

MINUTES OF THE PLANNING COMMISSION

Newberg Public Library
Thursday, 7:00 PM

Newberg, Oregon
October 21, 1993

Subject to P.C. Approval at 11/18/93 P.C. Meeting

I. PLANNING COMMISSION ROLL CALL

Planning Commission Members Present:

Pat Haight
Jack Kriz
Mary Post
Carol Ring
Steve Roberts
Wally Russell
Robert Weaver
Roger Worrall

Staff Present:

Greg Scoles, Comm. Development Director
Sara King, Associate Planner
Barb Mingay, Recording Secretary

Citizens Present: 22

II. OPEN PLANNING COMMISSION MEETING

Chair Russell welcomed new Planning Commissioner Pat Haight to the Commission. He encouraged all Commissioners to attend the planning commissioner training session scheduled for November. He then opened the meeting and asked if there were any additions or deletions to the agenda. No revisions were requested.

III. APPROVAL OF MINUTES

Motion: Post-Worrall to approve the minutes of the September 16, 1993 Planning Commission meeting. Motion carried unanimously.

Associate Planner King read ORS 197 relating to public hearings into the record and reviewed the public hearing procedure.

IV. PUBLIC HEARINGS:

A. **APPLICANT:** Newberg School District 29JT
REQUEST: Annexation of a 17.9 A. parcel to allow development of a new elementary and middle school
LOCATION: North of Crater Lane, east of Chehalem Drive
TAX LOT: 3207-1000
FILE NO: ANX-2-93
ZONE: AF10 to R-1 Low Density Residential

Mr. Russell opened the hearing and asked for abstentions, ex-parte contact or objections to jurisdiction. No ex-parte contact or abstentions were noted. No objections to jurisdiction were noted.

Staff Report: Ms. King reviewed the annexation and zone change criteria. She identified the site on a map and reviewed the topography, use of the site and surrounding sites, and road access. She reviewed staff findings and noted that the application meets both annexation and zone change criteria. She noted that

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design will be reviewed through the City design review process. She noted that a traffic impact statement will also be required during the design review process.

Questions to staff:

Commissioner Haight asked Ms. King about who would install sewer to the site. Development Director Scoles indicated that sewer extension to that site will depend on the development pattern on the site. He noted that no plans have yet been submitted by the School District; however, it is anticipated that a school will be developed on the site. He noted that the system could be totally paid for by the School District or other properties in the vicinity of the school site could be included. He noted that the Council is considering a UGB amendment to include several other properties in the area within the UGB. He noted that quite possibly a sewer system would be provided for all the affected parcels. He indicated that a pump station would probably be required because of topography in the general area and that funding for development of utility systems could be from a combination of sources.

Ms. Haight asked about Foothills Drive being the major access to the site. Mr. Scoles concurred.

Ms. Haight indicated that Main, Chehalem, and Crater were substandard and she asked what improvements would occur on these streets. Mr. Scoles noted that this application should be reviewed based on the possibility of extending improvements to the site, not what possible development might occur. He noted that sewer and transportation issues were going to be discussed at the time of development of the site to determine the impacts of any facility on the surrounding systems.

Proponent: None

Commissioners expressed concern that the applicant was not present to testify.

Mr. Scoles noted that the hearing was advertised as a public hearing and testimony may be taken without the primary proponent being present.

Opponent: None

Question from Audience:

Sid Friedman, 31909 NE Corral Creek Rd., asked how this property was sited in relation to those under consideration for inclusion in the UGB. Ms. King indicated the location of the proposed UGB amendment on a map.

Opponent/Proponent Rebuttal: None

Public Agencies: None

Letters: None

Commissioner Roberts asked if the School District owned the site prior to development of Foothills Dr. Staff was unaware of the sequence of ownership of this site.

Commissioner Worrall asked when the School District has planned to develop the site. Mr. Scoles indicated that it was conceivable for the school to be constructed within 2 years.

Ms. Haight asked about whether the Police and Fire Departments have commented about servicing the site. Staff indicated that both agencies have indicated they have no conflict with the proposed annexation.

Staff Recommendation: Staff recommended approval of the request subject to conditions 1 and 3 as identified in the staff report. Ms. King noted that condition 2 is not necessary at this time. She noted that the conditions must be completed prior to City Council approval of this matter.

