



**PLANNING COMMISSION AGENDA  
April 9, 2015 7:00 PM  
NEWBERG PUBLIC SAFETY BUILDING  
401 EAST THIRD STREET**

**I. CALL MEETING TO ORDER**

**II. ROLL CALL**

**III. PUBLIC COMMENTS** (5-minute maximum per person – for items not on the agenda)

**IV. CONSENT CALENDAR** (items are considered routine and are not discussed unless requested by the commissioners)

1. Minutes from the 3/12/15 meeting.

**V. QUASI-JUDICIAL PUBLIC HEARINGS** (Note: The applicant has requested that the hearing be continued to May 14, 2015 to allow them additional time to coordinate with the Oregon Dept. of Transportation).

1. **APPLICANT: Fred Meyer Stores, Inc.**  
**REQUEST: Conditional use permit/design review approval for an expansion of the gas station**  
**LOCATION: 3300 Portland Road**  
**TAX LOT: 3216-2004**  
**FILE NO.: CUP-14-002/DR2-14-020**                      **ORDER NO.: 2015-17**  
**CRITERIA: Newberg Development Code 15.220.050(B), 15.225.060**

**VI. ITEMS FROM STAFF**

1. Update on Council items
2. Other reports, letters or correspondence – SEI forms due April 15, 2015
3. Next Planning Commission meeting: May 14, 2015

**VII. ITEMS FROM COMMISSIONERS**

**VIII. ADJOURNMENT**

FOR QUESTIONS PLEASE STOP BY, OR CALL 503-537-1240, PLANNING & BUILDING DEPT. – P.O. BOX 970 – 414 E. FIRST STREET

**ACCOMMODATION OF PHYSICAL IMPAIRMENTS:** *In order to accommodate persons with physical impairments, please notify the City Recorder's Office of any special physical or language accommodations you may need as far in advance of the meeting as possible as and no later than 48 business hours prior to the meeting. To request these arrangements, please contact the City Recorder at (503) 537-1283. For TTY services please dial 711.*

**NEWBERG PLANNING COMMISSION MINUTES  
MARCH 12, 2015, 7:00 PM  
PUBLIC SAFETY BUILDING (401 E. THIRD STREET)**

Vice Chair Allyn Edwards called the meeting to order at 7:00 p.m.

**ROLL CALL**

|                  |                                     |              |              |
|------------------|-------------------------------------|--------------|--------------|
| Members Present: | Cathy Stuhr                         | Philip Smith | Matt Fortner |
|                  | Allyn Edwards                       | Jason Dale   | Art Smith    |
|                  | Luis Saavedra, Student Commissioner |              |              |

Staff Present: Steve Olson, Associate Planner  
Jacque Betz, City Manager  
Sue Ryan, City Recorder  
Doug Rux, Community Development Director

Also Present: Mayor Bob Andrews, ex-officio

Chair Gary Bliss was excused.

**PUBLIC COMMENTS:** There were no public comments.

**CONSENT CALENDAR:** Commissioner Stuhr moved to adopt the meeting minutes for September 11, 2014, December 12, 2014, January 8, 2015, and February 12, 2015. Commissioner Philip Smith seconded the motion, and it passed 6-0.

**DEVELOPMENT CODE AMENDMENT:** Vice Chair Edwards opened the public hearing at 7:04 p.m.

Vice Chair Edwards asked if there were any abstentions or objections to jurisdiction from the Commission. There were none.

AP Olson said the hearing was for a Development Code amendment on medical marijuana dispensaries. The Planning Commission would be making a recommendation to the City Council, who would make the final decision. The proposal was to allow dispensaries as a type of commercial retail sales use that would be allowed in the C2 and C3 zones. They would not be allowed in other commercial or industrial zones. There would be a 1,000 foot buffer around schools and parks and the operating hours would be limited to 9 a.m. to 8 p.m. It did not address recreational marijuana facilities as the legislature was still developing administrative rules. He gave an overview of State medical marijuana dispensary rules and the temporary city moratorium. He then discussed what other cities had done regarding this issue. Staff had received public comments and he summarized the information and articles that had been received regarding dispensaries. This use was most like a pharmacy, a retail sales general category. The State required a buffer around schools to mitigate potential impacts and potential re-sale to minors. This included public, private, elementary, secondary, and career schools, attended primarily by minors. Staff recommended placing a buffer around parks for similar reasons. Staff was not recommending buffers around daycares. He explained dispensaries typically operated with all cash, due to banking issues. One way to reduce the potential for crime was to limit operating hours. He showed maps of the proposed 1,000 foot buffer around schools and parks and potential sites for dispensaries. The Code amendment would add two new definitions, one for medical marijuana dispensaries and one for career schools. Medical marijuana dispensaries would be added to the Zoning Use Table as well. Regarding the findings, they had to have public notice and hearings anytime the Development Code was changed. Approval of the resolution would be consistent with this goal. There was also the goal of encouraging new and diverse businesses in the

City, and approval with appropriate buffers would be consistent with this goal. Staff recommended adoption of the resolution as proposed.

