

PLANNING COMMISSION MINUTES
August 13, 2009
7 p.m. Regular Meeting
Newberg Public Safety Building
401 E. Third Street

TO BE APPROVED AT THE SEPT. 10, 2009 PLANNING COMMISSION MEETING

I. ROLL CALL:

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

Staff Present: Barton Brierley, Planning & Building Director
David Beam, Economic Development Planner
Steve Olson, Associate Planner
Dawn Karen Bevill, Recording Secretary

II. OPENING MEETING:

Chair Wall opened the meeting at 7 p.m. and asked for roll call.

III. CONSENT CALENDAR:

Chair Wall entertained a motion to accept the minutes of the July 9, 2009 meeting. Commissioner Haug motioned to accept the minutes and Commissioner Tri seconded the motion. Chair Wall asked for any corrections or changes. There were none.

Motion #1 Haug/Tri to approve the minutes from the Planning Commission meeting of July 9, 2009 as submitted. (7 Yes/ 0 No/ 0 Absent), unanimous voice vote.
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IV. COMMUNICATIONS FROM FLOOR:

Chair Wall offered an opportunity for non-agenda items to be brought forth. No other topics were brought forward.

V. LEGISLATIVE PUBLIC HEARING:

APPLICANT: City of Newberg
REQUEST: Amend Newberg Development Code regarding proposed flexible development standards to support affordable housing.
FILE NO.: G-09-007
RESOLUTION: 2009-267

Chair Wall opened the hearing and asked for any abstentions, conflicts of interest, or objections to jurisdiction from the Planning Commission. None were brought forward.

Mr. Beam gave the staff report (see meeting packet for details.) In summary, one of the recommended actions within the Newberg Affordable Housing Action Plan is for the City to consider the adoption of amendments to the Newberg Development Code that are designed to support

affordable housing. This meeting is in regard to the proposed flexible development standards; to provide an optional "Flexible Development Track" that would allow developers flexibility in some development standards provided they commit to providing some affordable housing.

In 2007, the Planning Commission looked at another proposal involving a flexible development track concept. The proposal at that time was that the developer could receive flexible design standards if in return the developer would provide some affordable housing and would meet higher design standards for the development. The current development proposal states if a developer chooses the flexible design standards option, the developer would have to provide affordable housing only.

Mr. Beam continued on to summarize 151.231 Flexible Development Standards.

Commissioner Smith asked about the current front yard setback, as the flexible standard would allow a reduction to 10 feet. Mr. Beam replied 15 feet.

Commissioner Haug asked if he was correct in understanding that if there are 20 units; 2.8 of those units need to be affordable housing and asked how the fractional units are figured. Mr. Beam replied yes and explained it could be achieved in various ways: on-site, off-site, market rate, long-term affordable housing units, or in lieu of credits.

Commissioner Stuhr restated the question was 'how can you build 2.8?' Mr. Beam explained the EADUs can be received under the moderate, low, and very low income units and stated the more you provide for lower income, the more EADUs will be given (as listed in the meeting packet page 21.) After adding together the EADUs of all the built affordable units, the developer must exceed 2.8. Commissioner Stuhr asked where that is stated in the proposal. Mr. Beam replied it isn't stated anywhere.

Commissioner Smith stated that the specific amount of required housing needs to be clearly spelled out. Barton Brierley stated the following language will be added to line 3 of § 151.232 opening paragraph: "...will be **at least** 50% of the extra units." Commissioner Smith suggested adding language stating the developer can use a combination of ways of reaching the required EADU total. So if the total is 2.8, the developer may build 2 houses that give him credit for 2.0 and the rest as a cash payment in-lieu into the trust fund, or satisfy the requirement completely as a payment in-lieu into the trust fund.

Commissioner Stuhr referred to the last sentence in the opening paragraph under § 151.230 (page 20 of the meeting packet) which stipulates the various ways the obligation to provide affordable housing can be achieved. Commissioner Smith agreed.

Commissioner Duff agreed with Mr. Brierley's suggested language modification of line 3 in § 151.232 of the opening paragraph. The Commissioners also agreed.

Commissioner Haug stated the developers will make more money and believes that amount should be quantified to keep the process transparent in order to allow a better understanding by the community.

Commissioner Stuhr stated the paragraphs are somewhat confusing under the definitions for long-term affordable dwellings as listed in 151.232 (page 21 of the meeting packet.) She suggested the following – "*Residential units on the subject property reserved for qualifying buyers or renters with income at or below one hundred percent (100%) of the Newberg area median income. One moderate income unit equals 0.75 EADUs.*" Mr. Beam stated he will also modify the numbered subsections under section (A) accordingly.

