in the URA expansion with the proposed development plan. Even if this land was brought into the UGB today, there is still a nine-year supply of land, but a deficit for a twenty-year supply in the URA. Mr. Wall then asked how this annexation would affect the UGB inventory. Barton Brierley said that it is not in the UGB so there are no affects.

Commissioner Smith asked what the projected needs and inventory are for institutional lands in Newberg. Barton Brierley reported that more institutional land is needed (churches, schools, hospitals, nursing homes, etc.), but such sites usually develop on commercial property or industrial, and then are rezoned to institutional.

Commissioner Barnes read from the Proposed Revisions handout and asked if the applicant's contribution for future street improvements will only apply to the institutional property. Steve Olson nodded yes.

Chair Wall wondered what would happen if one acre lots did not sell, and had to be divided. Steve Olson said that there would have to be a zone change, comprehensive plan change, let alone a subdivision plan. The Planning Commission and the City Council would have to approve such a change in the plan.

Commissioner Haug asked for the total population of the subdivision. There will be 36 lots, with 2.5 people/lot, this would approximate out to 90 new people using the intersection at Benjamin Road. Mr. Haug wondered about such traffic using the

intersection at Benjamin Road and Hwy 99W. Steve Olson said that if such land were already in the city, such additional traffic levels would approximate to a 40 trip count at the PM peak, which is typically the threshold at which we require a traffic study.

With no more questions of staff, Barton Brierley added that there are no current plans to annex any property to the west, north or east of the property.

Steve Olson added a very late correspondence from Yamhill County Roads that said they saw no conflict with the annexation.

Public Testimony:

Chair Wall asked that people electing to speak to try to stick to the time limits and criteria. Furthermore, a time limit will not be strictly enforced but citizens were asked to bring concise comments. Chair Wall also asked for one's name to be mentioned first.

Steve Abel, attorney for the McClures, first stated how much he appreciates the work that staff has done. He recounted how the Development Agreement is guiding the development. He stressed that the development standards were already discussed, agreed to, and will drive the development. The Development Agreement also takes care of any further subdivision of the property. Mr. Abel reported that the trip count is very low at 65, even for institutional use. The applicant is not planning to develop the institutional parcel with high density.

Chair Wall asked if the one (1) acre lots could be further subdivided under the original Measure 37 agreement if the land is not annexed. Mr. Abel said the lots could not under county rules. He added that if the property is annexed to the city, then possibly there is a legal way to subdivide the lots even smaller, but the applicant has no plans to do this and it would require City Council approval.

Commissioner Smith mentioned that the agreement between the City and the property owner is binding. Why then, is this hearing being held tonight? Mr. Abel said that the possibility of annexation was part of the original Development Agreement, and makes good sense for the City. The city is not required to annex the property, however.

Chair Wall asked for specific reasons why the applicant wants to bring these lots into the City. Mr. Abel said that three years ago, the City came to McClures to have a hand in development standards of their residential development. It also benefits the residential development to have city services made available. Public water and sanitary sewer are environmental more beneficial than well water and septic tanks.

Charles McClure, spoke of life out at their property. The property was purchased 42 years ago when the land was rural and Benjamin Road was a gravel road. The growing city of Newberg moved towards their property with the threat of growing around it. When the Measure 37 claim was approved, the city sought out the McClures to have a hand in how the land was developed. After nearly a whole year of discussion, the

Development Agreement was solidified by 2007. In order to have access to the city sewer system, the property is seeking annexation to avoid the development of septic systems. The city benefits from a historic landmark, greenways with walking trails, a nice meeting venue, and a beautiful entry point for the City. He asked the commissioners to recommend approval to the City Council.

Chair Wall asked for Mr. McClure's general opinion of Measure 37. Mr. McClure said he was in favor of it for *his* property. Then he elaborated that he thought it was unfair that the URA proposals all around his property were bringing City property right up to his property but not including his property, so he thought it only right to get his property involved as well.

Steve Abel added and assured the commissioners that of all the Measure 37 claims, this one by the applicant had the most local government involvement.

Michael Ard prepared the traffic impact study (TIS) for this proposal. He discussed condition six (6) of the Proposed Revisions handout. The difficulty and risk of six (6) is the lack of knowledge regarding when Gueldner Drive will be developed. The worst scenario is that Gueldner Dr. will never be developed, for a myriad of reasons. It may be built but it is possible that the applicant will apply for the build out of the institutional parcel before the development of Gueldner Drive. Mr. Ard brought up traffic volume projections for 2020, and they are expected to be 137% of current volume on Hwy. 99W. The concern is the intersection of Hwy. 99W and Benjamin Road, and whether future improvements could address ODOT and City concerns.

He proposes a modification of condition six (6) that would allow the institutional parcel to develop separate from the development of Gueldner Drive in part because the intersection at Benjamin Road is not that dangerous. He reminded the commissioners that in the last five years there has only been one low impact accident at Benjamin Road and Hwy. 99W.

