

PLANNING COMMISSION MINUTES
Thursday, February 10, 2011
7:00 p.m. Regular Meeting
Newberg Public Safety Building
401 E. Third Street

THE FOLLOWING MINUTES WERE TRANSCRIBED FROM THE AUDIO RECORDING.
TO BE APPROVED AT THE MARCH 10, 2011 PLANNING COMMISSION MEETING

I. ROLL CALL:

Members

Present: Philip Smith, Chair Thomas Barnes, Vice-Chair Gary Bliss
 Art Smith Cathy Stuhr Lon Wall Kale Rogers, Student PC

Members

Absent: Allyn Edwards (excused)

Staff

Present: Barton Brierley, Building & Planning Director Steve Olson, Associate Planner
 Luke Pelz, Assistant Planner

Others

Present: Mike Teatro, Mike Gougler, Warren Parrish, Terry Cole (ODOT), Bill Ciz (Parametrix), Shelley Holley (Parametrix)

II. OPEN MEETING:

Chair Smith opened the meeting and asked for the roll call.

III. CONSENT CALENDAR:

1. Approval of January 13, 2010 Planning Commission Meeting Minutes

MOTION #1: Stuhr/Barnes to approve the minutes from the Planning Commission meeting of January 13, 2010. (7 Yes/0 No) Motion carried.

IV. COMMUNICATIONS FROM THE FLOOR:

Chair Smith offered an opportunity for non-agenda items to be brought forth. None appeared.

V. LEGISLATIVE PUBLIC HEARING:

1. **APPLICANT: City of Newberg**
REQUEST: Newberg-Dundee Bypass Comprehensive Plan amendment. Consider Comprehensive Plan and Development Code amendments to reflect the Tier 2 bypass alignment. The proposed amendments would amend certain Comprehensive Plan policies, reduce the boundaries of the Bypass Interchange Overlay, and amend the Transportation System Plan maps.
RESOLUTION NO.: 2011-287
File no. CPTA4-10-001

Chair Smith opened the public hearing and made statements about the hearing procedure. He asked if there were any conflicts of interest or abstentions; none appeared.

Mr. Luke Pelz, Assistant Planner, introduced the Oregon Department of Transportation (ODOT) representatives present this evening for questions and presented the staff report and recommendation for adoption (see official meeting packet for full report).

Commissioner Cathy Stuhr first stated that Exhibit C, giving details of the exchange was a little hard to figure out and she asked if there was a way to provide more detail when it goes to City Council. Staff stated there are maps available that are more detailed. She also found discrepancies within Exhibit A regarding references to the approximate area of overlay from interchange; most refer to a quarter ($\frac{1}{4}$) of a mile, but she found a reference to a half ($\frac{1}{2}$) of a mile on page 33 of the Planning Commission (PC) packet.

Mr. Barton Brierley, Planning and Building Director, said it may refer to a quarter ($\frac{1}{4}$) mile inside the Urban Growth Boundary (UGB) and a half ($\frac{1}{2}$) mile outside of the UGB. ODOT staff continued by stating their original intentions were to have a large enough area to do management planning by creating a half ($\frac{1}{2}$) mile of overlay boundaries in rural areas and only a quarter ($\frac{1}{4}$) mile in city limits. As they have gone back through everything, they realized they did not need as much area, which is why it is shrinking. The primary function was just for notification purposes with additional restrictions around Hwy 219 of commercial uses in industrial zones that will remain intact; he did not recall any industrial land at the east Newberg interchange for that to apply to. When ODOT does come back, prior to construction to adjust plans and complete them, and depending on phasing, the overlay boundaries will become the interchange area management boundaries. This may account for the discrepancy, or it could just be a typographical error that staff can review.

Commissioner Stuhr also questioned the proposed change to narrow the width of the Bypass corridor at the top of page 20 top of page, item C. She wondered if the width should be more specifically addressed since it is not unknown what the width will be.

Chair Smith asked about the new sentence added to page 19, item C(1) "The Industrial Commercial Sub-district of the M-4 District shall not be applied within the boundaries of the BI Overlay". He asked staff to show what that land is and what is not going to be done there.

Mr. Brierley said the M-4 district is large lot industrial zoning and it is intended for a future industrial area which includes a commercial component to serve that industrial district. The City did not want this area to be right at that interchange, but farther away. He said this map is incorrect and the interchange overlay should stop where the future industrial area will be.

Chair Smith said that one of the biggest changes endorsed by the PC was the idea that the bypass should go low if possible; he asked why this has been abandoned. An ODOT representative explained they looked at the environmental impact statement in south Newberg and in the area between SP Newsprint and the Chehalem Creek; the below grade alternative was twice as expensive as going over College Street and River Street. Going below College Street and the railroad at the current grade was twice the cost and there were unknown ground water issues on top of going up over the bank of the Willamette River, which quickly slopes down. The preferred alternative was to go over the existing streets, and it was left at the current location.

Chair Smith asked what the greatest drawback is of going higher. ODOT replied visual aesthetics and noise impacts to the surrounding neighborhoods were the greatest drawbacks, for which sound walls have been proposed for mitigation.

