

Council Chambers
7:30 PM, Thursday

A Regular Meeting
of the Planning Commission

February 16, 1984
Newberg, Oregon

Members Present:

John Cach, Chairman
John Englebrecht
Jean Harris
Jane Parisi-Mosher

David L. Richards
Arthur Roberts
Roger Veatch
Joe Young

Members Absent:

Greg Moore

Staff Present:

Clay W. Moorhead, Planning Director
Rick Faus, City Attorney
Barb Mingay, Recording Secretary

Citizens Present: 4 Citizens

The meeting of the Newberg Planning Commission was called to order by Chairman John Cach.

John Englebrecht was introduced as the new Planning Commissioner and welcomed aboard.

Motion: Veatch-Harris to approve the November Planning Commission minutes as presented. Motion carried unanimously.

Chairman Cach indicated that election of officers was required at the first meeting of the year. This being the first meeting of 1984, nominations were opened for Planning Commission Chairperson.

Motion: Harris-Veatch to cast a unanimous ballot for John Cach. Motion carried unanimously.

Motion: Veatch-Roberts to nominate Jean Harris for Vice-Chair. Motion carried unanimously.

Public Hearing A:

File No:	ANX-1-84/Z-1-84
Applicant:	City of Newberg
Request:	Annexation of unincorporated territory surrounded by the corporate limits of the City of Newberg pursuant to the Oregon Revised Statutes Chapter 222.750, and a zone change from a Yamhill County zoning designation to a City of Newberg R-1 (Single Family Residential) zoning designation and withdrawal from the Newberg Rural Fire Protection District of two

parcels of land totaling approximately 2.12 acres
Location: Located abutting the east side of Main Street being approximately 450 feet north of the intersection with Illinois Street
Tax Lot: 3218DB-700 & -2400

No abstentions were requested, none were given.

Staff Report: Planning Director Moorhead presented a review of the staff report dated 2-10-84 and located the site on a map. He reviewed the directives of the Comprehensive Plan and the City Council relating to requirements for annexing islands of County land within the Newberg City limits.

No proponents wished to speak.

Opponent: Clifford Wilhelmson, co-owner of the property under consideration indicated that the Staff Report was incorrect in several areas. He stated that the house, which was reported to be on the subject property, was located on the property adjacent to it, in the City limits. The structure on the property under annexation consideration was a barn. He further indicated that the barn was connected to City water but was not connected to City sewer as there was no need for sewer service at this time. He stated the objections in the past to annexation centered around not being allowed to continue maintaining horses on the property with numerous City restrictions on livestock in the City limits. He added that the expense of adding a culvert and maintaining it had been born by the owners, not the City or County. He stated that at the previous annexation hearing a number of years ago, he and his brother had voiced no objection to dedication of 10 ft. of ground for street dedication and curbing. He felt that the City had no need to annex the property at the current time and that it should remain in its present agricultural state.

Questions to Opponent: Staff was asked what additional costs he would face if annexed. Mr. Moorhead indicated that Mr. Wilhelmson would be required to pay City taxes in addition to the taxes already being paid.

Mr. Wilhelmson was asked how many horses were kept on the property. He indicated that currently two horses are housed on the site with a foal expected this year, making a total of three horses to be housed in a four-stall barn with two pastures on the site. He indicated that the maximum number the site could handle would be approximately 4 horses.

Rick Faus, City Attorney, indicated that annexation would not disallow horse raising on the site as it would be considered a pre-existing, non-conforming use and would be "grandfathered" in. Horses could, however, be disallowed by nuisance abatement procedures.

Mr. Wilhelmson was asked whether the additional tax burden was the major cause for concern by the property owners or whether it was the inability to keep horses on the property. Mr. Wilhelmson indicated that the

City's ordinances relating to livestock in the City and his potential inability to continue raising horses was his main concern.

Mr. Moorhead indicated that livestock can also be allowed by permit in Newberg. These permits are issued unless conditions exist on the property which jeopardized health, fire and life safety.

Rick Faus then explained the procedures for nuisance abatement.

Mr. Wilhelmson was asked how long he anticipated keeping horses; he indicated that he and his brother were planning on retiring this year at 60 and they hoped to continue their hobby of raising horses until they are no longer able to do so for health reasons.

No public agencies responded and no letters were received. A phone call from Scott Canfield, a neighbor, was received indicating a concern about how his taxes might be affected by this action.

Staff Recommendation: Planning Director Moorhead indicated that the Comprehensive Plan requires the annexation of islands of unincorporated territory by specific policy and therefore recommended approval of the annexation.