Commissioner Smith asked about section (A) number 4 (page 21 of the meeting packet) and what is needed in terms of an agreement. Mr. Beam replied the long-term vision for management of the affordable housing units will be working with the Yamhill County Housing Authority. Commissioner Smith asked if an agreement could also be obtained through, as an example, condominium rules. Mr. Beam replied working along with the City Attorney, the best agreement tools will be identified.

Commissioner Stuhr asked how a developer guarantees 25 years of affordable housing. She believes this will scare away developers from using this option since they have no control over the median income and how you define it. Barton Brierley explained a project was built recently at Springbrook & Middlebrook Road that guarantees affordable housing for 60 years. Non-profits would take advantage of this, as well as for-profit, if the housing intention was for HUD Section 8.

Commissioner Smith stated the developers and builders that sat on the Affordable Housing Task Force did not have Commissioner Stuhr's objection, but some did object to certain ways of guaranteeing affordability. Deed restriction was one of them because some felt it's a legal document that is hard to change once the deed restriction expires. They did however agree to the option of placing the restrictions as part of a loan document which states the unit is for affordable housing, and the price must retain the affordable housing characteristics when sold so the price increase has to be restricted to a certain formula. Commissioner Stuhr asked why make the developer responsible? Commissioner Smith replied the developer can make sure there is a deed restriction or that it's written into the document at the time of purchase.

David Beam suggested changing the language in section (A) number four as follows: *"In order to use this option, the applicant must ensure a legal mechanism is in place to guarantee the long-term affordable housing units remain affordable for a period of not less than 25 years."* He explained the agreement guarantees it, not the developer.

Commissioner Stuhr agreed with Mr. Beam's suggestion.

Commissioner Smith stated there are some situations where affordable housing could be built into a market rate condo development. In that case, the agreement could be put into the association rules instead of a loan agreement. Leaving an agreement at the discretion of the City Attorney enables many ways of accomplishing it.

Commissioner Duff is concerned about the consumer purchasing a home without fully understanding a brand new caveat in an agreement such as what is being discussed.

Commissioner Stuhr asked what if the buyer purchases an affordable home, makes improvements in the home, and then realizes they won't be able to sell it for the amount they expect. Commissioner Smith believes that the allowed sale price will depend on many things, including how long they have live in the home. A sliding scale will be used to help determine that. Commissioner Smith stated a deed restriction is solid, but the developers believed if it's in the loan language it would be transferable from one owner to another, but the City Attorney would have to approve it.

Mr. Beam noted a correction will be made to section (A) number five (page 21 of the meeting packet) changing the subsections *"a, b, and/or c"* to *"1, 2, and/or 3."*

Commissioner Smith asked why the phrase "within the project" is in section (A) number 5. Mr. Beam replied the language could be changed to, *"on project site or off project site."*

Commissioner Haug is concerned about the location where developments will be placed and stated it needs to be a bilateral decision; not chosen just by the developer. Commissioner Barnes commented any zone change would have to come before the Planning Commission.

Commissioner Stuhr referred to section (A) number seven and stated the wording was unclear. Is it 30% of the monthly or yearly household income? Chair Wall suggested looking at the wording of number four. Mr. Beam suggested the wording, "...as appropriate does not pay more than 30% of its monthly income on rent and utilities."

David Beam noted in the proposed policy changes section of the Action Plan, it states that the 30% number of income pertains to the cost of rent and tenant paid utilities.

Commissioner Haug referred to section (A) number seven and asked what if the income of a tenant goes up and the renter raises the rent because of it. Commissioner Smith replied the rent shouldn't be changed. Staff can check wording on that. Amanda Golson asked if that would already be regulated since the rent has been already set by the Director. Commissioner Stuhr replied she doesn't believe so due to the change in criteria in section (A) number seven. Barton Brierley referred to section (A) number nine where it states the housing sales price and rent levels shall be at the time of purchase or execution of rental contract.

In section (A) number eight (page 22 of the meeting packet) the wording will be changed as follows: "*Housing sales prices for-sale, long-term affordable dwelling units shall be established so that a household at the moderate, low, or very low income levels as appropriate does not pay more than thirty percent (30%) of their annual gross household income on a mortgage, homeowners insurance, and property taxes at the time of purchase.*" Mr. Beam will change the wording in section (A) number seven to "*annual*" as well.

