

**NEWBERG PLANNING COMMISSION MINUTES**  
**June 8, 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: Allyn Edwards  
Cathy Stuhr  
Gary Bliss  
Ron Wolfe  
Jason Dale, Chair  
Patricia Watson  
Philip Smith  
Miranda Piros

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

**PUBLIC COMMENTS:** None.

### CONSENT CALENDAR:

Approval of the April 27 and May 11, 2017 Planning Commission meeting minutes

**MOTION: PC Stuhr/PC Wolfe** moved to approve the April 27 & May 11, 2017 Planning Commission meeting minutes. The motion carried (7 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).

1. **North Valley Friends Church & Veritas School annexation:** Consider an annexation application for seven properties located at 2040 N College Road (24.33 acres total). The zoning will change from PAI (County) and AF-10 (County) to R-1 (City low density residential) and R-2 (City medium density residential).

APPLICANT: North Valley Friends Church and Veritas School

FILE NO.: ANX-17-002

RESOLUTION: 2017-331

CRITERIA: Newberg Development Code Sections: 15.250.020 & 15.250.030

Chair Dale called the hearing to order at 7:01 pm.

CALL FOR ABSTENTIONS, BIAS, EX PARTE CONTACT, AND OBJECTIONS TO JURISDICTION:  
PC Smith was a member of Newberg Friends Church, which was closely associated with North Valley Friends Church. He did not think it would affect his decision on this matter.

PC Wolfe recused himself from the hearing due to a conflict of interest because of his employer.

**LEGAL ANNOUNCEMENT:** Student Miranda Piros read the legal announcement.

## STAFF REPORT:

The staff report presentation was given by Assistant Planner Brad Allen. This was a request to annex 24.33 acres on 7 separate lots on N College Street. There was also a request to change the zoning from PAI and AF-10 to R-1 and R-2. The Comprehensive Plan designation was PQ, public and quasi-public, with a stream corridor overlay on part of the site. The request for R-1 and R-2 was consistent with the PQ designation. This site was on the north end of the City. The site was inside the Urban Growth Boundary and contiguous to the City limits. The 5 acre lot in the middle would be zoned R-1, and the remainder of the lots would be zoned R-2. He explained the site and surrounding area as well as the concept development plan. The 5 acre site would be used for the Veritas School and the applicant had received permits from Yamhill County to start building the school. The access to the school would be off of NE Bell Road. There was a development agreement between Veritas and the City from 2003 that allowed them to begin development of the site prior to annexation. The permits had been issued and the development of the school was underway. They also planned to build some duplexes, ball fields, and a social services building. The R-1 and R-2 zones allowed those uses and they were consistent with the PQ Comprehensive Plan designation. In the Comprehensive Plan there was a housing mix policy where large residentially designated parcels would include some R-3 to distribute affordable housing throughout the community. The Commission needed to determine if that policy was applicable to this annexation request. The questions the Commission should answer were: was the site residentially designated and was the annexation large? If they answered yes to both questions, they would have to determine how much R-3 land was required. Would requiring R-3 land to this annexation be appropriate on balance with other Comprehensive Plan policies and the development agreement? The applicant was not proposing any R-3 land. The site was designated as PQ, and the proposed school was in line with that designation. Staff did not think the site was residentially designated. At a previous hearing, staff had come to the conclusion that there were different ways to define large and when comparing other annexations in the City this annexation would be considered medium, not large, and the mixed housing policy did not apply. There was already development going on the property and no other housing but a few duplexes were being proposed. Staff thought due to the development agreement, the PQ designation, and the size of the property would indicate the mixed housing policy did not apply in this situation. As part of the development agreement, the City would not require the utilities to be extended completely. There was water and sewer service available to the property which would need to be extended in the future as development around the site happened. The availability of police, fire, parks, and schools was adequate. Staff recommended approval of the resolution.

