

NEWBERG PLANNING COMMISSION MINUTES
September 14, 2017, 7:00 PM
PUBLIC SAFETY BUILDING (401 E. THIRD STREET)

Chair Jason Dale called the meeting to order at 7:00 p.m.

ROLL CALL

Members Present: Jason Dale, Chair
Allyn Edwards
Philip Smith
Cathy Stuhr
Miranda Piros, Student
Patricia Watson

Members Absent: Ron Wolfe, excused
Gary Bliss, excused

Staff Present: Doug Rux, Community Development Director
Steve Olson, Senior Planner
Cheryl Caines, Associate Planner
Bobbie Morgan, Office Assistant II
Kaaren Hofmann, City Engineer

PUBLIC COMMENTS:

None

CONSENT CALENDAR:

Approval of the August 10, 2017 Planning Commission meeting minutes

MOTION: PC Stuhr/PC Watson moved to approve the August 10, 2017 Planning Commission meeting minutes. The motion carried (5 Yes/ 0 No).

QUASI-JUDICIAL PUBLIC HEARINGS (complete registration form to give testimony - 5 minute maximum per person except for principals, unless otherwise set by majority motion of the Planning Commission).

Panda Express Appeal: Consider an appeal of the approval for a new 2,216 square foot restaurant with a drive-up window and code adjustment to reduce the minimum number of off-street parking spaces, as well as increase the maximum number of compact spaces. This restaurant is part of the development known as Old Mill Marketplace.

APPLICANT: Old Mill Crossing, Inc.

FILE NO.: DR2-17-006/ADJC-17-008 ORDER 2017-06

CRITERIA: Newberg Development Code Sections: 15.250.020 & 15.250.030

Chair Dale called the public hearing to order at 7:01 p.m.

CALL FOR ABSTENTIONS, BIAS, EX PARTE CONTACT, AND OBJECTIONS TO JURISDICTION: None

LEGAL ANNOUNCEMENT:

Miranda Piros gave the legal announcement.

STAFF REPORT:

The staff report presentation was given by Community Development Director Doug Rux. This was an appeal of the approval for a new Panda Express restaurant. The two elements the appellant identified in the appeal were: the appellant did not believe the traffic data had been interpreted and/or applied correctly and/or fully and the applicant had not maintained the posted notices on the site as they were lying on the ground for a period of time. The property was at the northwest corner of Elliot and Portland roads. Three parcels made up this development project. He explained the design of

the building, parking, access, phases of the project, floor plan and renderings for the restaurant, and elevations. The approval of the application was appealed on August 21 and notice was posted and mailed to all the property owners within 500 feet on August 30. He summarized the design review criteria. The proposed building was compatible with the Old Mill Marketplace and was of a higher quality than some of the other nearby developments. There was parking with 72 spaces on site and 12 more would be added. Two spaces from the existing parking would be removed to accommodate the drive thru. The project met the setback and landscaping requirements. There was a sign permit application for the signs. It was not a manufactured home, mobile home, or RV park. It was in compliance with the zoning district as a restaurant was an outright permitted use in the C-2 zone. The Airport Overlay addressed the issue of height and the building proposed was well below the 150 feet. The alternative circulation, roadway frontage improvements, and utility improvements were done with the first phase. A traffic study was done for the first phase and a supplemental was done for the Panda project. Regarding transportation impacts, Elliot Road was a major collector and would be improved in the future. The supplemental traffic study updated the phase 1 traffic study and the phase 2 study stated the intersection of Elliot and Portland roads was expected to operate to standard. The code allowed a 25% adjustment and in the application there was a request for an adjustment to the overall number of parking spaces and number of allowed compact parking spaces. There were 109 parking spaces required at full build out. Currently there were 72 spaces and the applicant was proposing to add 12, however two current spaces would be eliminated. There were 100 spaces required for phase 1 and 2 the applicant proposed 82 parking spaces. With the 25% adjustment, the minimum number of parking spaces would be 75 spaces. When they got to full build out with phase 3, the minimum spaces on the site would be 82 and the applicant proposed 103. The businesses would have different operating hours and staff took that into account as well. The applicant had turned in an application for phase 3, which would be an office building. They were allowed to have 30% of the parking to be compact spaces, which for the Panda project meant 25 spaces. The applicant was proposing 31 spaces and at full build out was proposing 36 spaces. This was less than the 25% adjustment. The conditions of approval addressed stormwater, wastewater, lighting, and windows. The appellant also raised the question about posting the notice. The Development Code required notices be posted on the site and the applicant did post the notice. Just because they were knocked down did not invalidate the proceeding. Three additional comments had been received that night. Some of the concerns were about increased traffic on Elliot Road, no need for another restaurant in this area, safety, the effect on residential in the area, home values, taxes, congestion, and no reduced parking should be allowed.