Hearing Closed.

Commissioner Discussion:

Commissioner Weaver supported annexation of the site.

Mr. Roberts felt annexation was inappropriate at this time. He felt that if this site was solely for the use of children within the City limits it would be a different case. He felt that the transportation plan and sewerage plan should be available prior to the annexation. He expressed concern about several road intersections which were hazardous. He felt that more information should be provided relating to the expense to the taxpayers for development of the site.

Ms. Haight indicated she agrees with Mr. Roberts relating to lack of information about development of the site. She asked when surrounding properties were going to be developed. She reviewed an Oregonian article about urban growth boundaries.

Mr. Russell noted that the staff report does address some methods by which improvements to the site will be financed.

Mr. Roberts indicated that a waiver of remonstrance is not a method of funding. He felt that there was not enough certainty about what would be paid for.

Commissioner Kriz asked staff what "adversely affect" and "unduly compromise" mean. He asked if the transportation issues were considered to adversely affect and unduly compromise the City.

Mr. Scoles indicated that the Comprehensive Plan has designated the site as LDR with a "School" designation. He noted that this hearing was for consideration of the annexation only and not potential development. He noted the application is for R-1 zoning and Staff felt there was adequate access for that type of zoning. He noted that no development plans have yet been presented for the site. He added that numerous meetings have occurred between the School District and the City relating to funding and development proposals.

Mr. Kriz asked if a school were to develop on the site, would the Planning Commission have any additional input relating to the development. Mr. Scoles noted that some subdivision of the property would be needed and extension of services would be required: both of these issues would be heard by the Council.

Motion: Weaver-Post to recommend to the City Council approval of the request for annexation of the 17.9 acres as the first step towards meeting the needs of our community, with conditions 1 and 3.

Discussion of the Motion:

Mr. Worrall indicated that the process relating to this hearing is quasi-judicial. He felt it was inappropriate for the Commission to make assumptions relating to what may occur on this parcel. He felt that the Commission is acting without all the proper tools available to them. He would like to have some questions answered.

Commissioner Ring felt that additional information would be appropriate.

Mr. Roberts asked if it was appropriate to bring in additional R-1 land at this time. He felt that some assurance should be given that the School District would be developing the site as a school.

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Mr. Kriz noted that the site was already in the UGB and intended to be brought in as an R-1 parcel. He noted that the need for inclusion was already proven when the site was included in the UGB numerous years ago. He noted that the Commission is here to judge the annexation only on the criteria.

Mr. Roberts felt it was inappropriate to annex the site at this time.

Mr. Kriz felt the Commission was being inconsistent in their decision-making if this annexation were denied based solely on the need to pump sewerage. He noted that Chehalem Drive serves the site, Crater Lane can be extended and Foothills serves the site now.

Mr. Worrall felt that there was no public need for a change of this kind and Zone Change criteria 2 was not being addressed. He felt there needs to be some significant upgrading of transportation facilities to the site.

Mr. Scoles indicated that the hearing is to amend the comprehensive plan and to change the zone from a County to City zone. He noted that the zone change criteria primarily would apply to changes in zone once the property was inside the City.

Mr. Worrall felt that it was necessary to understand what would be developed on the site.

Mr. Weaver indicated that the initial request was for a comprehensive plan amendment and zone change to allow the development of a school.

Mr. Worrall felt that facts relating to the development should be more clearly outlined.

Mr. Kriz noted that development plans were clear as there was a \$30 million bond issue for a school and the Crater site was donated for the purpose of school construction. He felt that this annexation should be considered as any other annexation in the past has been considered.

Mr. Roberts felt that the school's potential impacts on the neighborhood should be considered.

Mr. Kriz noted that the City has design review requirements over all such development which might occur on the site. He felt that the high school is a very good example of what not to do and that design review standards did not exist when the high school was constructed.

Commissioner Post indicated that traffic-wise there is no comparison with the student traffic going to a high school and that going to a middle school.

Vote on Motion: Aye-Kriz, Post, Ring, Weaver, Russell; Nay-Haight, Roberts, Worrall. Motion carried (5-3).

Staff noted that the hearing before the Council would be on November 1, 1993.