PC Bliss asked if the development agreement superseded the current code. CDD Rux responded that the development agreement was a binding contract and was approved before the mixed housing policy was adopted. This property was not residentially designated, but designated as PQ. The existing condition was a church with outbuildings, walking path, development agreement, and Conditional Use Permit with the County.

PC Bliss thought if they took out the large and small comparison annexations, this would exceed the median and be considered a large annexation. They were not going to have annexations that were 100 or more acres in Newberg. Large annexations would be more in the range of 20 acres. CDD Rux replied the Planning Commission had not come up with a specific finding regarding what was considered large. This application was not proposing any residential and no lots were being created. If the Commission thought this was residentially designated, they would have to define what large was and what some R-3 would be required. The Commission did direct staff to bring back a proposal for cleaning up these issues.

PC Edwards thought the intent for the property was clear in the agreement. Was there discussion regarding grandfathering in this agreement? CDD Rux did not know.

PC Stuhr asked about the size of the stream overlay. AP Allen answered it had not been calculated, but thought it would be two to three acres.

PC Stuhr asked if the social services building was an allowable use. CDD Rux suggested she ask the applicant what the intended use of that building would be.

PC Stuhr asked if there was another designation the applicant could have chosen that would allow them to do what they wanted to do other than R-1 and R-2. AP Allen responded they could have chosen the Institutional zone.

#### PUBLIC TESTIMONY:

##### Proponent:

Andy Baker, applicant, said they had entered into the development agreement in 2003 with the intent to build the school and two ball fields. Due to financial hardship, they were not able to build it at that time, but they were now ready to develop. They would like to be annexed into the City.

PC Stuhr asked about the use of the social services building. Mr. Baker stated it was to be used to house non-profit social service groups on the site that were in line with the mission of the church. At this point, the building was not going to be built. The only thing that would be built was the school and ball fields.

PC Bliss said in the application it stated water and sewer had been provided to the site, but they indicated they were in discussions with Bill Rourke regarding upgrading the water service. Would it be completed within three years? Mr. Baker said it would be finished by the fall. They had entered into a contract with a pump station upgrade company to be sized to handle Mr. Rourke's property, the current church uses, school needs, and future plans.

PC Edwards asked about the intention of the ball fields. Mr. Baker said they would be used for competitive sports, school recreation, church uses, and other clubs or groups could use the fields depending on the time of year.

PC Edwards clarified it was the intent in the original agreement to use the land for this use. Mr. Baker said that was correct.

PC Edwards asked if the land that was donated was stipulated to be used for the church in the best way they saw fit. Mr. Baker was not familiar with a donated land stipulation.

PC Stuhr asked why they chose zoning of R-1 and R-2 when Institutional would allow them the same activities. Mr. Baker thought R-1 and R-2 made sense with what they wanted to do with the property.

Chair Dale clarified that with the agreement, they could not change their mind and build a large housing complex. Mr. Baker was not sure about what the agreement stated, but they had no intention of turning the land into a housing development.

##### Opponent:

Charlie Harris, Newberg resident, said the PQ designation allowed residential and the applicant had asked for residential zoning. He thought the site was residentially designated. He also thought this should be considered a large annexation especially when taking out the smallest and largest annexations as suggested by Commissioner Bliss. He thought a couple of acres should be used for R-3 development. He considered requiring R-3 land appropriate and on balance with other Comprehensive Plan policies. The property was on a major arterial, and was close to a school, park, commercial services, and transit. He suggested the applicant revise the application to bring it in as Institutional. There was nothing to prevent them from selling the land and it could be developed as housing.

#### CLOSE OF PUBLIC TESTIMONY:

Chair Dale closed the public testimony portion of the hearing at 7:47 p.m.

#### FINAL COMMENTS FROM STAFF AND RECOMMENDATION:

AP Allen said staff recommended approval of the resolution. The development agreement had proposed development of the school and a couple of duplexes. The duplexes were not being proposed at this time, but they were still part of the original agreement.