Commissioner Stuhr wondered if his proposal is different that what is listed in the handout. Mr. Ard said his proposal is slightly different, but they are willing to accept the wording they used with ODOT's language with only a little modification. Commissioner Haug asked for him to repeat his request. He read (6) just as in the handout—his revision requires *the city* and ODOT to approve any mitigation changes.

Commissioner Smith asked about the future institutional residents using the Benjamin Road intersection. Mr. Smith pointed out that such residents will likely be 65 and over. Mr. Ard agreed, but said that the institutional facility would have staff and visitors that would be younger. Nevertheless, Commissioner Smith asked if it would generally be safer if the institutional parcel development had to wait upon the completion of Gueldner Drive and the use of a traffic light. Mr. Ard agreed in a general sense but said that other solutions could also be workable.

Commissioner Stuhr asked staff what the applicant's recourse is in the future if they are willing and ready to build the institutional parcel but Gueldner Drive is still not completed. Barton Brierley said that City Council would have to approve the change to the condition. Mr. Ard added that if the condition is removed, and if the annexation is not approved, then they have removed a funding source for improving the intersection and road system around the property.

Brett Veatch, from his experience on City Council and NUAMC, believes that this is a good development for Newberg and a nice benefit for the City. He strongly encourages approval of the annexation. Chair Wall asked Mr. Veatch if he were on City Council hearing this application, then would he be comfortable with the City's control over the development. Brett Veatch reminded commissioners that the residential portion is free to go forward without annexation. However, he also believes that there are plenty of safeguards in place to keep the lots from being further downsized, and increasing the amount of traffic in the area.

Mike Gougler is a developer in the City of Newberg without any likely benefit from the development. He is amazed at the commissioners' restraint so far. He expected that this innovative proposal would have the commissioners standing and cheering. As a developer he is held accountable to a host of rules by the State, County, City, etc. Mr. Gougler believes this development is a gift to the City. The SDC fees will amount to \$ 1.5 million alone, a true benefit to the City.

Commissioner Stuhr asked for Mr. Gougler's thoughts on Gueldner Drive issue. As a developer, he likes to be able to count on important development issues. He suggests making it a requirement to come back to Planning Commission to add some flexibility, but warned about make it too restrictive in writing.

Marc Willcuts is a developer and real estate broker in Newberg that has done many projects in Yamhill County. He believes that the Planning Commission can really support a green project by approving this annexation. Mr. Willcuts would like to see it developed under the City jurisdiction before third parties get involved.

John Trudel is representing Oxberg Lake Estates, and neighbors of the McClures. He would like to remind the commissioners that Oxford Lake Homeowners Association (OLHO) does not want to annex but they conditionally support the annexation of the McClure property. He wants to see all previous agreements kept, especially the 5-Party-Agreements and understandings, including the best practices protection of the Oxberg Water System aquifer. His handout was entered into the record. (See handout #3).

Chair Wall made two points: Disgruntled citizens may see a plan that they don't like, but once the property is annexed, it is out of their hands. He also noted that various island properties can be required to be annexed. This could happen to Oxberg Lake Estates if all the surrounding properties annex. Mr. Trudel believes there is precedent not to be annexed, and they are willing to fight any future pressure to be annexed.

Commissioner Stuhr asked for a point of order. Chair Wall brought up such points believing that OLHO's support of the McClure annexation was conditional only if OLHO was not annexed.

William Hatcher, Owner of Rex Hill vineyard, discussed soil types of his land down to the McClure's land. He believes that this development would be a very nice transition between his rural land and the city.

* * * Break * * *

Steve Abel, reemphasized their interest in this application being approved.

Chair Wall asked if the applicant is aware that citizens have to vote on annexations. If the annexation didn't pass after the citizens voted, then what would the applicant attempt? Mr. Abel said that the Development Agreement states that the city could return the proposal to a future ballot if it wished to, under current city rules.

Final staff report:

Steve Olson reiterated all the conditions, and stated a revision to six (6) in order to add some flexibility. The newly proposed condition would be to allow the condition to read as written but add the crossed-out line and add at the end: "*. . . the Gueldner Drive extension from Crestview Drive to Benjamin Road must be in place before the development of the institutional parcel unless otherwise approved by the Planning Commission through a Type III Process.*"

Steve Abel proposed leaving the text as ODOT stated it, since they manage Hwy. 99W, and then allow City staff to have veto power over ODOT's analysis.

Closed Public Testimony

Deliberation:

Motion #1 Haug/Stuhr to approve the Resolution 2009-263 with amended condition (6)

Commissioner Haug wants to pass the annexation but is open to accepting the changes to condition six (6).

Commissioner Smith wants to amend the motion to clarify the detail of condition six (6): strike out the first sentence again; use the underlined ODOT language; and then add "*ODOT's approval shall be subject to City concurrence.*"

Commissioner Barnes repeated the applicant's language of any mitigation having to be acceptable to City staff.