B.	APPLICANT:	City of Newberg
	REQUEST:	Adopt the NW Newberg Specific Plan as an element of the Comprehensive Plan and enact related ordinance amendments
	FILE NO:	Newberg Planning File GR-3-92

Mr. Russell opened the hearing and asked for abstentions, ex-parte contact or objections to jurisdiction. No ex-parte contact or abstentions were noted. No objections to jurisdiction were noted.

Staff Report: Mr. Scoles indicated that material relating to this matter has been previously presented to the Commission. He noted that the hearing would be both quasi-judicial and legislative in nature. He reviewed the development of the plan, noting that a group of property owners have worked together with consultants and the City to develop a plan which would be coordinated, consistent, with good street access, pedestrian access, and

contain residential, commercial and park facilities on a much larger scale than that available on a site by site basis. He noted that revisions to the Comprehensive Plan are required to allow this type of development. He reviewed the staff report, highlighting changes required to the Comprehensive Plan Text, Plan Map and Zoning Ordinance Text. He noted that the Northwest Newberg Specific Plan would also need to be adopted as an exhibit to the SP overlay plan district. He noted that the Commission should provide an opportunity for testimony, close the hearing, consider the proposed ordinance amendments, and identify revisions. He noted that findings of fact must be developed by staff to support the proposed legislative changes. He noted that changes to the Comprehensive Plan and Zoning could be adopted separately from review of the NW Newberg Specific Plan.

Mr. Russell requested that testimony be restricted to the Comprehensive Plan amendments and Zoning Ordinance Amendments.

Audience Testimony:

Roger Grahn, 9065 SW Sagert, Tualatin, asked about the differentiation between minor and major amendments to the specific plan and the process of adjusting it. He asked if it was in accordance with State rules relating to comprehensive plans. He asked if a minor amendment to the comprehensive plan could be allowed at the staff level.

Earl Sandager, 3800 N. College, Newberg, spoke as a proponent in general relating to the plan. He felt the plan should have flexibility. He felt there should be adjustments available for streets and how they relate to property lines. He noted that he owns about 1/2 acre of land which has been designated on the Newberg Specific Plan as wetlands. He indicated that the Highway Dept. has routed drainage in this area down through his property. He noted that there is no water there, no frogs, fish or ducks and it is really not wetlands. He noted that his neighbor has maintained and mowed his property and this area is similar to a park. He felt this wetland designation should be removed.

Mr. Weaver asked Mr. Sandager who designated this site as wetlands. Mr. Sandager noted that the landscape architect involved in the process had noted the wetland grass and that the designation should be removed from the site.

Mr. Worrall asked Mr. Sandager to identify on a map where this area was located. He so noted.

Mr. Russell asked for citizen comment relating to the NW Newberg Specific Plan.

Audience Testimony:

Proponent: Sonja Haugen, 3113 Crestview Drive, representing Ken and Joan Austin, noted that she was a Specific Plan advisory committee member, representing the Austins, adjacent property owners of the project. She noted that the Austins continue to be very supportive of the specific plan and believe in the concept of planning. She noted that a few days before the plan process was completed, the Austins purchased the Wilhoit property which is included in the Specific Plan. She indicated that the Austin's current desire is to withdraw the Wilhoit property from the NW Newberg Specific Plan. After consulting with OTAK, the project consultant, relating to the project, she noted that there would be no apparent adverse impact on the NW Newberg Specific Plan. It is the Austin's intention to include the Wilhoit property in the larger development of the Austin property to the south and east.

Question to Proponent:

Mr. Worrall asked Ms. Haugen if it was the intent of the Austins to develop their properties under a specific plan. She noted that it was the intent of the Austins to develop the Wilhoit property under a master plan which would address all of their property.

Opponent: Roger Grahn, 9065 SW Sagert, Tualatin, spoke as a builder/developer. He noted that he was concerned about the general design and density of the project area. He felt that all that would be created would be more rats in a cage. He felt that economics did not ever enter into the development of the project. He noted that much of the R-2 area is classified in a general hazard zone and could not be developed. He pointed out that the plan included a development segment with alleys and he commented that alleyways are typically unused and often vacated by the Council. They are also not economical to develop. He presented a letter from Steven W. Abel, an attorney with Schwabe, Williamson & Wyatt, which addressed several points of concern including streets not converging on property lines. He felt that comprehensive plan amendments would be required to change any of the project. He felt that almost all requests for change to the plan would be at hearing level. He felt the specific plan would complicate the development process.