Chair Smith opened the hearing to public testimony.

Mr. Mike Teatro had three questions as a resident of The Greens Subdivision (in segment seven), as he is currently undecided. He asked about the noise impact and how much additional noise can be expected, how much the particulate air pollutant levels are expected to rise, and aside from the 192 million dollars in place what are the anticipated additional funding that have been proposed to possibly be floated by bond to complete.

ODOT said the Draft Environmental Impact Statement (DEIS) estimates impacts and mitigation and where noise walls will be based on the evaluation of the Environmental Impact Statement (EIS). They are redoing the noise modeling, which may expand mitigation and walls in some areas, but they cannot predict now where they will be expanding except there will be some lengthening in segment seven. The EIS section on air quality analysis would require a more detailed assessment if this were inside a larger metro area, however, they did not see air quality issues with the bypass because from a qualitative standpoint all traffic currently goes through downtown Newberg already. Traffic coming from the east entering Newberg does a 50/50 split, so there will be the same number of vehicles traveling in different directions, moving more easily through the community and at higher speeds, which typically lowers vehicle emissions; so emissions should improve. The total costs of the project end to end is estimated from 750 million dollars to 880 million dollars with construction costs in 2015 dollars and right-of-way costs in 2013 dollars; so a little less than 25% is funded by the 192 million dollars already in place.

Commissioner Stuhr added the EIS is a great resource for questions like these, which is available on compact disc (CD) at the library and at Newberg City Hall as well as on the website at www.newbergdundeebypass.com.

Mr. Mike Gougler requested taking more time to consider certain items he will address in testimony. He submitted a written version of what he would be reading from to be included in the record: Has ODOT provided Newberg its "reasonably likely" determination in the form of a written statement; has ODOT provided a detailed map and explanation of how local roads will be affected by the alignment of the bypass, specifically near interchanges; is there a study of how "significant affects" of annexation of URA lands will affect the geographic and economic ability to add these lands to the City; are costs to mitigate "significant affects" of annexing lands under and around the property of the School District acquired for new high school possible to determine; and how will the effort to create industrial land south of Newberg be affected by the requested modification of Newberg's Comprehensive Plan (see official meeting record for a copy of the full letter).

Commissioner Gary Bliss spoke about the present capacity of the Springbrook Road and Hwy 99W intersection and how this can become an issue with the Fred Meyer proposal, what is being developed around The Allison, and what is left of the properties that Mr. Gougler is involved in. Although the development plan and land use zoning is established, even if not specifically, he asked if this has been factored into the 30% capacity left at that intersection.

Mr. Gougler replied the 30% capacity has already been exceeded. There is no such thing as a pre-approved variance; the decision is made at the plan check when the City has the authority and obligation to determine if that particular development is of significant affect. But, this is not in the best interest of the City or for ODOT and unless there is some overriding reason presented this amendment should be delayed to allow time for

careful planning and negotiation regarding broken interchanges and the intended industrial area because there will be roads that may not function as designed.

Chair Smith asked if giving an appropriate definition to “significant affect” will solve the problem.

Mr. Gougler replied it would not because the City needs to start with reviewing what they want to see happen in their urban area and what the consequences of an industrial park will be, not to mention the plans for annexation around the high school and then figure out how the transportation plans works with those goals because there will be things that are not in compliance with the term “significant affect”. It may mean having different speeds in those areas, but all of these things need to be addressed by experts from the City and from ODOT.

Mr. Warren Parrish asked if a realistic scale was being used on the drawings and if the interchange proposal at Hwy 219 was really that far north of the river. Staff replied it was and the proposal is just south of the airport and just north of the wastewater treatment plant. Mr. Parrish wondered about the 300 to 400 thousand dollars spent on the riverfront plan to bring tourism to Newberg with kayaking and river shops; he asked if that money was just disposed of now. Staff replied the riverfront plan is still in affect and the proposal here allows for access across the bypass for College Street and River Street as well as the railroad; the commercial area is also still a potential. The bypass will go over the railroad tracks and streets as an elevated road or bridge as far north as 11th Street where it would angle out. Mr. Parrish asked how this can be built and still allow for the enjoyment of those using the river with noise and lights and such.

ODOT could not speak to the affect of visual impacts on kayaking experiences on the Willamette River and said the decibel range from traffic would not exceed levels requiring mitigation; there is also not any visual mitigation planned for that side of the bypass at this point in time.

Commissioner Lon Wall spoke farther on the planning process for the river front, and the conviction that the bypass needed to be below grade as a necessity for the river front area, so it is difficult to hear that alternative is dead and gone now.

Staff presented the final report (see official meeting packet for full report) and added a response to the issue of reasonably likely improvements. The transportation planning rule tries to match planned land uses and planned transportation improvements, so if there are upgrades in the land use, there are corresponding upgrades in the transportation facilities. The “reasonably likely” standard applies to amendments to standards in the comprehensive plan or land use regulations, so in the case of development on a site already zoned for that use the requirement does not apply; if it is already planned it would not trigger that rule. If there is no bypass, then 99W will become very congested, that is why they are planning the bypass to provide capacity. In order to get ODOT to say the bypass is a “reasonably likely facility” they need a record of decision by federal law saying they can build this and it is reasonably likely they will get funded in the next twenty years. In order to get that record of decision and furnish that letter, these amendments need to be adopted first.