PC Smith asked about the process for resubmitting the application as Institutional. CDD Rux explained the process, which would take a couple more months, but it would not be an extra expense. If they wanted to change the zoning at a later date, they would have to go through another zone change application process.

PC Edwards asked if the City had recommended the zoning when they applied. CDD Rux said at the pre-application meeting they were told they could choose any zone they wanted and had discussed the options. The applicant chose R-1 for the school site and R-2 for the rest. If they were going to do something different with the property, they would have to renegotiate the development agreement.

PC Stuhr said if they decided that some R-3 was required, would it prohibit what was in the development agreement? AP Allen responded the uses proposed were allowed in R-3.

PC Smith asked if they would have to resubmit the proposal to add R-3? CDD Rux answered yes.

PC Edwards asked if they rezoned with R-3 would they be required to have high density on the premises or could they continue to do what was in the agreement. CDD Rux explained they would not be mandated to build it, but it could be built sometime in the future. It would affect the land supply numbers.

PC Watson asked for clarification on the upgrades to the pump station and adding R-3. CDD Rux responded the upgrades were being done to accommodate the school, Mr. Rourke's property, and the existing church. It did not include adding R-3 land. There was a future project in the Water Master Plan that would replace this pump station with a bigger station. That was in the five year plan.

PC Bliss clarified this agreement went with the land, not with the owner. If they wanted to do something other than what was in the agreement, such as create a housing development, they would have to renegotiate the agreement. CDD Rux said that was correct. He did not think the property was designated residential.

PC Edwards asked if they changed it to some R-3, would it require a traffic study? CDD Rux responded that it would.

#### PLANNING COMMISSION DELIBERATION AND ACTION:

PC Smith thought the site was residentially designated by accident to the harm of the City and the applicant. They had not decided what a large annexation was or how much R-3 should be required. He did not think requiring R-3 land was appropriate and on-balance with other Comprehensive Plan policies because they had an agreement with the applicant. The applicant had not understood the difference between R-1 and R-2 and Institutional. It was not to the City's interest to have this land designated as R-1, R-2, or R-3 because that was not what it would be used for. They had to have an accurate analysis of the land inventory and by putting R-3 on this land that would never be used for that purpose, it would mess up the analysis. He suggested approving the application and directing staff to work with the applicant to get it zoned accurately in the quickest way possible.

PC Stuhr agreed that they would not get any R-3 out of this and they would not get any R-1 or R-2. She agreed it should not be designated as residential as the analysis would not be correct. She suggested the applicant come back with a revised proposal to zone to Institutional.

Chair Dale asked if it was changed to Institutional, did that put restrictions on building the duplexes at a future time. AP Allen responded building duplexes were a permitted use in the Institutional zone.

Chair Dale said the R-3 policy post-dated this agreement and if they required the R-3, it would open the City up to lawsuits. He suggested caution with how they went about this and working in good faith with the applicant.

PC Stuhr asked if the R-2 was needed for the social services building. AP Allen replied it was allowed in R-2 and Institutional.

PC Bliss said if they continued the hearing to allow the applicant to change the zoning, they could still continue with the construction. They needed to zone the land as it was going to be used. CDD Rux said that was correct.

CDD Rux stated if they continued the hearing for two months to modify the application, it would come back to the Commission on August 10 and it would go to the Council on September 4. The 120 day deadline was September 11.

PC Bliss suggested reopening the public testimony so they could ask the applicant if the timing worked for him.

PC Edwards was against reopening the public testimony.

**MOTION: PC Bliss/PC Smith** moved to reopen the public testimony. The motion passed (5 Yes/ 1 No [Edwards]).

**Proponent:**

Mr. Baker asked if this was not passed, would they have to come back with another application. CDD Rux responded yes, as that was part of the development agreement. They would also have to pay a new application fee. If they modified the application, there would be no additional cost. He then explained the termination clause in the agreement and confirmed there was a difference in the City's and County's cost for services.

Mr. Baker thought there would be agreement to modify the application and come back in two months.