Questions to Opponent:

Mr. Roberts asked Mr. Grahn if any site specific plan would work in Oregon. Mr. Grahn indicated his attorney's opinion was that development of specific plans would be very difficult. He noted that if one owner were to develop a plan, then the difficulties would be easily resolved; but with multiple ownerships such as this, it would be very difficult.

Ms. Haight asked what Mr. Grahn's status was in Newberg. He noted that he was a local builder. She asked him if there was any apartment housing proposed in the plan. Mr. Grahn noted that R-2 areas were identified as apartment uses, but that it has been proven that condominiums such as those proposed do not sell in Newberg.

Mr. Kriz asked if this plan were designed as a PUD with the property owners developing the sites, then would the project work. Mr. Grahn felt that it could work if the property owners did their own developing. Mr. Grahn commented that most of the individuals involved in the project were not developers and were not aware of the expenses and realities of development.

Mr. Kriz asked Mr. Grahn if development of the proposed apartments in the R-2 designated area would be inhibited by lack of immediate development of the R-1 property abutting N. College. Mr. Grahn indicated that each development depended on the development of the abutting property.

Mr. Weaver asked Mr. Grahn what his opinion was relating to condominium sales in Newberg. Mr. Grahn indicated that the last two condominium units in the Newberg area have gone into receivership. Mr. Weaver felt that the opposite was true.

Mr. Scoles reviewed both major and minor amendment regulations relating to specific plans. He cited examples of how a change in circulation could be handled as an amendment to the specific plan. He noted that the intent was to make the development flexible.

Public Agencies: None

Letters: Pacific Empire Builders, Inc. by Curtis Walker, President, in support of the proposed plan with several concerns

Proponent Rebuttal: Ms. Haugen noted that the alleys mentioned by Mr. Grahn were intended to provide parking for the condominiums proposed on part of the site and were not intended as an alleyway. She noted that an economist was present during the plan development process and each of the property owners had an opportunity to ask questions of the economist. She also noted that certain sites may be landlocked but that is not a result of the specific plan. She noted that the property owners desired a high standard of development and that the higher density was necessary and appropriate for their property.

Staff Recommendation: Staff recommended that the Commission deliberate after the hearing is closed, consider the language as proposed, and request staff to return with revised ordinance language, and adopt the language.

Hearing Closed.

A 5 minute recess was called after which the meeting was reconvened.

Commissioner Discussion:

Mr. Russell recommended that the Commission continue deliberation of this issue to the next meeting.

Motion: Roberts-Haight to continue discussion of the Newberg Specific Development Plan to the November 18th meeting. Motion carried unanimously.

C. APPELLANT: BK Consulting
REQUEST: Appeal of a denial for a variance to the front yard building setback and several perimeter landscaping setbacks on the Arco Service Station site
LOCATION: 1500 Portland Road - Arco Station
TAX LOT: 3220BA-600
FILE NO: V-9-93 (APPEAL)
ZONE: C-2 Community Commercial

Mr. Russell opened the hearing and asked for abstentions, ex-parte contact or objections to jurisdiction. No ex-parte contact or abstentions were noted. No objections to jurisdiction were noted.

Staff Report: Ms. King reviewed the variance criteria upon which the Planning Director's decision was made. She summarized the variance request and identified the site on a map. She pointed out the areas that were granted a variance and reviewed the approval document. She then reviewed the findings for variance denial and a staff analysis relating to the issues under appeal. She noted that the site is a difficult one to redevelop and the City is willing to work with the applicant to develop a workable plan. She noted that although a convenience store is allowed outright in this zone, the site is not large enough to handle the size building that the applicant proposes.

