

A REGULAR MEETING  
OF THE PLANNING COMMISSION  
George Fox College - Kershner Hall  
Newberg, Oregon

Thursday, 7:30 p.m.

September 28, 1989

Subject to P.C. Approval at <sup>11/16/89</sup>~~10/10/89~~ P.C. Meeting

The meeting was called to order by Vice-Chairman Jack Kriz.

ROLL CALL:

PRESENT: Jack Kriz                      Wally Russell  
          Rob Molzahn                  Kathleen Sullivan  
          Mary Post

ABSENT: Scott Bernard              Roger Veatch  
          Celine Hall

STAFF PRESENT: Duane R. Cole, City Manager  
                  Bert Teitzel, Director of Public Works  
                  James Reitz, Associate Planner

OTHERS PRESENT: James R. Hanks, JRH Transportation Engineering  
                  Keith Fredrickson, Newberg Graphic  
                  Cheryl Hampton, Recording Secretary  
                  Approx. 30 citizens

Motion: Molzahn/Post to approve minutes of August 24, 1989 Planning Commission meeting. Motion carried unanimously.

Public Hearing A: NE Newberg Area Traffic Study - Interim Report and Public Input.

Vice-Chairman Kriz explained that because only a small number of Commission members were present, and James Hanks, the transportation consultant, had a large amount of new material to present, his suggestion would be to continue this hearing to the next meeting of the Planning Commission.

Motion: Molzahn/Sullivan to continue Public Hearing A to Tuesday, October 10, 7:30 p.m. at George Fox College - Kershner Hall. Motion carried unanimously.

The Vice-Chairman called for a 5 minute recess to allow time for set up of materials for the next public hearing.

Public Hearing B:

Appellant: Portland General Electric/Wes Waldron  
Request: Appeal of the conditions attached to a minor partition  
          preliminary approval.  
Location: 305 N. Springbrook Rd.  
Tax Lot: 3221-1000  
File No: P-9-89 (See also P-6-88)

Vice-Chairman Kriz read the request and opened the public hearing. He asked for abstentions or objections to jurisdiction. There were none.

Staff Report:

Associate Planner James Reitz presented the Staff Report and history of the request. He explained that the Staff Report included the correspondence that was exchanged, the standard procedures and conditions for minor partitions, and a non-remonstrance agreement. The Staff Report included pertinent portions of the Subdivision Ordinance as well as Comprehensive Plan transportation policies and goals.

The Associate Planner explained that the minor partition approval procedure is an administrative process handled by the Planning Department and referred to other City departments, i.e. Building, Engineering/Public Works for their recommendations.

Proponents:

Wes Waldron, Portland General Electric - Property Department informed the Commission of the background of this request, stating that in 1987 PGE reorganized their field operations and consolidated several service centers. In this consolidation, most of the Newberg office staff was relocated as well as many of the line crews. This was a more efficient operation for PGE, but left the current building and 12 1/2 acres of land unused. In the subsequent appraisal of the property, it was determined that the north 6.1 acres was still needed for the remaining line crews and that the south 6.4 acres could be sold. Mr. Waldron stated at that time, Current Electronics expressed an interest in the building and property. A minor partition was approved by the City of Newberg with conditions that were determined by PGE to be burdensome. Mr. Waldron stated that the conditions included a right-of-way dedication for the extensions of Hancock and Hayes Streets involving a 30 foot half-width dedication along the north property line and a 30 foot half-width dedication along the south property line. A non-remonstrance statement pertaining to public and street improvements was also required. He stated that the sale to Current Electronics failed before the issues stated above could be resolved.

Climax Portable Machine Tools is now interested in purchasing the south 6.4 acres of the PGE property and the issues involving the minor partition are being addressed again.