**Opponent:**

Mr. Harris was in support of modifying the application to Institutional. He asked for clarification on the termination clause. He was concerned that once the school was built, the agreement would be completed and they would be free of it. CDD Rux explained the ways the agreement could be terminated. They had started to implement the project, but building the school did not fulfill all of the agreement. This agreement would run with the land until it was fully implemented.

Chair Dale closed the public testimony portion of the hearing at 8:25 p.m.

**MOTION: PC Smith/PC Stuhr** moved to continue the hearing to Aug 10, 2017 to give the applicant time to revise the zoning to Institutional. The motion carried (5 Yes/ 1 No [Edwards])

PC Edwards cautioned the Commission that because the hearing was continued, they could not discuss it over the next two months. He thought the resolution should have been adopted as submitted.

The Commission took a five minute break at 8:29 p.m.

**VI. WORKSHOPS:**

**1. Land Divisions:** Potential Development Code Amendments to Chapter 15.235 – previously discussed at January 12, 2017 meeting.

The presentation was given by Associate Planner Cheryl Caines. In February 2016, the Commission adopted a resolution to update the land division regulations. In January 2017, CDD Rux presented the proposed amendments. The Commission gave suggestions and feedback at that meeting and she had brought back the revisions. The changes included edits for clarity and organization, additional submittal items and plan elements for land use applications, and the section on a future streets plan was added back in. More specific edits were deleting the definitions of partition and subdivision under the purpose statement as those terms were already defined in the definitions section. Consistent language that was used throughout the code was added in the traffic analysis section. A definition of substantially complete was added as well. The submittal and plan items that were added were wetlands and stream corridors, existing structures on site that were to remain, and contours on and off site. The future streets plan would be a conceptual street plan that would show how applicants could connect to existing streets and how the properties could be laid out. The next step was for staff to take any comments or suggested changes that night and bring the code amendments back to the Commission for adoption in July and to Council in August.

PC Bliss said in regard to substantially complete, would this preclude a developer from building a model home. AP Caines said yes, because building permits would not be issued until the plat had been finalized. The term substantially complete was vague in the code right now. Once a developer bonded, they could sign the final plat, and the lots would be separated and sold. It was a safety valve making sure construction did not happen before the utilities and improvements were in place.

PC Bliss thought once they bonded, it was a guarantee that the improvements would be constructed and models could be built. CDD Rux would talk with the City Engineer to see if anything needed to be adjusted.

PC Bliss had asked for a requirement of a typical street cross section to be shown on the plans, but that was not included. It would let everyone know what the street would look like. He also thought a grading plan should be required. AP Caines said those items could be added.

PC Bliss stated trees that would remain and trees that would be removed should be shown as part of the application as well. AP Caines said that requirement was in the current code, but there were no tree regulations in the code. It could be added back in.

PC Stuhr said they often received public testimony on things such as trees and it would be good to know what was proposed to be cut down. CDD Rux said they could have applicants show where the trees were located, but there were no regulations that said they could or could not cut them down. It would just be showing an existing condition.

PC Edwards did not think they should add a requirement regarding trees as it should be the discretion of the developer. CDD Rux said the Council had not given direction on creating an urban forestry plan yet.

PC Stuhr said if something like that was created in the future, they should add a tree requirement to the land use application.

CDD Rux said staff would go back and look at the bonding issue, would add a typical street cross sections requirement, and would add a grading requirement.

