

file

**NEWBERG PLANNING COMMISSION**

**AGENDA**

**OCTOBER 13, 1994**

**7:00 PM Regular Meeting**

**Newberg Public Library**

**I. ROLL CALL**

**II. OPEN MEETING**

**III. APPROVAL OF SEPTEMBER 8, 1994 PLANNING COMMISSION MINUTES**

**IV. PUBLIC HEARING: [ Continued from September 8, 1994 to be tabled ]**

**APPLICANT:** NSP Development, Inc.

**REQUEST:** Subdivision of a 1.45 acre parcel into 7 lots to be known as Emery Orchards Phase IV

**LOCATION:** Between East Second and Third Streets, east of Emery Orchards Phase III

**TAX LOT:** 3220-1700

**FILE NO:** S-7-94

**ZONE:** R-2 Medium Density Residential

**V. OLD BUSINESS**

- Revisions to Development Code - Status Report (G-10-94)
- Open Space Update

**VI. NEW BUSINESS**

- Planning Commissioners Training Report

**VII. COMMUNICATIONS FROM THE FLOOR**

**VIII. ADJOURN**

## PUBLIC HEARING

1. OPEN THE PUBLIC HEARING AND ANNOUNCE THE PURPOSE.
2. CALL FOR ABSTENTIONS.
3. ASK FOR OBJECTIONS TO JURISDICTION.
4. STAFF REPORT.
5. PROPONENTS.
  - A. PRINCIPLE.
  - B. OTHERS.
6. OPPONENTS AND OTHER RESPONDENTS.
7. QUESTIONS OF PROPONENTS AND OPPONENTS FROM THE FLOOR AND COMMISSION DIRECTED THROUGH CHAIR.
8. PUBLIC AGENCIES.
9. LETTERS.
10. PROPONENT REBUTTAL.
11. STAFF RECOMMENDATION.
12. CLOSE OF HEARING.

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13. DELIBERATION OF COMMISSION WITH FINDINGS OF FACT

### RULES OF PUBLIC HEARING:

1. All written material shall be presented to the City through the Planning Department one week prior to the hearing.
2. The Chairman of the meeting may set reasonable time frames for each section of the public hearing.
3. Members of the Council and Commission should ask questions during the questioning period (Step No. 3) of the public hearing but may direct questions during the deliberation period.

**PUBLIC HEARING PROCESS  
TESTIMONY AND EVIDENCE REQUIREMENTS**

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ORS 197 requires certain statements to be made at the commencement of a public hearing.

- The applicable City and State zoning criteria must be listed. This means that we must advise you of the standards that must be satisfied by the applicant prior to our approval of an application. The Planning Staff will list the applicable criteria during his or her presentation of the staff report.
- Persons wishing to participate in this hearing must direct their testimony or the evidence toward the criteria stated by the Planner or other specific City or State criteria which you believe applies. You must tell us why the testimony or evidence relates to the criteria.
- Any issue which might be raised in an appeal of this case to the Land Use Board of Appeals (LUBA) must be raised at the local level prior to the City approving or denying the application. The law states that the issue must be raised in enough detail to afford the decision-maker and the parties an opportunity to respond. This part of the law is also known as the "raise it or waive it" requirement. If you do not bring it up now, you can't bring it up at LUBA.
- If a participant so requests before the conclusion of the initial hearing, the record will remain open and the matter will be continued for 7 days. A participant is the applicant, or anyone who has submitted oral or written testimony regarding the application. The request may be made at any time during the initial hearing, but must be made prior to the time the Chair closes the hearing and declares that the record is closed for receipt of additional evidence. Once the Chair has closed the hearing, a participant is not entitled to have the record remain open for another 7 days.

MEMORANDUM  
October 5, 1994

TO: Planning Commissioners

FROM: Community Development Staff

RE: Emery Orchards IV Continuance Request  
Planning File S-7-94

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Please be advised that the applicant (NSP Development) has requested the item be tabled. This will enable them to work with City staff to finalize the intersection design of Third Street and Hwy. 219. The item will be rescheduled when the issue has been resolved. If you have any questions regarding this issue, please do not hesitate to contact this office at 537-1210.

JK:hdh  
Attachments

September 29, 1994

Newberg Planning Commission  
% John Knight  
Planning Division Manager  
City of Newberg

RE: Emery Orchards IV Continuance Request, Planning File S-7-94

NSP Development respectfully requests that the Planning Commission table further discussion on Emery Orchards IV until further notice. We are working together with the Department of Transportation, Yamhill County, and the City of Newberg to develop an agreement for the Third Street/Highway 219 intersection. As soon as details of the agreement are completed, we will request further review of this subdivision.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mart Storm', written over a horizontal line.