Mr. Beam noted the correction to be made to section (A) number nine from the letters "*(f) and (g) to seven and eight.*"

Mr. Beam continued on to review Market Rate Affordable Units (page 22 of the meeting packet).

Commissioner Stuhr referred to letter (D) and asked for clarification regarding the estimated average cost. Mr. Beam explained it isn't defined for a purpose at this point. The actual formula will be developed with City Council. Commissioner Smith suggested replacing the word "*cost*" with "*purchase price*" along with finishing that sentence by adding the wording, "*in Newberg.*"

Commissioner Stuhr asked staff to explain how this applies to property that will be annexed to the City. Mr. Beam replied it's optional for the developer. The original proposal in 2007 had a provision requiring some affordable housing in annexation areas; now it's voluntary. Commissioner Smith added the taskforce heard many comments regarding this topic and they believed it unfair to put the burden on new property owners and thus backed away from this proposed policy.

Public Comment:

Mr. Ken Austin posed several questions. He understands affordable housing is voluntary. Mr. Beam replied the flexible development standards are optional. If a developer so chooses that route, they are required to build some affordable housing.

Mr. Austin asked if the City will reduce taxes on these units. Barton Brierley explained the Affordable Housing Committee developed an Action Plan with multiple actions to help provide affordable housing. The Planning Commission is only discussing one of those strategies at this meeting. Examining property tax abatements were recommended as well as possibly modifying development fees for affordable housing. The City Council has created another committee to look at those issues, which will go through the Citizen Rate Review Committee (CRRC).

Mr. Austin asked what percentage of the population needs affordable housing. Barton Brierley replied by definition, about 60% of the households in Newberg make less than the median income, although the Portland Metropolitan median income numbers which are higher than Newberg's numbers are being used. Some information from the census states that around 40% of renters are paying more than 30% of their income on housing costs. The City has issued 90 permits in the last six months for homes that will accommodate people at or below the median income.

Mr. Austin asked what amount is considered median income. David Beam replied around \$50,000 for Newberg.

Commissioner Smith explained when the Affordable Housing Task Force began they looked at many numbers and reports and found the different levels of housing being built compared to the kind of housing households could afford weren't matching up. There is a definite need to increase affordable ownership and rental housing in Newberg.

Mr. Austin asked if Newberg will become a more affordable housing city to live in than its neighboring cities. Commissioner Haug stated the demand indicates the need for affordable housing and this proposal is voluntary by the developers. This is all experimental.

Commissioner Smith posed the following question: How do we know, if ever, if the problem has been adequately answered? It needs to be monitored but the need now is evident. Important employers in town have workers who can't afford to live in Newberg and have made that known to the Housing Committee. It would be fair to say that there are hard numbers that demonstrate we need more affordable housing.

Commissioner Barnes stated 5,000 people per day come into Newberg to work but don't live here.

Commissioner Smith added it will never be the case that all who work here will live here for various reasons, but there is still a need for low-income people who can't afford to live here.

Mr. Austin is concerned as a citizen. He believes that the general population community which he believes doesn't know what's going on. Commissioner Haug replied cable television used to film the meetings but no longer does. Mr. Austin is the only community member here tonight, which is a concern. The public doesn't attend many of the Commission's meetings.

Commissioner Smith stated the Planning Commission has repeatedly had many opportunities for the public to come and testify.

Commissioner Stuhr commented that there have been hundreds of meetings, open houses, etc. and the public sometimes hasn't attended. You can't force the public to come.

Commissioner Haug posed a statement and question to Mr. Austin. The 400 acre Springbrook development his family has is beautiful, but the following question has been raised along the way: shouldn't some units be in that development be affordable housing? Mr. Austin replied the cost to

develop is high, since much of the acreage is on the hillside where services need to be extended. Much of the cost they pass on to the developers is just the costs passed on to them by the City. A new reservoir, septic system, etc. for that area is needed, which is costly.

Mr. Austin is concerned that a nice development will have an undesirable unit built next door.

Chair Wall stated the City is in its current position because of the push for higher density. However, every recent application that came in front of the Planning Commission, our job wasn't done in providing affordable housing and now the question has to be answered on how the problem should be solved.

Commissioner Haug stated development standards are needed for livability and the Planning Commission has tried to set a point system so affordable housing won't look poorly built.

