

NEWBERG PLANNING COMMISSION MINUTES
January 14, 2016, 7:00 PM
PUBLIC SAFETY BUILDING (401 E. THIRD STREET)

Chair Gary Bliss called the meeting to order at 7:00 p.m.

ROLL CALL

Members Present:	Gary Bliss, Chair	Jason Dale
	Philip Smith	Matthew Fortner
	Cathy Stuhr	Luis Saavedra, student
	Allyn Edwards	Patrick Johnson

Staff Present: Jessica Pelz, Associate Planner
Doug Rux, Community Development Director
Bobbie Morgan, Planning Secretary
Kaaren Hofmann, City Engineer

ELECTION OF CHAIR AND VICE CHAIR:

MOTION: PC Philip Smith moved to nominate PC Allyn Edwards for Chair. Seconded by PC Cathy Stuhr and passed 7-0.

MOTION: PC Philip Smith moved to nominate PC Cathy Stuhr for Vice Chair. Seconded by PC Allyn Edwards and passed 7-0.

Chair Allyn Edwards gave the gavel back to PC Gary Bliss to continue the hearing for the TSP amendments to the Phase 1 Bypass.

PUBLIC COMMENTS: None

CONSENT CALENDAR:

1. Approval of December 10, 2015 Planning Commission Meeting Minutes

MOTION: PC Cathy Stuhr moved to approve the December 10, 2015, minutes. Seconded by PC Allyn Edwards and passed 7-0.

LEGISLATIVE PUBLIC HEARING: Chair Gary Bliss called to the hearing to order at 7:06 p.m.

1. TSP Amendments related to the Phase 1 Bypass – This hearing was continued from the December 10, 2015 Planning Commission hearing at the point of deliberation.
FILE NO.: CPTA-15-002

- a. RESOLUTION NO. 2015-310 Changes to the road and lane configuration of southbound Oregon 219 from north of the Springbrook Road/Industrial Parkway intersection through the Phase 1 Bypass/Wilsonville Road intersection.
- b. RESOLUTION NO. 2015-311 changing the adopted Oregon 219/Phase 1 Bypass/Wilsonville Road intersection to a “No Thru Traffic” design.

Public Testimony: Community Development Director Doug Rux explained the public testimony portion of the hearing was closed on December 10, 2015, and the hearing was continued to January 14. Staff had received a

variety of comments since then. The Commission could go directly into deliberations or the public testimony portion could be re-opened and the Commission could receive the comments that had been submitted. If the hearing was re-opened, it would require keeping the record open for another seven days to allow any party to respond to the comments made that night, and another seven days to allow the applicant to respond to any comments, and the hearing would have to be continued to February 11. In two instances, the comments that were submitted to staff were also sent to the Commission's City email accounts. He recommended re-opening the hearing and receiving the information that was submitted. He also recommended that any party that already testified or submitted comments in writing not provide further comment that night, but those that had not provided testimony yet be allowed to do so. He shared these options with ODOT and they were aware that the decision might be postponed.

There was discussion regarding whether or not to re-open the public testimony portion of the hearing.

PC Jason Dale did not think any new, pertinent information had been submitted and recommended proceeding with Commission deliberations.

PC Philip Smith and PC Matt Fortner agreed with PC Jason Dale.

MOTION: PC Allyn Edwards moved to deny re-opening the public testimony and continuing to deliberation. Seconded by PC Jason Dale.

PC Patrick Johnson thought more was always better especially when it came to public comment.

Chair Gary Bliss asked if any new or substantive information had been submitted. CDD Doug Rux replied information had been received from the applicant, proponents, and opponents.

Chair Gary Bliss and PC Cathy Stuhr agreed with PC Patrick Johnson.

The motion passed 4-3 with Chair Gary Bliss, PC Patrick Johnson, and PC Cathy Stuhr opposed.

Planning Commission Deliberation:

MOTION: PC Philip Smith moved to approve Resolution 2015-310. Seconded by PC Jason Dale and passed 7-0.

PC Mathew Fortner asked staff to restate Resolution 2015-311.

Associate Planner Jessica Pelz clarified the resolution was a recommendation to the City Council to deny the TSP amendment for a no through traffic design.

PC Philip Smith said there had been a great deal of debate regarding how much traffic was appropriate for Wilsonville Road and how much traffic would be diverted to City streets with a no through design. There was no good scientific information to answer these questions, however the real problem was not technical, but was political. He drew a political analysis of the issue on the white board showing what he thought would happen if the City denied the no through design and if there was a lawsuit and what would happen if the City adopted the no through plan and traffic became a problem on City streets. He made three recommendations to make this situation a win win for both parties. The first was the City Council delay the decision on this until March. The second was the City Council invite representatives from ODOT and the Ladd Hill Neighborhood Association to meet with the Council regarding this issue. The third was if a satisfactory solution was proposed, the City adopt the no through plan with remedial work agreed to by ODOT, LHNA, and the City.