Chair Dale took a few minutes for the Planning Commission to read the additional public testimony.

PUBLIC TESTIMONY:

Proponents:

Vince Ibarra, representing the applicant, indicated that notice was properly done for the project and the sign was re-established when it fell down and that transportation requirements were met for the project.

Stuart Brown was the original developer of the property. He no longer owned it, but owned the parcel next door. They had exceeded the combined parking requirements. The addition of the office building added ten more parking spaces above the needs of the office building. There was more than enough parking. They paid for a traffic study twice and met or exceeded all traffic requirements. Newberg was growing and there would be more traffic. The public notice signs had been up and were visible to anyone who went to the site. He had never seen the signs down. They were excited to have Panda come to the site. It was a significantly less intense use than what was originally proposed for the site. The mass and scale of the structure and the flow of the traffic had been improved and the number of parking spaces was greater than originally proposed.

PC Stuhr said there were three parking spaces north of the driveway off of Elliot that were in an odd spot. Did they cause a problem with circulation? Mr. Brown responded that they were used by staff and there had been no problems.

PC Smith asked if the parking was currently sufficient and did not depend on the office building project. Mr. Brown stated that was correct. The projects had to stand on their own.

Opponent:

Micah Martinez, Newberg resident, voiced concern about the traffic impacts. She lived in the first cul-de-sac off of Elliot and people turned around in the cul-de-sac all of the time. There were animals and children on the street. The notice of 500 feet did not include two homes in her four home cul-de-sac. The narrow driveway going into the site would create congestion. The appellant was one of her neighbors and he had offered to do a private traffic study.

Neutral:

Anjum Bana, principle with Fehrand Peers, was present to answer any questions regarding the traffic study.

PC Stuhr clarified the traffic study looked at trips generated by the use of the property and the study used a standard table to come up with the numbers to put in the model. Mr. Brown did two traffic studies, and Mr. Bana did another. It was not likely that another traffic engineer who applied the same standards and looked at the same data would come up with a different conclusion about the trips generated. Mr. Bana responded there was an approved traffic study that he used as a source for his traffic study. Since the original traffic study was done, there had been two uses that had already gone in. The ITE trip generation manual that engineers used recommended trips that could be generated by land use, but ground counts at the site were the best source. He took ground counts at the site and layered on top of it the uses that were not yet in, which included the Panda project. He used the ITE manual for those uses. Both gave a picture of what the site could generate in the future. All traffic engineers used the future projections coming out of Newberg/Dundee EIS which projected traffic and how it would change at the intersection of Elliot and Portland. Everyone used the same sources, and he thought they would come to the same conclusions. He found that the intersection would still operate as projected in the original traffic study and would meet ODOT and the City's standards.

PC Smith said the ground count showed slightly less traffic than what was first estimated. Mr. Bana said that was correct.

Rebuttal:

Mr. Ibarra thought Mr. Bana had summarized the traffic study well.

CLOSE OF PUBLIC TESTIMONY:

Chair Dale closed the public testimony portion of the hearing at 7:42 p.m.

FINAL COMMENTS FROM STAFF AND RECOMMENDATION:

CDD Rux said staff's recommendation was to adopt the Order, which approved the application as conditioned.

PLANNING COMMISSION DELIBERATION AND ACTION:

PC Edwards thanked the staff for addressing each of the appellant's concerns. He thought the project conformed to the standards and requirements.

PC Watson asked if the Commission needed to respond to the letters that had been received. CDD Rux explained the City was not obligated to respond to the comments that were not applicable to the criteria. The Commission evaluated the criteria and whether or not the application met the criteria.

PC Smith thought it would have been better if the appellants had been present. They had to follow State law and the City Code and the evidence had to relate to the criteria. There was no good reason to not approve this project.

PC Stuhr agreed that the Commission often found themselves in this dilemma of following the criteria and knowing the public wanted answers to their questions and comments about property value, safety, and traffic. There was a Traffic Safety Commission who might have a suggestion for the cul-de-sac issue. Traffic improvements were planned for Elliot that should help alleviate some of the traffic and safety concerns.

Chair Dale said the Commission was sitting in judgment of the application and there was not a lot of leeway for interpretation. They had to follow the law and could not make allowances.