Appellant: Dave Kimmel, BK Consulting, 122 SE 27th, Portland, reviewed the staff report criteria for variance approval. He noted that this site is unique in that it is a triangle with two front yards. He noted that the 20 ft. front yard setbacks required on two sides of the site impose a physical difficulty for development of the site. He felt that this is a commercial property with severe restrictions because it is a triangular lot. More development opportunities would be available for the site if it were not a triangular lot. He felt that granting a variance would not be injurious to the surrounding properties. He distributed photographs indicating landscaping on the site. He noted that the owner has purchased part of the right-of-way adjacent to Rocket Park for landscaping. He noted that the Highway Department will not sell their right-of-way on 219 for landscaping. ODOT desires retention of the right-of-way for utilities only but have closed the highway access onto 99W over this portion of 219. He added that the existing building is not able to be restructured for use as a convenience store as it is structurally unsafe. It would need to be demolished completely. If that were done, the building would then have to comply with Zoning requirements and could not house a business and adequate parking. He noted that the sidewalk appears to be the property boundary but it is actually 12-15 feet further in on the site. He reviewed a proposed site plan for development of a mini-mart on the site, with revised access, and adjacent site landscaping. He discussed shared access with Sentry's site. He noted that Mr. Laughlin has greatly improved the site over the last few years. He reviewed a letter from the property owner of the Sentry site which indicates there is no desire to sell or lease any property to the Arco store.

Questions to Appellant:

Mr. Roberts asked if the applicant agreed that the staff map was accurate. Mr. Kimmel agreed it was.

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Mr. Roberts asked if the site could be used for some other commercial use. Mr. Kimmel indicated that this site was extremely limited in its development potential based on the need for access from the highway, ingress, egress, landscaping and store size.

Mr. Worrall felt that the unusual circumstance identified by Mr. Kimmel (having two front yards) was not unusual. He cited examples such as Sharis, Fred Meyers, etc. He indicated that shape of the lot could be considered exceptional. He asked if the appeal was based on the fact that the site has two front yards. Mr. Kimmel indicated that the appeal was based on having two front yards, site size and site access.

Ms. Haight indicated she appreciated the landscaping efforts of Mr. Laughlin. She felt that business owners should be allowed to do what they wished with their property so long as it did not infringe on someone else. She asked what ODOT requirements were for the 99W access. Mr. Kimmel reviewed the ODOT requirements for access revisions on Villa. Ms. Haight asked if a 1900 sq. ft. building was too large for the parking spaces shown, or could a smaller building be built on the site. Mr. Kimmel indicated that a smaller building would not be efficient for containment of coolers, shelving, etc.

Ms. Haight asked if the proposed building had provisions for emergency access if it was under full occupancy load. Mr. Kimmel indicated it had adequate highway access. He indicated that current planning theory was to provide for pedestrian access by placing the building next to the street.

Mr. Kriz asked how long his client has owned the property. Mr. Laughlin indicated he has owned the site since 1985.

Mr. Kriz asked what the plan was for 219 next to this site. Mr. Kimmel indicated that they had no plans for revising 219 in this area and that ODOT indicated it would be happy to have the City responsible for jurisdiction.

Mr. Kriz asked if the landscaping currently near 219 and 99W was in the right-of-way. Mr. Kimmel indicated it was in the right-of-way and was maintained by Mr. Laughlin.

Proponent: Charlie Laughlin, 1875 Dorrel St., McMinnville, indicated he owns the property in question. He noted that originally, the right-of-way landscaping had been considered as part of their 15% landscaping requirement. He desires only to provide a good service to the City.

Opponent: Ken Robinson, 1200 S. Springbrook Rd., manager of Sentry Market, asked not to be listed as an opponent to Mr. Laughlin. He questioned if any calls had actually been made to Sentry Market by staff. Ms. King indicated she had contacted the property management group. He questioned whether Sentry should give up any of their property to benefit a competing business at Sentry's expense. He noted that Sentry is open to any ideas if they would further Sentry's business.

Opponent/Proponent Rebuttal:

Mr. Kimmel noted that Sentry does not, at least to the best of his knowledge, own the Sentry site. He does not feel that a convenience mart or mini-mart is in direct competition with Sentry. He felt that site design issues could be worked out with staff. He supported Mr. Laughlin in his efforts to beautify the community.

Public Agencies: None

Letters: None

Staff Recommendation: Staff recommended denial of the appeal based on findings identified in the staff report.

Hearing Closed.

Commissioner Discussion:

Ms. Haight asked if the variance denial was completed prior to Mr. Scoles coming to Newberg. Ms. King indicated it was.

Mr. Weaver felt that the existing store could be redesigned.

Mr. Roberts felt that continued precedent setting would not fulfil the intent of the Zoning Ordinance.