MOTION: PC Philip Smith moved to delay the decision on the staff report until March, invite ODOT and LHNA to help Newberg find a mitigation for the effects of the no through design, and if a satisfactory mitigation could be found, the City Council approve the no through design. Seconded by PC Patrick Johnson.

PC Matthew Fortner thought these were good recommendations and was in favor.

PC Allyn Edwards thought the problem was not a no through or through through, but the issue was how to deal with Wilsonville Road. He was serving Newberg residents and had to keep in mind safety and the best interest of Newberg. A no through design would cause greater harm and safety issues that had to be considered before a decision was made.

PC Cathy Stuhr said Newberg did not have jurisdiction over Wilsonville Road. She liked PC Philip Smith's approach of bringing together those that could make the decisions for Wilsonville Road. She did not think that the answer to the mediation would necessarily be the no through design. This was an amendment to the City's Transportation System Plan and they would need to come up with findings for the changes that would be proposed.

PC Jason Dale thought ODOT and City staff had talked about unforeseen consequences of the no through and how mitigating them was difficult. The Commission was fulfilling their duty to Newberg citizens.

PC Patrick Johnson said they had worked for a long time to get the bypass, and this was just a piece of it. The Council wanted creative solutions and he was in favor of the motion.

PC Matthew Fortner wanted to make sure the counties were involved in the discussion as well. It would be a no win situation unless people started talking and coming up with ideas.

Student Luis Saavedra asked what would happen if they delayed the project. PC Philip Smith answered it was important to move quickly and that was why he voted against taking more testimony. He did not think a delay until March was a bad thing, however the real worry was coming up with a solution fast enough for the Council to approve it.

PC Allyn Edwards gave his perception regarding the need for safety on Wilsonville Road. He liked bringing the parties together. These were recommendations to the City Council and the sides needed to come together to resolve the greater issue of Wilsonville Road.

PC Cathy Stuhr thought they needed to make a decision on the resolution, and also recommend that the Council follow PC Philip Smith's suggestions.

Chair Gary Bliss said their first obligation was to the citizens of Newberg. He thought PC Philip Smith's suggestion was creative. He was in support of recommending denial of the no through option. Wilsonville Road was a country road that had curves and was 45 mph. It was safe if you followed the speed limits. Additional traffic on the bypass would go through neighborhood streets if they had to. They needed to find a way to solve the issue without a threat of delay or litigation. He would like to see the resolution passed, but also liked PC Philip Smith's solution.

PC Philip Smith discussed findings for his motion. The first finding was the Commission found there was no solid, scientific evidence to support various predictions as to the future traffic volumes on Wilsonville Road given either a no through or through through design. The second was testimony from neighbors strongly indicated a through through design raised a high probability of delay due to legal challenges. The third was delay to the bypass project hurt the Newberg traffic plan. Therefore the Planning Commission recommended to

the City Council that they delay their decision until March, that the Council invite ODOT, LHNA, and representatives from Yamhill and Clackamas counties to discuss the issue, and if a satisfactory solution was found, the City Council should approve the no through design with the mitigation.

PC Cathy Stuhr thought the Commission should recommend denial of the no through design unless the Council wanted to go through the process proposed by PC Philip Smith.

There was discussion regarding adding PC Cathy Stuhr's idea to the motion.

CDD Doug Rux thought to make it clear, the motion on the table could be withdrawn and then restated.

PC Philip Smith withdrew his motion, and PC Patrick Johnson withdrew his second.

MOTION: PC Philip Smith moved to recommend to the City Council that they delay the decision until March and that they invite ODOT, LHNA, and representatives from Yamhill and Clackamas counties to meet with the City to find mitigation for the effects of the final decision. If a satisfactory mitigation could be found by the time of the Council's March meeting, the Council should approve a no through design, but if a satisfactory mitigation could not be found by the March meeting, the Council should approve a through through design.

Motion died for lack of a second.

PC Cathy Stuhr said the decision needed to be based on findings and criteria. She thought they should recommend the through through design as there were findings to support that decision.

MOTION: PC Cathy Stuhr moved to approve Resolution 2015-311, which denied the proposed no through design and maintained the through through design, and recommended that the Council delay their decision until March and invite various representatives to meet and create a mitigated solution for the impacts to Newberg, Wilsonville, and the affected communities. Seconded by PC Matthew Fortner.

PC Philip Smith said the heart of the motion was the same as his, to find a win win solution, and he would support it.