MOTION: PC Edwards/PC Stuhr moved to approve Order 2017-06. The motion carried (5 Yes/0 No).

NEW BUSINESS

1. **Population Forecast:** Consider a resolution initiating a Comprehensive Plan Text Amendment to update population data in the Newberg Comprehensive Plan. Resolution 2017-334. File No. CPTA-17-002.

CDD Rux stated in 2013 the legislature passed a new law requiring population projections come from Portland State University. In June 2017 new population projections came out to be used for planning purposes. These projections needed to be placed in the Comprehensive Plan. They were for a 50 year horizon, and the first 20 years would be put into the

Comprehensive Plan. This would help with the current UGB expansion process. The resolution would initiate a Comprehensive Plan text amendment to incorporate the new numbers.

PC Stuhr asked why they were only taking 20 years. CDD Rux replied in the Oregon land use system, they only required 20 years for planning purposes. Every four years PSU had to go back and update the projections.

PC Edwards asked how close PSU was on their report in 2012. CDD Rux said the new projections showed growth was slower than anticipated in the 2012 work. An aging population and lower birth rates had contributed to this.

MOTION: PC Smith/PC Watson moved to approve Resolution 2017-334, initiating a Comprehensive Plan Text Amendment to update population data in the Newberg Comprehensive Plan. The motion carried (5 Yes/0 No).

WORKSHOPS:

1. Residential & ADU Parking Standards

CDD Rux said this item was postponed.

2. Comprehensive Plan Change regarding R-3/Annexation Regulations

Senior Planner Steve Olson said staff was requesting potential Comprehensive Plan policy changes for the R-3 annexation regulations. There had been consensus from the Commission that in defining large, they wanted to look at the net size, not the gross size. Did they want to subtract 25% from the gross size for streets, walkways, rights-of-way, utilities, open spaces, stream corridors, and wetlands? Schools and churches could be placed on R-1 and R-2 land, so there was some uncertainty in how residential land would be developed and average numbers would have to be used.

There was discussion regarding what was known at the Urban Growth Boundary stage and annexation stage, the current allowance for non-buildable land such as stream corridors, and exempting schools from the R-3 requirement. SP Olson confirmed schools and churches could be placed on R-3 land. There would already be the R-3 designation on the land, and it could be developed either as multi-family, a school, or a church.

SP Olson said there was consensus to base the size on the total annexation, not individual parcels.

Discussion ensued regarding people bringing in smaller parcels so they would not have to meet the R-3 requirements.

PC Smith had suggested certain sized annexations contribute to a housing fund. CDD Rux said staff had not heard back from the City Attorney if that was legal.

SP Olson suggested setting the threshold lower, so instead of 20-25 acres, 10-15 acre annexations had to provide some R-3. Large could be based on a percentage of land in the UGB, but that was a moving target that would change over time. The Housing Newberg group recommended considering large at 20 acres and some R-3 at 10%.

There was discussion regarding ways to incentivize R-3 development.

PC Edwards suggested creating a formula based on the number of units going on a property, such as 10% would be used for high density.

Charlie Harris, Newberg resident, said inclusionary zoning used to be prohibited, but the legislators had changed that and it was now allowed. He thought what PC Edwards was proposing was acceptable.

Rick Rogers, Newberg resident, said that just because it was multi-family it did not mean it would be affordable. However, the likelihood was that it would be more affordable. He did not have any problem with using the term multi-family instead of affordable.

SP Olson discussed maps showing how much residential land was currently in the UGB. CDD Rux added there was 328 acres of residentially designated land outside of the City limits, but in the UGB. That number did not deduct stream corridors.

Mr. Harris asked what other land in the UGB was designated HDR land. SP Olson said very little, and he showed the areas on the map.

Lisa Rogers, Newberg resident, asked if there was a way to change some of the LDR designations to HDR. CDD Rux responded it would have to be done by owner consent and if it was upzoned without owner consent, they could file a Measure 37 claim against the City.

SP Olson said the high density was not there now, and they would have to bring it in to the UGB or change some of the land inside the UGB. Applicants could request a zone change as well.

Mr. Harris wanted to make sure there was clarity in these regulations so developers would know what could be developed. Mr. Rogers said they needed to look at the short term and long term for high density.

PC Smith approached the map adding to the discussion and showing where the resource and exception lands were located and where the City could possibly grow.

Discussion continued regarding the designation of more HDR land.