Hearing Closed:

The Commission briefly discussed events in the past which created the island. Rick Faus reviewed the two types of annexations, a standard property owner request for annexation and an island annexation initiated by either the property owner or requested by the City. It was indicated that the property has been an island of County land surrounded by the City for at least five years.

Motion: Young-Veatch to re-open the hearing to hear additional testimony from Mr. Wilhelmson. Motion carried unanimously.

Mr. Wilhelmson indicated that the past City Council recommended that the property not be annexed because there was no definite reason whatever to do so.

Mr. Cach indicated that since that time, the Council has adopted regulations in the Comprehensive Plan to require the annexation of islands.

Hearing Closed.

Motion: Veatch-Roberts to recommend to the City Council annexation of unincorporated territory surrounded by the corporate limits of the City of Newberg pursuant to the Oregon Revised Statutes Chapter 222.750, and a zone change from a Yamhill County zoning designation to a City of Newberg R-1 (Single Family Residential) zoning designation and withdrawal from the Newberg Rural Fire Protection District of two parcels of land totaling approximately 2.12 acres known as 3218DB-700 and -2400 based on Staff Report findings 1-13 with the deletion of Finding 4, paragraph 3 and based on ORS Chapter 222.750.

The Commissioners briefly discussed the well maintained appearance of the site in question and commended the Wilhelmsons for the manner in which they maintained their property.

Vote on Motion: Aye: Cach, Englebrecht, Harris, Parisi-Mosher, Roberts, Veatch, Young. Nay: Richards. Motion carried (7-1).

Planning Director Moorhead indicated to Mr. Wilhelmson that the City Council would hold a public hearing at their March 5, 1984 Council meeting to hear full public testimony relating to this annexation request.

A brief recess was called.

The meeting was reconvened and the next agenda item was heard.

Public Hearing B:

Applicant:	City of Newberg
Request:	Review of a proposed ordinance for the purpose of regulating mobile or transient merchants who occupy a temporary or fixed location and do business in much the same manner as a permanent business
Location:	Within the Newberg City limits
File No:	G-1-84

A general consensus of the Planning Commissioners, staff and audience indicated that the discussion relating to the above public hearing should be conducted in a round table format. Director Moorhead introduced the history behind the request for a regulatory ordinance for mobile or transient merchants. The staff indicated that under the City's current ordinances, this type of merchandising could not be specifically prohibited. Staff reviewed the packet material offered by the Bureau of Governmental Research and the City of Lebanon.

Director Moorhead presented four options that could be taken by the City to regulate these types of businesses:

1. Do nothing - and allow the staff to continue determining authorization to operate, using existing ordinances.
2. Adopt the Lebanon ordinance which prohibits transient merchants.
3. Allow mobile vendors as an outright permitted use in certain zones. Using C-1 or C-3 zones would limit the vendors to a specific area.
4. Create a sub-district overlay (i.e. Mobile Vendors Sub-District, etc.) over any existing zone(s), with identified boundaries within which the mobile vendors could operate.

Rick Faus, City Attorney, indicated that there are two types of permit processes available. The licensing type of ordinance was primarily designed to determine the legitimacy of the business involved or to limit the business in its operation on the public way. The zoning permit process is more directed to controlling land use or the areas of town that the use may be permitted in.

A general discussion of the Green River Ordinance followed with Mr. Faus indicating that, although the Green River Ordinance had not been specifically overturned in Oregon, it was considered to be outdated. It was indicated that the peddlers license used in Newberg primarily addressed the licensing issue and was most frequently associated with door to door sales. He indicated that Newberg has no business license requirements; however, an occupancy permit for the inspection of a building is required when a new business comes in.

The Commissioners discussed the history relating to the establishment of a business license in Newberg. It was indicated that no business license was put in place in Newberg due to strong local business and contractors objections. The feeling was strong that business people whose location of business was outside the Newberg area did not always come in and comply with the requirements and would avoid the expense, leaving the fees to be paid mainly by a majority of local business people only.

It was the opinion of several Commissioners that both licensing and appropriate zoning regulations be put into effect to control the problem. It was further felt that a business license system would hold transient business people accountable in the community.

Enforcement of a business license system was discussed.

Each member of the Planning Commission and the audience briefly stated an opinion as to the need for some type of regulation.

The Planning Commission directed staff to present some alternatives to control this type of sales activity for presentation at next month's Planning Commission meeting.

Motion: Young-Veatch to continue the hearing to the March 15, 1984 Planning Commission meeting and to direct staff to develop a standard or ordinance. Motion carried unanimously.

Old Business. None

New Business. An inquiry was made of staff to review the need to regulate other uses which are not specifically listed in the Newberg Zoning Ordinance.

Motion to adjourn carried unanimously.