PC Jason Dale also approved of the motion.

PC Patrick Johnson had concerns about the representatives meeting when ODOT had already come up with eight proposals but they were not good solutions for Newberg. He thought it was delaying the inevitable law suit. The way the bypass was laid out right now, it was going to be a dangerous traffic situation. He was not in support of the motion.

PC Cathy Stuhr responded that she hoped the meeting would result in finding solutions to the impacts of the bypass for the roads that would be affected. She thought the findings supported the through through design.

Chair Gary Bliss concurred with the motion that had been made.

CDD Doug Rux recommended adding a finding to the motion stating that the Commission believed that bringing the groups together had the possibility of finding a mitigation solution to the issue at hand.

PC Cathy Stuhr asked about the findings that supported the resolution and referred to the previous December 10 meeting packet. There were some findings that said this resolution met the criteria and some that said the alternative did not meet the criteria.

There was discussion regarding the wording of the findings.

Chair Gary Bliss recessed the meeting for a short break at 8:40 p.m. and reconvened the meeting at 8:50 p.m.

AMENDMENT TO THE MOTION: PC Cathy Stuhr moved to amend the motion to add Finding #7 to the resolution which stated, “Based on an abundance of public testimony and a desire to integrate regional community concerns into a satisfactory solution, the Newberg Planning Commission seeks a solution agreeable to our neighbors as well as our citizens.” The Planning Commission recommended approval of this resolution and asked the City Council to delay their vote on the matter until March 2016 to allow time for all entities to meet in an effort to mitigate impacts of the final decision. Seconded by PC Jason Dale and the amendment passed 7-0.

PC Philip Smith said the main motion as put forward by PC Cathy Stuhr met several Commission goals, gave a straightforward recommendation to the City Council, and was based on findings as well as asked the Council to delay action giving a brief window to reach a good solution with all of the players. He was in favor of the motion.

The motion passed 7-0.

The hearing was closed at 8:56 p.m.

LEGISLATIVE PUBLIC HEARING: PC Gary Bliss turned the meeting over to Chair Allyn Edwards. Chair Allyn Edwards opened the public hearing at 8:58 p.m.

1. **Development Code Amendment Medical Marijuana Grow Sites, Processors and Dispensaries.** The proposal: • Allows medical marijuana grow sites in residential zones (R-1, R-2, R-3) as permitted uses and as conditional uses in all other zones. • Adds definitions for medical marijuana grow sites, medical marijuana processors and modifies a footnote description for medical marijuana dispensaries. • Allows medical marijuana processors as a permitted use in all industrial zones (M-1, M-2, M-3, M-4, AI, SD/E). FILE NO: DCA-15-002

Call for Abstentions and Objections to Jurisdiction: None.

Staff Report: CDD Doug Rux presented the staff report. He said the issue before the Commission was a Development Code amendment addressing medical marijuana issues regarding grow sites, processors, and a modification to the dispensary provisions that were approved in April of 2015. For grow sites, the amendment would allow up to 12 mature plants or for two patients as a permitted use in the R1, R2, and R3 zones and as a conditional use in all other zones. It would also add definitions to the Code of medical marijuana grow site and medical marijuana processor. Medical marijuana processors would be permitted in all of the industrial zones. Language would also be modified in the footnote related to career schools. The proposal was to set the requirements for medical marijuana grow sites and processors since they were now legal. Recreational marijuana would be discussed at a different meeting. He gave a history of medical marijuana and land use regulations dealing with medical marijuana dispensaries. HB 3400 was adopted in 2015 which modified some of the laws and covered both recreational and medical marijuana. The operational provisions for medical marijuana grow sites and processors would go into effect on March 1, 2016. The City Council created a marijuana subcommittee to discuss marijuana topics. Early recreational sales out of medical marijuana dispensaries had been banned and the Development Code amendment process was initiated. No public comments had been received on this proposal. The law allowed local governments to regulate place, time, and manner. There were limits for how many plants a grower could grow in a residential area, 12 mature plants. If

the grower was outside of a residential area, they could grow more especially if they were grandfathered in. There were provisions about usable marijuana, and people could have 12 pounds for an outdoor operation and six pounds for an indoor operation. A processor could not be located in a residential zone and must meet the health and safety standards of the Oregon Health Authority. There were no time or manner regulations in the statutes or administrative rules. There was a change in the definition for schools in HB 3400 and career school was no longer in the statute, but was still in the administrative rule. The recommendation was to allow grow sites up to 12 mature plants or two patients in R1, R2, and R3 as indoor operations only and they would be conditional use in any other zone which meant they would have to come before the Planning Commission for review of compatibility. Processors would be allowed in all of the industrial zones. There was one career school that met the prior definition that was located downtown, but by dropping the career school out of the definition, it opened a little bit of the area to the west of Main Street between Hancock and First that could be used for a medical marijuana dispensary. The definitions for grow site and medical marijuana processor came from HB 3400. Some new columns were added to the table to include all of the industrial zones. He then discussed the language changes and findings. Staff recommended approval of the proposed amendments.