Mr. Austin stated there must be a balance. He applauds the work the Planning Commission is doing but wishes he had been better informed.

Commissioner Smith stated many policies require City Council and voter action and will be presented to the public continually.

Chair Wall believes if citizens are concerned, they need to keep a close eye on decisions and discussions being made.

Chair Wall closed the public hearing.

Staff recommends the adoption of Resolution 2009-267 with the changes that have been discussed at this point.

Deliberation:

Commissioner Haug suggested the hearing be continued in order to be sure staff understands the changes. The Planning Commission can make a decision to adopt at the next meeting.

David Beam reviewed the suggested changes in language to the Resolution.

Commissioner Wall would like to see specific alternatives available regarding section (A) #4 (pg. 21 of the meeting packet.) He would like examples listed. Chair Stuhr agreed and would like to see a neutral explanation of the pros and cons of each one also. Commissioner Stuhr believes this is the same section the discussion began in regard to guaranteeing affordability.

David Beam continued by suggesting phraseology be changed in section (C) (page 22 of the meeting packet) by adding, "...at the Director's discretion" in regards to construction at an alternate location in the City. Chair Wall stated that's fine under the direction of Barton Brierley, but is it a good decision placing all that authority in one person's hands? Commissioner Smith added there is a public appeal process that can be used if the decision needs to be debated.

Commissioner Stuhr would like the language in section (A) #6 changed to the following: "*The Director shall determine annually the Newberg area median income...*" The time period and source of data should be clearly stated.

Commissioner Smith stated a mechanism is needed for who moves into affordable housing. There are experts out there and the Housing Authority determines that also. The price of the rental housing is tied to a class of renters. Commissioner Stuhr stated that's exactly what Amanda Golson brought up earlier in the meeting. She's concerned with establishing levels of rent for the different levels of income. Mr. Beam suggested it say rent established for long-term affordable dwelling units as described in (A) sections 1, 2, & 3. Commissioner Stuhr doesn't believe that will work and is concerned with the percentage. The suggested change was not made.

Commissioner Haug feels this should be continued as a public hearing.

<p>Motion #2 Haug/Stuhr to continue the public hearing to the September 10, 2009 Planning Commission Meeting. (7 Yes/ 0 No/ 0 absent), unanimous roll call vote.</p>

VI. ITEMS FROM STAFF:

Update on Council Items:

Barton Brierley stated on September 8, 2009 the City Council will hear an appeal of a denial of a sign/billboard at Newberg Auto Electric on First Street.

The City Council did create the Affordable Housing Action Committee Phase II and is looking for volunteers.

Other Reports, Letters, or Correspondence:

Staff has been working on a Welcome Sign to downtown; working with the Newberg Rotary and George Fox University who have both contributed funds for the sign. That project should be finished in the fall.

An Electronic Sign Ad- Hoc Committee has been formed; the first meeting is on September 3, 2009 from 3:00 – 5:00 p.m.

The next Planning Commission meeting will be held on September 10, 2009. The Planning Commission will have a hearing on the South Industrial Master Plan as well as a continuation from this meeting.

NUAMC will begin soon to hear an application for a zone change for property on Wynooski Street just outside the city limits, as well as another property next to it for a zone change and UGB amendment.

Commissioner Haug will be away from September 5th – 30th and will not be in attendance for the next Planning Commission meeting.

Commissioner Smith asked the status of the Fred Meyer Gas Station. Steve Olson explained they're in the process of application for access permits and should come back to the Planning Commission within a couple months.

The Animal Shelter will have an annexation application in November for the Baker Rock Property. The shelter, if approved will be located on the southeast corner of that property.

VII. ITEMS FROM COMMISSIONERS:

Commissioner Barnes stated that on South Springbrook Road Harris Thermal Products has just about finished their street widening and landscaping.

Commissioner Barnes has taken hundreds of pictures of several neighborhoods he selected in R-1, R-2, & R-3 zones as was discussed at the July 9, 2009 Planning Commission meeting. He will present those photos to the Planning Commission at the appropriate time.

VIII. ADJOURN:

Chair Wall adjourned the meeting at 9:25 p.m.

Approved by the Planning Commission this 10th day of September, 2009.

AYES: 4 NO: 0

ABSENT: 3

ABSTAIN: 0

(List Name(s))

(List Name(s))

Thomas Barnes

Matson Haq

Cynthia Kelley

[Signature]

9-10-09 Dereiz Puff

Planning Recording Secretary

Planning Commission Chair

Date