Mart Storm  
NSP Development

RECEIVED  
10/5/94

September 29, 1994

City of Newberg  
Planning Department  
414 East First Street  
Newberg, OR 97132

**RE: Application # S-7-94**

To whom it may concern:

This is a formal request to table the above referenced application from NSP Development, Inc. indefinitely. Please contact me if you should have any questions at (503) 242-3625.

Sincerely,



A. Paul Brenneke

APB/amr

# MEMORANDUM

TO: Planning Commissioners

FROM: Community Development Staff

DATE: October 6, 1994

RE: Adoption of Development Code  
Amendments to the Zoning and Subdivision Ordinances

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## Background:

The state law (ORS 197.195) has been amended in an effort to stream line the development process for certain types of projects. The statutes specifically refer to "Limited Land Use Decisions" which are defined as a final decision made by the City concerning the approval or denial of a subdivision or partition or any application based on discretionary standards designed to regulate the physical characteristics of a permitted use, including but not limited to site review and design review.

Essentially, the state statutes require that subdivisions, partitions, design review, and other minor permits (such as for a sign) be approved or denied at a staff level. The major change for Newberg relates to subdivisions, which are currently heard at the Planning Commission level. Newberg currently is not in compliance with the state statutes which required that the City's regulations be amended by September 29, 1993.

In addition to amending the Zoning Ordinance and Subdivision Ordinance to comply with the new statutes, staff has taken the opportunity to propose several other changes in the ordinances to (1) make them more readable, (2) clean-up some formatting problems, and (3) to clarify some existing inconsistencies.

## Discussion:

The proposed changes to the ordinances can be broken down into three categories; (1) Procedural Amendments, (2) Housekeeping Changes, and (3) Policy Clarifications. These are discussed below.

1. **Procedural Amendments:** These changes are amendments to the ordinances to bring them into compliance with the new state statutes. These changes affect the processing of all types of land use permits, including but not limited to subdivision requests,

comprehensive plan amendments, zoning changes, partitions, design review applications, and use permits. The amended ordinance (which will be called the "Development Code") breaks these into several subcategories referred to as Type I (Administrative Decisions), Type II (Administrative Decisions with Noticing), Type III (Quasi-Judicial Hearings), and Type IV (Legislative Actions). These are discussed in more detail below.

- a. **Type I (Administrative Decisions):** The final decision on Type I applications would be made by the Community Development Director or his designee. No notice is required. Only the applicant has the right to appeal these decisions. Appeals go to the Planning Commission. Examples of these permits include:
- i. home occupation permits and miscellaneous licenses;
  - ii. lot line adjustments and minor partitions;
  - iii. signs; and
  - iv. development permits which don't require site review (this includes single family homes, residential and commercial additions, remodels, and duplexes).

The only change in the Type I procedure compared to the way Newberg currently processes permits is that some signs and duplexes currently are required to go through the site review process (which is a formal hearing before the Site Review Committee).

- b. **Type II (Administrative Decisions with Noticing):** The final decision on Type II applications is also made by the Community Development Director. However, noticing of property owners within 100 feet of the site is required. Any person who becomes an affected party may appeal the decision to the Planning Commission. Examples include:
- i. adjustments;
  - ii. site review applications (ie: for multi-family, commercial and industrial projects);
  - iii. variances; and
  - iv. subdivisions.

As noted earlier, the major change in the Type II procedure is that subdivisions will now be approved at a staff level. Also added is that notice will now be required for site review and adjustments. The applicant has the opportunity to go directly to the Type III procedure and have a hearing before the Planning Commission if he so desires.

- c. **Type III (Quasi-Judicial Hearings):** Type III permits would proceed directly to the Planning Commission and be decided by either the Commission or the City Council, depending on the type of application. Noticing for Type III decisions shall be to property owners within 100 feet of the site. These decisions could be appealed by any interested party to the City Council. Examples include:

- i. conditional use permits;
- ii. planned unit developments; and
- iii. site specific Comprehensive Plan and Zoning Map Amendments (ie: a change from an R-1 to an R-2 would be a Type III permit).