Public Testimony: None.

Planning Commission Deliberation:

PC Philip Smith said Newberg did not have enough R3 and he thought the little R3 that they had ought to be used for multi-family housing. He did not think R3 should be included.

PC Matthew Fortner thought they could limit the number of plants in R3 to 6 mature plants.

CDD Doug Rux clarified it was 12 plants allowed per unit. In order to grow, you had to have an arrangement with a medical marijuana card holder. The City did not know where these operations were occurring as it was private information that the Oregon Health Authority did not share with the City.

PC Cathy Stuhr asked if this would put more restrictions on the under-advantaged population by restricting the R3 zones.

PC Patrick Johnson said a lot of people were using recreational rather than medical marijuana. He thought they should encourage the medical and not restrict R3.

There was discussion regarding grow sites in other zones which would require a conditional use and the products made from the marijuana plants.

CDD Doug Rux said there were no recommended time regulations for growers or processors, as the plants grew 24 hours a day and a processor could manufacture products 24 hours a day depending on how many shifts they wanted to have. There were no manner regulations recommended because the Oregon Health Authority already had many regulations and if the grow operations were only going to be indoors, then they did not need to discuss the issue of exterior light spilling onto someone else's property.

PC Matthew Fortner asked about the extra draw on electrical power from the grow lights and if there would have to be upgraded electrical panels? CDD Doug Rux said for grow operations on the medical side, the quantities were small, and it was prudent for growers to talk to PGE. There were no provisions in State law that required them to upgrade a residential, commercial, or industrial structure.

PC Matthew Fortner suggested an electrical inspection be done before allowing a grow site to take place. CDD Doug Rux said Footnote #37 could be added that stated all marijuana grow site operations required an electrical inspection of the facility in which they were located.

MOTION: PC Matthew Fortner moved to add Footnote #37, requiring electrical inspections for marijuana grow site operations as proposed by staff. The inspection was to show that the electrical equipment in the grow site would operate safely according to Yamhill County.

Motion died for lack of a second.

CDD Doug Rux explained how the Oregon Health Authority regulated the health and safety of the products. At the local level they could regulate where they operated, the hours they operated, and the manner of how they ran their operation. The Council adopted a 5% tax on medical marijuana dispensaries. The taxes for recreational were different and were governed by the State.

PC Cathy Stuhr thought the wording for Footnote #37 could say “provide for an electrical inspection for permitted and conditional uses to certify that the electrical system could support the proposed operation as inspected by Yamhill County.”

PC Patrick Johnson asked about requiring grow sites to have fire suppression. CDD Doug Rux said the comments received from the Fire Department regarding this issue was they had no conflict.

PC Cathy Stuhr amended Footnote #36 to say “allowed up to 12 mature plants; indoor operations only” for residential grow sites.

Action by the Planning commission:

MOTION: PC Matthew Fortner moved to approve Resolution 2016-312 and to amend Footnote #36 and add Footnote #37 as discussed. Seconded by PC Patrick Johnson and passed 7-0.

PC Cathy Stuhr asked for student Louis Saavedra’s opinion on marijuana as a young person in the community. Mr. Saavedra did not have enough information to form an opinion. He had not heard his peers talk much about recreational marijuana.

The hearing was closed at 10:06 p.m.

ITEMS FROM STAFF:

CDD Doug Rux said recreational marijuana regulations would be coming to the Commission in February. He said Newberg did not make the next round of the America’s Best Communities competition.

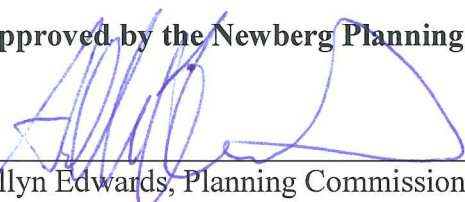
AP Jessica Pelz said the City received a grant from DLCD for a buildable lands inventory and community visioning, which would be pre-work for the new Urban Growth Boundary process.


ITEMS FROM COMMISSIONERS:

PC Patrick Johnson thanked staff and his fellow Planning Commissioners for their work.

Chair Allyn Edwards adjourned the meeting at 10:12 p.m.

Approved by the Newberg Planning Commission this 11th day of February, 2016.


Allyn Edwards, Planning Commission Chair


Bobbie Morgan, Planning Secretary