The Commissioners had a discussion regarding regulating for odors, restricting these facilities through denial of business licenses, and taxes on medical and recreational marijuana.

#### Proponents:

Lester Brock questioned why recreational dispensaries were not being discussed at the same time and what was the intent for the future of both types of dispensaries. If they were considered separate entities, would there be a required distance between the dispensaries?

AP Olson said when recreational marijuana was approved it was viewed as two separate programs and might have two separate rules and systems or it could be combined. The State would be adopting some administrative rules and staff would probably return to the Planning Commission in a few months with a potential code amendment once they knew more.

Sherrie Rolston, resident of Sherwood, was a medical marijuana patient. She had done some research about opening up a dispensary and had attended many city meetings on the topic. She explained what the cities of Seaside, Tualatin, Sherwood, Tigard, Cannon Beach, and Beaverton were doing and their approach to dispensaries. They were limiting dispensaries to certain areas as well as limiting the hours of operation. Most of them were trying to get something in place before the moratorium was over. Most were not bucking Measure 91 but were adding to it. Many dispensaries were starting to be able to use debit cards. Laws said no loitering was allowed in dispensaries and customers were not allowed to use cannabis on site. She was interested in opening a dispensary in Newberg. She wanted to run it quietly and efficiently and to work with the City. She thought Newberg's regulations were standard with what most other cities were doing. She had concerns about how many a city would allow, as they would not want one every 1,000 feet. She thought more regulations and controls needed to be put in place for the marijuana products that were sold in dispensaries.

#### Opponents:

Kathryn Gibbon-Hein, business owner in Newberg, wanted to see medical marijuana become as accessible as possible to those who needed it. They needed to keep the costs as low as possible and the locations as reasonable as possible. She was concerned about the 1,000 foot buffer. She did not know how it would actually protect the children. If the buffer resulted in not enough places for dispensaries to locate that were easily accessible, she was against it. She questioned if the 1,000 feet would make a tangible difference.

Commissioner Philip Smith said the 1,000 foot buffer around schools was already State law. He thought there would be at least six different locations in the C2 and C3 zones where dispensaries could go.

AP Olson explained the map and buffer areas further. There were transit options to some of these locations.

Doug Heuer had been in the medical marijuana program for 15 years. He thought that if they took no action they would not violate the law. He opposed calling it a dispensary because it did not dispense marijuana. There were pharmacies in Newberg who were currently selling marijuana in a pill form and were within a couple hundred feet of parks and schools. The reason the 1,000 foot buffer was put into State law was to not be in violation of federal criminal law. People could buy harder, more addictive, dangerous drugs like alcohol, tobacco, and caffeine within any zone. If they were really concerned about children, the safety zone should take into account all of the various aspects of drugs, not just marijuana. He thought it was discriminatory. Medical marijuana facilities did not bring the problems that people thought they would.

Vice Chair Edwards closed the public testimony at 7:55 p.m.

Discussion:

AP Olson commented that City sign regulations had to be content neutral, and that the City did not regulate competition through the zoning code.

CDD Rux explained what the Commission was looking at that evening was regulating time, place, and manner. Staff had taken into account the law and based on the discussion with the Council, had come back with a proposal that reflected and addressed specifically the components they could consider.

CM Betz said this proposal was vetted to the Chehalem Chamber Board of Directors and Downtown Coalition and there was no opposition to what was being proposed for the zoning.

There was discussion regarding whether or not there should be a buffer around parks. The consensus was that even with the restrictions there were several good locations available.

**MOTION:** Commissioner Philip Smith moved to adopt Resolution 2015-306 as proposed. Commissioner Art Smith seconded the motion, and it passed 6-0.

AP Olson said this item would be taken to the City Council on April 6.

**ITEMS FROM STAFF:** AP Olson gave an update on Council items including approval of the Enterprise Zone exemption, animal shelter agreement, and Green for Growth Grant and ABC application.

CM Betz further explained the Green for Growth Grant funds would be used as matching funds towards the America's Best Communities Grant application with the stipulation that if the City did not make it to the next round that the money would be used for wayfinding signs in the downtown area.

**ITEMS FROM COMMISSIONERS:** None.

Vice Chair Edwards adjourned the meeting at 8:15 p.m.