Wes Waldron addressed the Staff Report of September 28 on page 2, last paragraph which reads: "1. Approval does not impede the future best use of the remainder of the property under the same ownership or adversely affect the safe and healthful development of such remainder of adjoining land or access thereto." He stated that PGE disagrees with this statement. Page 6, second paragraph, reads, "In fact, a Master Road Plan for the City was adopted in 1986." Mr. Waldron stated that a PGE representative (Dave Fredrickson) contacted the City and requested a copy of this document. He was told by the City that the Master Road Plan did not exist. Mr. Waldron stated that PGE also disagrees with page 7, under item B reading, "...Comparing present improvement costs with present market value is meaningless since none of the improvements are being required at this time and will not be required until additional right-of-way from other adjacent properties is obtained and development in the area warrants." His last issue raised at this time was disagreeing with the statement in the

Conclusion on page 7 which states, "The conditions established are not unique to this request." He stated that PGE believes that these conditions are unique to this request.

Don Slaybaugh, Portland General Electric, Property Department. Mr. Slaybaugh informed the Commission that he was not a planner, but a concerned employee caring about what is equitable. He presented his qualifications for making the following assertions. He believes that the dedication requirement as presented is not necessary or equitable and that it does not make sense to overassess a property when no benefit to that property exists, especially when any benefits incurred go to the neighboring properties. Mr. Slaybaugh stated he would share why the dedication requirement was inequitable and would cause unique and unnecessary hardship to the remainder of the PGE property.

Mr. Slaybaugh presented a chart with the proposed impact on the property.

North Lot -

|                                                      |                  |
|------------------------------------------------------|------------------|
| Dedication approximately .42 acres @ \$25,000 acre - | \$10,500         |
| Fence - 567' @ \$8.50 lineal feet -                  | <u>4,819</u>     |
|                                                      | \$15,319         |
| Road improvements - 613' @ \$330 = <u>\$202,290</u>  |                  |
| 2                                                    |                  |
|                                                      | <u>\$101,145</u> |
|                                                      | \$116,464        |

Value of land - 6.14 acres

- .42 acres

5.72 acres @ \$25,000 acre = \$143,000

Mr. Slaybaugh stated that from their appraisal the outcome would be a potential \$116,464 assessment on a property valued at \$143,000. He stated that this 81% value impact was injurious to the property owners.

South Lot -

|                                       |               |
|---------------------------------------|---------------|
| Land - .07 acres @ \$25,000           | \$ 1,750      |
| Road - 105' @ \$330 = <u>\$34,650</u> | <u>17,325</u> |
| 2                                     | \$ 19,075     |

Mr. Slaybaugh read a fundamental concept in real estate valuation called the Principle of Substitution stating, "A prudent purchaser would pay no more for real property than the cost of acquiring an equally desirable substitute on the open market. The principle of substitution presumes he will consider the alternatives available to him, that he will act rationally and prudently on the basis of information about those alternatives and the time is not a significant factor." He stated that this means that when PGE decides to market this property, a prudent purchaser will compare and will be hesitant to purchase property with a potential \$116,000 assessment attached.

Mr. Slaybaugh informed the Commission that he takes exception to items number 1, 9 and 10 in the Findings of the Staff Report.

In summary, Mr. Slaybaugh stated the application of the conditions on the minor partition would create a unique hardship. He stated that a potential solution would be that if east/west transportation is highly desirable and needed, to continue with the extension of Hancock Street which would effect the least

impact on the property owners and then to ask PGE for a sewer/water easement along the north.

Leroy Benham, President of Climax Portable Machine Tools, which is the contract purchaser for the north portion of the PGE property. He stated that the facility where they are currently located is not adequate for future growth. Mr. Benham mentioned that their company has grown at a faster rate than expected and that the PGE property is the most suitable for their future needs. He stated that the timeliness of this transaction is important to insure for future needs. He related that they must sell/lease their present building in order to make the move to the new site. He reported that this transaction would be good for Newberg's developing industry. Mr. Benham encouraged the Planning Commission to act affirmatively with this proposal.

Commissioner Kriz asked if this dedication was given, if Hancock Street would go clear through. The Public Works Director stated that other dedications were necessary to complete the process. Mr. Teitzel stated that the City does not have the opportunity to require dedications when issuing building permits, but only with a major/minor partition and approval of subdivisions.

Commissioner Kriz asked PGE representatives with their experience in property development if it was common for cities to require dedications of property for streets, etc. Wes Waldron stated that it was typical to require dedications, but that it was unusual to require a large dedication of land on two sides of the property.

Commissioner Molzahn asked if copies of the Master Road Plan were available to the public.