Chair Smith summarized that the significant affect rule applies to comprehensive plan or land use regulation changes then, not the individual development.

ODOT added that with the current situation, these amendments recognize the bypass and recognize the conditions that determine if the entire project or portions of it are reasonably likely so future development can be determined.

Chair Smith recessed before deliberations for five minutes. When the audio recording began again some deliberations were missed. Staff has summarized some of the deliberations below from notes taken at the meeting.

Staff noted that the recommendation to approve was amended to include the text changes pointed out on page 20, regarding the bypass width being consistent with the Record of Decision, page 33, changing ½ mile to ¼ mile, and with the 219 interchange map in Exhibit B, moving the southern edge north as discussed.

A written comment was submitted by Joseph Churella, and accepted into the record. Staff read the comment into the record: Mr. Churella is opposed to the bypass location, as it will ruin the view of the golf course from his home.

Commissioner Stuhr said that she had some concern that ODOT seemed to hold all the cards. How would Mr. Gougler's concerns about the TPR affect future URA/UGB plans?

Commissioner Wall stated that if there is nothing odd or surprising in the resolution then we need to pass it to move the process along. The amendments seem straightforward; is there something in this proposal the Planning Commission should be surprised by or concerned about?

Commissioner Art Smith noted that there are decades of history behind the bypass, but at some point action has to occur. We don't have the option of choosing a regional bypass, and we do need to keep the process moving.

Commissioner Bliss noted that the bypass only solves local issues, not state issues. Still, as the TPR doesn't affect development of properties under existing zoning, this process should be moved along.

Commissioner Barnes read the three proposed amendments on page 11 and says the document does what it was asked to do, so he recommends approval.

Student Commissioner Kale Rogers addressed page 17, section R regarding affordable housing. He was bothered that a lot of the houses affected and displaced by this are affordable housing and with a deficit of 50% or more for next twenty years that is a margin we have to make up; so he asked why have a route that is taking away more affordable housing when more is needed.

Chair Smith replied this finding is what spurred the City to create the affordable housing task force. Federal law said this EIS study has to be conducted and if this much affordable housing is being taken, then it needs to be replaced at the same level. Staff agreed with this and spoke of part of the EIS addressing housing and how much would be displaced; all were factors in considering this alignment as well as the previous alternatives. This needs to be looked at very seriously as do all the things that the Affordable Housing Committee is working on.

Student Commissioner Rogers also felt the word "encourage" is used frequently in the document, but it should be changed to a better word considering these are for items that have to be done, so why not change to "will" do rather than "will be encouraged" to do.

MOTION #2: Barnes/Art Smith to approve **Resolution 2011-287** recommending that the City Council adopt amendments to the Comprehensive Plan and Development Code to reflect the Tier 2 Bypass alignment of the Newberg-Dundee Bypass Corridor with the three changes discussed.

Commissioner Wall asked staff if there was anything in this report that was unexpected. Staff replied there were a number of questions with the previous draft that were answered in this one and some things like the expectation of looking at the below grade alternative, where this document says it is not feasible. This document also says what the local street alignments are, which was questioned last time.

Commissioner Stuhr asked if down the road when the City is adding to the urban area and some conceptual agreements are come to regarding mobility and nothing has been done with the bypass and a property wants to develop, are we saying that they can be held up unless ODOT says that it is reasonably likely the bypass will be built. Staff replied that this is correct, that ODOT essentially holds all the cards because the only other alternative is for the City to say it will build and pay for this out of their pockets. That is not likely going to happen, so whoever holds the funding to build the bypass holds the cards.

Terry Cole from ODOT added they have statutory responsibility to manage, operate, and maintain any state facility, but this is not effective unless the City is a partner because they rely on development conditions being established by the City and do not have a direct mechanism for controlling this. He spoke of the need to start transportation plan updates where we are looking at a future of only a portion of bypass being built and adjustments need to be made. He spoke of developing alternative transportation standards for problem intersections, and explained what their expectations will be for items to be "reasonably likely" within the planning horizons. He said these amendments move us forward for more clarity.

VOTE #2: To approve Resolution 2011-287 . (6 Yes/0 No/1 Absent [Edwards]) Motion carried.

VIII. ITEMS FROM STAFF:

Mr. Brierley gave updates on the Fred Meyer LUBA hearing, which was held this morning; a decision is expected on March 14, 2011. City Council is still working on the Meridian Street zone change with requests for staff to return with an order to approve with conditions as discussed at the February 22, 2011, meeting.

The next Planning Commission Meeting is scheduled on Thursday, March 10, 2011.

IX. ITEMS FROM COMMISSIONERS:

None.

X. ADJOURN:

Chair Tri adjourned the meeting.

Approved by the Planning Commission on this 10th day of March, 2011.

AYES: 6 NO: 0 ABSENT: 1 (Bliss) ABSTAIN: 0



Planning Recording Secretary



Planning Commission Chair