Mr. Worrall asked if 219 over the section abutting Rocket Park was still considered to be an arterial. Mr. Scoles noted that the new transportation plan deletes this portion of 219 as an arterial.

Mr. Russell asked about the number of parking spaces indicated on the plan. Mr. Scoles indicated that the parking design has not yet been approved through design review. Mr. Scoles noted that the design issues will need to be dealt with through design review after the variance appeal has been resolved.

Mr. Kriz asked if the Zoning Ordinance addresses convenience store parking spaces. Ms. King noted it was covered generally under retail commercial.

Motion: Haight-Ring that the Planning Commission uphold the Planner's decision to deny the variances sought for the Arco station site and that the Commission deny the appeal based on variance criteria, findings for denial of a variance dated August 11, 1993 and public testimony.

Discussion of Motion:

Mr. Weaver complimented Arco owners on their site upgrading; however, he felt the site was just too small for the proposed use.

Mr. Worrall agreed with the concept that the property owner has the right to do what he desires with his property; however, Zoning and Comprehensive Plans are in place for a reason.

Vote on Motion: Aye-Haight, Kriz, Post, Ring, Roberts, Weaver, Russell; Nay-Worrall. Motion carried (7-1).

Staff noted that the decision was final and there was a 10 day appeal period. Appeal would be to the City Council.

D.	APPLICANT:	M.A.L. Corp dba Dairy Queen
	REQUEST:	Comprehensive Plan Amendment and Zone Change from R-1 Low Density Residential to C-2 Community Commercial
	LOCATION:	111 S. Harrison
	TAX LOT:	3219BD-400
	FILE NO:	CPA-2-93
	ZONE:	R-1 Low Density Residential

Mr. Russell opened the hearing and asked for abstentions, ex-parte contact or objections to jurisdiction. No ex-parte contact or abstentions were noted. No objections to jurisdiction were noted.

Staff Report: Ms. King presented the Comprehensive Plan amendment and zone change criteria. She reviewed the site location and noted that part of the site is used as a parking lot. She indicated that this application was intended as a clean-up measure. She reviewed the staff report findings and noted that the Comprehensive Plan amendment and zone change criteria have been met.

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Proponent: Steve Lehman, 404 W. First, representing Dairy Queen, indicated that this site has been a parking lot for 18 years. It is their intent to clean up the zoning to develop the site in the future.

Opponent: None

Opponent/Proponent Rebuttal: None

Public Agencies: None

Letters: Mac Rental in support of the zone change.

Staff Recommendation: Staff recommended approval of the request.

Hearing Closed.

Commissioner Discussion:

Mr. Roberts expressed concern that there is a non-conforming use which is being continued.

Ms. Haight asked about the referral process and where this issue was advertised. Staff indicated that the request was advertised in the Graphic and referred to public agencies, utility companies and City staff.

Motion: Worrall-Post that the Planning Commission approve the Comprehensive Plan Amendment and Zone Change from LDR/R-1 to COM/C-2 based on staff findings and public testimony. **Vote on Motion:** Motion carried unanimously.

Staff noted that the hearing before the Council would be on November 1, 1993.

V. OLD BUSINESS - None

VI. NEW BUSINESS

- **Open Space/General Hazard Work Session**

Commissioner Worrall reviewed proposed revisions identified in the position paper relating to open space.

CAP member Sid Friedman expressed concern about the revision to 566 - 1.

Mr. Worrall noted that it was the committee's intent to continue protection of the existing open space and that item 566 should be revised to read *...within 250 ft. of the stream bed...*

Mr. Worrall recommended that these issues be reviewed by the Commission for discussion at the next Planning Commission meeting.

Mr. Scoles asked if it was the committee's intent to replace the existing language with the proposed replacement language.

Mr. Worrall indicated that was the intent. He then noted that the subcommittee membership included the following individuals: Tim Journey, Ken Lite, Don Halbrook, Mike McCauley, Roger Worrall, and Sid Friedman. He requested that the Commissioners review the open space ordinance revisions as proposed and discuss them at the next Planning Commission meeting.

Mr. Worrall was asked how many acres were currently protected. He did not have a total area.

VII. COMMUNICATIONS FROM THE FLOOR

Ms. Haight indicated that she enjoyed her first meeting of the Planning Commission.

VIII. ADJOURN

There being no further business, the meeting was adjourned at approximately 11:05 pm.