Motion #2 Smith/Tri to amend the language of condition six (6) to include the previous underlined words plus, " <i>ODOT's approval shall be subject to city concurrence.</i> "

Vote on Motion #2 (7 Yes/0 No, 0 Absent)

Commissioner Smith appreciates the annexation for the preservation of a historic landmark, it will protect wetlands, it will help the local economy with new development, and it adds to a growth industry of Newberg (retirement communities), but it does not help affordable housing.

Commissioner Haug reminded the commissioners that there is no ordinance language addressing affordable housing, so it is hard for the Planning Commission to make it part of annexations.

Commissioner Stuhr added that maybe institutional living could add to affordable housing. Commissioner Smith said sometimes retirement communities do add to affordable housing stock. He also reiterated that the improvement to the sewer system is also beneficial for the City.

Commissioner Haug also applauded the street design standards of the residential development portion.

Chair Wall explained that he would probably vote no because this application falls short on procedural issues. He believes R-3 requirements are being swept under the carpet again. He passed on being more specific, and dragging out the process tonight.

Commissioner Stuhr thought the institutional development could help density in Newberg.

Commissioner Smith reiterated that zoned institutional land could be bought and used in an unanticipated way.

Vote on Motion #1 (6 Yes/1 No, 0 Absent)

Barton Brierley alerted everyone that this recommendation will likely be taken to City Council on April 6, 2009.

2. **APPLICANT:** Pamplin Foundation
REQUEST: Zoning map amendment from R-2 (medium density residential) to R-P (residential-professional)
LOCATION: 611 and 617 N. Main Street
TAX LOT: 3218DC-2501 & 3218DC-2600
FILE NO.: ZMA-08-003
RESOLUTION: 2009-264
CRITERIA: Newberg Development Code § 151.122

Chair Wall asked for ex parte contact, biases, conflict of interest. Wall did not read from ORS 197.763 again as agreed upon with staff.

Staff Report:

Jessica Nunley presented the report with location maps, and an aerial view. She highlighted the mix of commercial and residential use in the area. Since the applicant has been trying to sell the property for over a year with its current zoning without any success, they would like to broaden the property appeal with zoning amendment. The current zoning is R-2. The proposed change to R-P would allow many of the same uses as R-2 but would additionally allow professional office-type uses.

The properties are already designated as MDR in the Comprehensive Plan, which a zone change to R-P would suit. Other criteria include promoting Comprehensive Plan policies of the neighborhood. The configuration of the current site is well suited to the professional type of use asked for in the zone change and would promote the Comprehensive Plan policies of small neighborhood commercial/professional areas. Staff recommends approval of the zone amendment.

Public Testimony:

Jim Hall, gave testimony to the history of the use of the property. Jim Hall is the applicant's representative. The zone change would allow the applicant to sell the property under more lenient conditions as it is not feasible to be used as a church and single family dwelling any longer.

Commissioner Smith asked about the late correspondence from ODOT. Jessica Nunley said that staff is not recommending the conditions stated by ODOT in the letter at this time as there is not any development happening on the site, but such conditions are standard comments from ODOT. If any development occurs in the future, the applicants will have to comply with all ODOT requirements.

Motion #3 Haug/Barnes to approve resolution 2009-264. (7 Yes/ 0 No, 0 absent).

Barton Brierley alerted everyone that this recommendation will likely be taken to City Council on April 6, 2009.

V. ITEMS FROM STAFF:

The City Council held a hearing on the PC's work on MFAP. They didn't approve the change in parking standards for single family lots, but otherwise adopted the recommendation.

The Big Box retail hearing will be on March 16, 2009. Tonight's issues go to Council on April 6, 2009.

South Industrial area review: Staff met with 12 property owners February 25 and held a community visioning workshop March 10, with upcoming design team meetings on March 25, April 16 and May 19. Staff will present plan alternatives at an open house on May 5. Main themes that have come out of the public meetings: Promote clean and non-polluting industry, value added industry that supports local agriculture (tourism, wine industry, etc.), and include biking and walking trails in the stream corridor. The main theme is "live here, work here, shop here".

The next Planning Commission meeting is scheduled for April 9, 2009.

VII. ITEMS FROM COMMISSIONERS:

Haug asked about the progress of SE Transportation Plan. Barton Brierley said that a consultant has been hired to evaluate the options and respond to NUAMC.

Commissioner Smith talked about the open house feedback, with a final report due soon.

VIII. ADJOURN:

Chair Wall adjourned the meeting at 10:02 p.m.

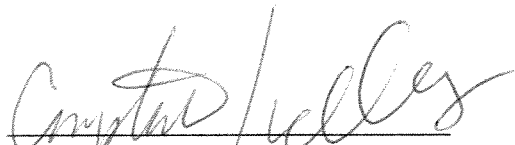
Approved by the Planning Commission this 9th day of April, 2009.


AYES: 6

NO: 0

ABSENT: 1
(List Name(s)) M. Haug

ABSTAIN: 0
(List Names(s))


Planning Recording Secretary


Planning Commission Chair