This is essentially the same as the current process. Actions which require ordinance adoption (such as a zone change) would proceed to the City Council with a recommendation from the Planning Commission. The hearing before the Council would be de Novo (new evidence and testimony).

- d. **Type IV (Legislative Actions):** Type IV decisions are made by the City Council with a recommendation by the Planning Commission. Notice requirements differ since Type IV actions are not site specific. Type IV appeals would have to proceed to the state Land Use Board of Appeals (LUBA). Examples include:
  - i. text amendments or major revisions to the Comprehensive Plan and
  - ii. text amendments to the Zoning Ordinance, Subdivision Ordinance, or other land use provision of the Development Code.

Applications which involve two or more procedures may be processed collectively under the highest numbered procedure required for any part of the application or may be processed individually under each of the procedures identified above. For example, if a lot line adjustment, design review application, and rezone are processed concurrently, the applicant has the choice to take the project directly to the Planning Commission or do each one separately under the appropriate procedure.

2. **Housekeeping Changes:** These consist of relatively minor changes which have no affect on development processing or policy issues. These changes consist of:
  - a. combining the Zoning Ordinance and Subdivision Ordinance into one document called the "Development Code" (the Code);
  - b. improving the readability of the Code and removing conflicting definitions;
  - c. formatting the Code so that all related topics are located in the same area (for example regulations relating to signs were located in several areas and regulations relating to home occupations were located in the definitions); and
  - d. codifying procedures relating to annexations (these currently are located in a separate ordinance) and are not part of the Zoning Ordinance.
3. **Policy Clarifications:** These include changes to selected portions of the code. These amendments have been included to either (1) align the code with existing policies or (2) provide solutions to reoccurring problems resulting from interpretation of the code. These changes are identified below.

- a. **M-1 Setbacks:** No setbacks are currently provided in the M-1 zone. The new Development Code would require a minimum of 10 feet when adjacent to residential uses (this is the same as in the commercial zones).
- b. **Number of Employees for a Home Occupation:** The existing code is unclear and refers in two different areas to the number of employees allowed. The new Code would clarify this to allow one employee outside the immediate family to be employed as part of a home occupation.
- c. **School and Church Setbacks:** The section relating to these setbacks was confusing. This has been amended.
- d. **Modifications to the C-3 (Central Business) Zone:** Currently the Zoning Ordinance requires that all properties provide a minimum of 15% landscaping. The C-3 zone (downtown) does not require any setbacks or parking and is intended for a more intensive development pattern than other commercial areas. The 15% landscaping requirement is not practical and has been eliminated for the C-3 zone. It should be noted that if parking is provided in the C-3 zone then landscaping will be required as part of the parking lot design.
- e. **Fences:** Currently the code does not differentiate between a front yard and a side yard for a house on a corner lot. The code currently treats both street frontages as a front yard, which would prohibit the placement of a six foot fence on the side of the house facing the street. The new Code would allow for the placement of the fence on the property line on the street side or rear yard of a through lot.
- f. **Municipal Lot Parking:** The new Code would allow for a reduction in the parking standards by 50% when a commercial use is within 200 feet of a municipal lot.
- g. **Parking Standards for Restaurants:** Currently the ordinance requires one space for 60 sq. ft. of building. This requirement is extremely restrictive. The proposed code would require one space for 75 sq. ft. for facilities with a drive through and one space for 100 sq. ft. for all others.
- h. **Site Grading Plan for Land Divisions:** Under the Code a preliminary site grading plan would need to be submitted for partitions.
- i. **Subdistricts:** The Mixed Use, Special Development District, Mixed-Infill Subdistrict, and the Site Review Subdistrict have been eliminated from the Code. These subdistricts were never implemented in the past.
- j. **Non-Conforming Single Family Residential:** Currently, if a single family residence is destroyed in a non-residential zone, it cannot be rebuilt. A provision has been added which would allow these homes to be rebuilt regardless of how damaged they are.

- k. **Prezoning Annexed Property:** Currently the ordinance requires property that is annexed to go through the rezoning procedure. The Code would allow property being annexed to automatically be zoned to the lowest appropriate zoning district for the land use area in which it is located. For example, if a parcel of Low Density Residential land (as indicated on the Comprehensive Plan) is annexed into the City it would automatically be zoned R-1. Similarly, land designated Industrial would automatically be zoned M-1 upon annexation.

The document is currently in Administrative Draft Stage and will likely be ready for review by the Planning Commission in December. The Commission's final decision would be a recommendation to the City Council for final adoption.