**Approved by the Newberg Planning Commission this \_\_\_\_ day of \_\_\_\_\_, 2015.**

\_\_\_\_\_  
Sue Ryan, City Recorder

\_\_\_\_\_  
Allyn Edwards, Planning Commission Vice-Chair

**OUTLINE FOR QUASI-JUDICIAL PUBLIC HEARING**  
**Newberg Planning Commission**

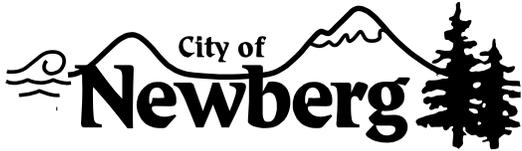
- 1. CALL TO ORDER**  
OPEN THE PUBLIC HEARING, ANNOUNCE THE PURPOSE, DISCUSS TESTIMONY PROCEDURE, AND TIME ALLOTMENTS
- 2. CALL FOR ABSTENTIONS, BIAS, EX PARTE CONTACT, AND OBJECTIONS TO JURISDICTION**
- 3. LEGAL ANNOUNCEMENT**  
READ “QUASI-JUDICIAL ANNOUNCEMENTS” SHEET
- 4. STAFF REPORT**  
COMMISSION MAY ASK BRIEF QUESTIONS FOR CLARIFICATION
- 5. PUBLIC TESTIMONY**  
5 MINUTE TIME LIMIT PER SPEAKER (15 MINUTE LIMIT FOR APPLICANT AND PRINCIPAL OPPONENT). SPEAKER GOES TO WITNESS TABLE, STATES NAME & PRESENTS TESTIMONY. COMMISSION MAY ASK QUESTIONS OF SPEAKERS.
  - A. APPLICANT(S)
  - B. OTHER PROPONENTS
  - C. OPPONENTS AND UNDECIDED
  - D. STAFF READS WRITTEN CORRESPONDENCE (TIME LIMIT APPLIES)
  - E. APPLICANT REBUTTAL
- 6. CLOSE OF PUBLIC TESTIMONY PORTION OF HEARING**
- 7. FINAL COMMENTS FROM STAFF AND RECOMMENDATION**
- 8. PLANNING COMMISSION DELIBERATION INCLUDING DISCUSSION OF CRITERIA WITH FINDINGS OF FACT**
- 9. ACTION BY THE PLANNING COMMISSION**
  - A. ORDER OR RESOLUTION – Usually requires passage of order if the commission is the final decision maker, or a resolution if the commission is only advisory to the council.
  - B. VOTE – Vote is done by roll call.
  - C. COMBINATION – Can be combined with other commission action; separate vote on each action is required.

**QUASI-JUDICIAL  
PUBLIC HEARING PROCESS  
TESTIMONY AND EVIDENCE REQUIREMENTS**

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ORS 197.763 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 apply. 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 in person or by letter 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.
- Failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval in enough detail to allow the local government or its designee to respond to the issue precludes an action for damages in Circuit Court.
- Prior to the conclusion of the initial evidentiary hearing on an application, any participant may request an opportunity to present additional evidence or testimony regarding the application. The Planning Commission will grant such a request through a continuance or extension of the record.



## Community Development Department

P.O. Box 970 ▪ 414 E First Street ▪ Newberg, Oregon 97132  
503-537-1240 ▪ Fax 503-537-1272 ▪ [www.newbergoregon.gov](http://www.newbergoregon.gov)

PLANNING COMMISSION STAFF REPORT  
FRED MEYER GAS STATION EXPANSION  
CONDITIONAL USE PERMIT/DESIGN REVIEW

HEARING DATE: April 9, 2015

FILE NO: CUP-14-002/DR2-14-020

REQUEST: Conditional use permit/design review approval to expand the gas station by adding two additional fuel pumps, expanding the canopy south 34 feet, and adding a propane tank.

LOCATION: 3300 Portland Road

TAX LOT: 3216-2004

APPLICANT: Fred Meyer Stores, Inc. (represented by Barghausen Engineering)

OWNER: Fred Meyer Stores, Inc.

ZONE: C-2 (Community Commercial)

PLAN DISTRICT: COM (commercial)

OVERLAYS: SC (stream corridor overlay) on a portion of the site

***The applicant has requested that the hearing be continued to the May 14, 2015 Planning Commission meeting to allow them additional time to coordinate with the Oregon Department of Transportation. The applicant has extended the 120-day Final Action Rule by 30 days per the attached letter.***



What's on your list today?.

FRED MEYER STORES · P.O. Box 42121 · Portland, OR 97242-0121 · 3800 SE 22nd Ave. · Portland, OR 97202-2999 · 503 232-8844 · <http://www.fredmeyer.com>

Mr. Steve Olson, AICP  
Interim Planning and Building Director  
City of Newberg  
Planning Division  
414 East First Street  
Newberg, OR 97132

RE: 30-Day Extension Request  
CUP-14-002/DR2-14-02  
Fred Meyer Fuel Facility Two-Dispenser Expansion  
3300 Portland Road, Newberg, Oregon 97132

Dear Steve:

On behalf of Fred Meyer Stores, Inc., I would like to extend the 120-Day Final Action Rule for the Conditional Use Permit and Design Review Application currently under review by the City of Newberg.

To allow Fred Meyer adequate time to compile necessary materials to continue processing the application with the City, we request 30-day extension. Thank you for your consideration.

Respectfully,

James Coombes  
Sr. Real Estate Entitlements Manager  
Corporate Real Estate & Store Development

Cc: Barghausen Consulting Engineers