Ms. Rogers said the Springbrook development master plan was approved many years ago, but now they were not going to be doing the development themselves. Could the City change the designation since the development would not be done as it was originally planned? CDD Rux responded there was an approved master plan and executed development agreement, and they did not know if a new developer would want to come up with a different master plan and agreement. SP Olson said changing owners did not give the City leverage to change the zoning, but the developer could go through a Comprehensive Plan and Zone change process.

Ms. Rogers said that was a large area and had potential to include multi-family housing. If there was any way to incentivize putting multi-family there, they should do so. SP Olson said it had a lot to do with the economy as well.

The Commission took a five minute break.

SP Olson continued his presentation by discussing the location policies. He asked about using the term multi-family housing instead of low and moderate income housing.

PC Smith pointed out multi-family could be done in R-2 as well as R-3. SP Olson suggested using the term HDR multi-family housing.

There was consensus to use the term HDR multi-family housing.

SP Olson said instead of using the term rental housing, they could use the term HDR multi-family housing.

PC Stuhr suggested using the term multi-family housing instead to include all types of rentals.

SP Olson said there were standards for medium and high density locations, such as on a collector or arterial and near City services. He asked if a sentence should be added saying these were aspirational, but not absolute requirements and were lower in priority than the goal of disbursing R-3 multi-family housing throughout the City.

There was consensus to add that language.

SP Olson discussed the housing mix policy, one at the UGB phase and one at the annexation phase. At the UGB phase, they could not say residentially designated because they had not been designated yet. They would have to say where large parcels or groups of parcels were to be brought into the Urban Growth Boundary and designated low or medium density, the City would apply a mixture of residential designations including some HDR designated land. It would be applied to the portion of the property that would be most suitable. At the annexation phase, they could say for large parcels or groups of parcels, the applicant would apply for a Comprehensive Plan map amendment to include some high density.

Mr. Harris suggested instead of going through a Comprehensive Plan map amendment, to change the table so that LDR went to R-1 and R-3, MDR went to R-2 and R-3, and HDR went to R-3. SP Olson said that had been discussed, and there was concern that it would be complicated to do.

There was discussion regarding the issues and impacts with changing the table as suggested.

There was consensus for staff to look into this option further.

SP Olson said the mixed designation in the Comprehensive Plan talked about being suitable for high density residential, however the Development Code said if mixed designation was being annexed, the appropriate zones would be C-2, M-1, and M-2. The PQ designation in the Comprehensive Plan showed it as being for institutional uses, but the Development Code stated it could be any zone. CDD Rux said the institutional zone did not allow K-12 in the zone, and schools had to be in residential zones.

There was discussion regarding planning for infrastructure, especially when properties were up zoned.

There was consensus to change the Development Code to add R-3 for mixed designations and to change the Institutional zone to allow elementary and secondary schools.

SP Olson discussed the definition of large annexations and some R-3.

PC Smith thought they should pick a number, such as 20 acres, that it should be the net buildable acres which only subtracted the stream corridors, and some should be defined as 10%.

The Commission agreed that large meant 20 acres, individual or aggregate, and subtracting the stream corridor area only for the net buildable acres. The definition of some was 10%.

PC Smith wanted staff to discuss with the City Attorney the possibility of a fee for medium sized annexations.

Mr. Rogers said Housing Newberg came up with the 20 acres, but that did not take stream corridors into consideration. He thought there were not many single parcels that were 20 acres, but it would have to be several parcels. He suggested defining large as 10-15 acres, especially since it was net buildable acres.

Discussion continued regarding the map and potential sites for annexation.

PC Smith did not think the number for large should go below 15 acres.

There was consensus to lower the number for large from 20 to 15 acres, with only the stream corridor reduction. The Commission was basing the decision on what was projected would come into the City.

ITEMS FROM STAFF:

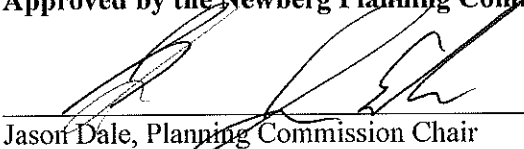
CDD Rux gave updates on the Council's decisions on the Dutchman Ridge annexation, land division regulations, Stormwater Master Plan, and initiation of a Development Code amendment for private streets as part of Planned Unit Developments. He also gave the Council a review of some of the City's master plans.

The next Planning Commission meeting was scheduled for October 12, 2017.

ITEMS FROM COMMISSIONERS: None.

Chair Jason Dale adjourned meeting at 9:48 pm.

Approved by the Newberg Planning Commission this October 12, 2017.


Jason Dale, Planning Commission Chair


Bobbie Morgan, Office Assistant II