**2. Newberg 2030 Buildable Lands Inventory and Study Area Boundary**

The presentation was given by CDD Rux. The City had applied for a grant to start the simplified UGB process and to decide if land needed to be added to the UGB in the future. The City hired ECO Northwest to prepare a

buildable lands inventory. He explained the study area, acres within the existing UGB and Urban Reserve Area, Comprehensive Plan designations for those acres, identifying what was vacant and partially vacant, identifying constrained lands, and some anomalies that were found. For residential, there were 564 acres of low density, 350 acres of medium density, and 33 acres of high density that were developed, 790 acres that were partially vacant, and 464 acres that were vacant. For employment lands, there were 212 commercial acres that were developed, and there were 146 partially vacant and vacant commercial acres. There were 89 acres of partially vacant and vacant industrial acres. Regarding the urban reserves, there were 75 dwelling units, 50% percent of the lots were over ten acres, and there were 527 acres and 111 lots total. For the urban growth study area, he took out the land in Marion County because of the difficulty serving it, the landslide and floodplain areas, stream corridors, land in Dundee, resource lands in Washington County, and exception lands. Some of the issues that were discovered were split plan designations, residentially designated land and transitioning between uses, the golf course was zoned industrial, Columbia Bank and Jiffy Lube and manufactured home parks came up as partially vacant, churches came up as vacant, and condominiums came up as vacant. Because of these issues, the consultant did an analysis on Division 24 vs. Division 38 UGB expansion processes. Under the Division 38 method, it said the City had 386 more vacant and partially vacant residential acres than under the Division 24 method. There was not a big difference between the commercial and industrial acres. The consultant provided an opinion that Division 38 was more complicated than Division 24. Division 38 was more unclear and there was no way to deal with the data errors and it was unworkable. Staff had conversations with the state staff regarding technical fixes to Division 38. DLCD would start to look at this issue in July and the Council had directed staff to send a letter to DLCD to support the need for technical fixes to the administrative rule. The options for moving forward were to continue using Division 38 with its anomalies, to request DLCD make the technical fixes so the City could redo the buildable lands inventory, to stop and let a comparable sized city go through Division 38, or go back to the Division 24 process. He was hopeful that with some tweaks, Division 38 could still be used.

There was discussion regarding the feedback from the citizen advisory committee, institutional and public designations, past UGB expansion process and how the skewed numbers were part of the problem back then and how they were a problem again, trying to decide the zoning needs, and analysis for servicing land outside the UGB.

PC Edwards said since they were participating in a pilot program, was there a way to get funding to get it right the first time. CDD Rux said in the budget they had identified \$150,000 to continue the UGB expansion process. He planned to apply for another state grant as well. They had a preliminary buildable lands inventory and preliminary study area boundary and some anomalies had been found. They were working with the State to see if the anomalies could be fixed. There were funds to continue to move forward. The buildable lands piece was foundational to the work and it had to be done right or the end results would be skewed. If he could not get Division 38 to work, it might be the conclusion that they would have to use the Division 24 process.

There was further discussion regarding the Division 38 process, policy choices that would have to be made, priority areas for expansion, and ways to keep the final product from being appealed.

CDD Rux said among the options, he recommended working with DLCD to do technical fixes to Division 38. These fixes would take several months for DLCD to do.

#### **ITEMS FROM STAFF:**

CDD Rux gave Council updates including approval of the Water Master Plan, approval of the adjustment in Water SDCs which had been reduced, and the Dutchman Ridge application was continued to June 19.

The next Planning Commission meeting was scheduled for July 13, 2017.

#### **ITEMS FROM COMMISSIONERS:**

PC Edwards asked about the Shelly Park development and how they were building homes down to the street. CDD Rux explained how seven additional lots occurred through the partition process that accessed the same road.

PC Edwards thought they should have allowed the driveway to be a right turn only onto N College Street as it would be a lot of traffic on the little horseshoe. CDD Rux said part of the issue was the State not allowing access onto their highway.

PC Edwards pointed out that the rain gardens were full of weeds. CDD Rux agreed they were overgrown and he had contacted Public Works to take care of it. They were used to treat the run off from the roadway.

Chair Jason Dale adjourned meeting at 10:09 pm.

**Approved by the Newberg Planning Commission this July 13, 2017.**

  
\_\_\_\_\_  
Jason Dale, Planning Commission Chair

  
\_\_\_\_\_  
Bobbie Morgan, Office Assistant II