The Public Works Director stated that the Master Road Plan referred to in the Staff Report is a City ordinance setting out the classifications of streets. A transportation study has not been done on this specific area.

Commissioner Sullivan asked for clarification of the statement that it is not typical for Newberg to enact local improvement districts.

The Associate Planner clarified that the last LID formed was at the Flightways Industrial Park in the late 1970's or early 1980's. He noted that the City Council is somewhat reticent about forming LID's without strong property owner support.

The Public Works Director explained that an LID was generally formed at the request of the property owners for improvements. The City constructs the repairs, assesses the adjacent property owners and provides an easy payment plan to finance the improvements. He added that a non-remonstrance agreement does not say that the property will be assessed. The City Council determines the assessment after a public hearing. Other options the City has for street improvements include gas tax revenues as well as other methods.

#### Opponents:

Marc Willcuts, 300 Donald Lane, indicated he is an Associate Broker with Coldwell-Banker/Roger Veatch and Associates representing Simpco Lands of California, which is a property owner near the subject property. He pointed out

on a map the Simpco property as well as the property owned by Burger King. Mr. Willcuts reported that both companies made the 30 foot dedications as well as signing non-remonstrance agreements. He believes the road dedications are important for future traffic needs and added that this requirement was not unique to PGE; others have complied with the regulations.

George Johnson, 22301 NE Fryer Hill Rd., stated that he and his wife are acquiring the Simpco Lands site and remarked that he is very concerned with the traffic that is going onto 99W. They plan to build a carwash/gas station and realize how the ingress/egress will affect 99W. He stated that another access is necessary off of Deborah Rd. to Springbrook Rd.

**Public Agencies/Letters:** None

The Associate Planner stated he had held a verbal conversation with Richard Schwartz of Burger King. Mr. Schwartz informed Mr. Reitz that he had been contacted by PGE to participate in the appeal and related that they were not interested in supporting PGE's appeal.

**Rebuttal:**

Don Slaybaugh stated that it was natural for property owners to the west of the PGE property to be interested in the extension of Hayes Street. He stated that anytime a person is not included in an LID and is increasing their ingress/egress patterns at no cost to them, that they would be in favor of a decision of that nature.

Marc Willcuts remarked that he is used to working with the City of Newberg and with their requirements. He stated that they accept the conditions that are put on them when developing property and accepts it as a way of life as traffic issues are being addressed by the City.

**Staff Recommendation:**

James Reitz reported that economic development is not a new issue. He stated that some properties will gain more from planning decisions than others. He stated that the community interest must be considered first before an individual piece of property. He reiterated that the City is not requiring that the road be built today, but only if and when the property develops or if an LID is formed. He stated that it was a good planning idea to have the road someday. He pointed out that there are a number of properties split by right-of-way dedications and when development occurs, the property owners will be responsible for the extensions of the streets.

The Public Works Director added that in the Comprehensive Plan and the City's daily operation decisions, 99W is looked at as a major arterial and must limit access onto that arterial. He stated that the only way to limit access is to get a road system to parallel 99W that connects to streets that have signalized intersections.

The Associate Planner reported that the Staff Recommendation is to deny the appeal.

Vice-Chairman Kriz closed the public hearing and moved the Commission into deliberation.

**MOTION:** Molzahn/Russell to deny the appeal based upon the findings of fact as listed on Page 8. Vote on Motion: Ayes: 5, Nays: 0; Motion carried unanimously.

James Reitz informed PGE that the Planning Commission's decision will stand unless appealed to the City Council within ten days of today's date.

**OLD BUSINESS:**

**Sign Ordinance.** James Reitz stated that the Chamber of Commerce Committee has given the Planning Commission information from a survey taken. He stated that the Chamber seems to favor the Forest Grove approach to a sign ordinance. He added that he would like the Commission to look over the material and give direction at the next meeting.

**NEW BUSINESS:**

James Reitz stated that Bryce Fendall tendered his resignation effective immediately because of moving to the City of Dundee. He announced that there was, therefore, a vacancy on the Planning Commission and would appreciate input regarding filling the position.

**MOTION:** Molzahn/Sullivan to adjourn to the October 10, 1989, Planning Commission meeting.