

NEWBERG PLANNING COMMISSION MINUTES
August 11, 2016, 7:00 PM
PUBLIC SAFETY BUILDING (401 E. THIRD STREET)

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

ROLL CALL

Members Present:	Allyn Edwards, Chair	Jason Dale
	Philip Smith	Gary Bliss
	Cathy Stuhr	Ron Wolfe

Members Absent:	Noelle Torres, excused	Miranda Piros, Student excused
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Staff Present:	Doug Rux, Community Development Director
	Steve Olson, Senior Planner
	Bobbie Morgan, Office Assistant II

PUBLIC COMMENTS: None

CONSENT CALENDAR:

Approval of the June 9, 2016 Planning Commission Meeting Minutes
Approval of the July 14, 2016 Planning Commission Meeting Minutes

MOTION: Cathy Stuhr/Ron Wolfe moved to approve the June 9, 2016 minutes and July 14, 2016 minutes with a correction on the hearing date listed on page 8 under items from staff. The date should have been August 11. Motion carried (6 Yes/ 0 No).

QUASI-JUDICIAL PUBLIC HEARING:

1. **Conditional Use Permit – 1916 Carol Avenue:** Consider a conditional use permit application to allow an accessory dwelling unit (ADU) to be built at 1916 Carol Avenue. The site is in the R-1 zone. The four-bedroom ADU would be built in the basement of the existing house.
APPLICANT: Highland Construction, Inc.
OWNER: Dale Goldsmith
LOCATION: 1916 Carol Avenue TAX LOT: 3217CA-00109
FILE NO.: CUP-16-004 ORDER: 2016-23
CRITERIA: Newberg Development Code Sections: 15.225.060, 15.445.260

CALL TO ORDER: Chair Allyn Edwards read the hearing rules and opened the public hearing at 7:07 pm.

CALL FOR ABSTENTIONS, BIAS, EX PARTE CONTACT, AND OBJECTIONS TO JURISDICTION:

Chair Allyn Edwards said his daughter lived off of Carol Avenue, but he thought he could make a decision on the matter.

STAFF REPORT: Senior Planner Steve Olson presented the staff report and entered the report into the record. This was a request for a Conditional Use Permit for an accessory dwelling unit at 1916 Carol Avenue. He explained the location, R-1 zoning, and site plan. The unit would be built in the basement of the existing house. A Conditional Use was required because it was in the R-1 zone. He then discussed the process and criteria for the application. It had to be created within or as an addition to a single family structure and it could not exceed 50% of the size of the primary unit up to a maximum of a 1,000 square feet. The unit was proposed to be 986 square feet, however after a public comment from a neighbor and more measurements, it came out at 1,100

square feet. He read a letter from the applicant explaining the original measurements excluded a space along the north wall of the room which had been filled with shelves of memorabilia. A false wall could be put in or the size of the unit could be modified and he asked that the Commission not delay the decision. The application could be denied due the size, it could be approved with the condition that it be reduced, or the applicant could submit a revised floor plan. Other criterion were the number of residents permitted was restricted to up to five people, there would be one on-site parking space for the unit, and the front door could not be at the front of the residence. They were not planning to have more than five people, there would be three off street parking spaces to the rear of the lot, and the front door was on the back of the building. The proposal met all of the development standards in the R-1 zone. Some of the public comments expressed gladness that they would be renting to college students and concern that the house did not have any on street parking, which was not a criterion. He then summarized the Conditional Use criteria. The unit would be located in the basement which was low impact, the parking proposed was appropriate, in order to use the parking the western half of the main driveway would need to be kept clear, a six foot fence would need to be added to the western property line for a visual buffer from the neighbor, the location, design, and site planning would be convenient and functional, and it was consistent with the code. Staff recommended approval with conditions.

PUBLIC TESTIMONY:

PROPONENTS

Dale Goldsmith, applicant, said the design had been revised to reduce the size to under 1,000 square feet and he had copies to pass out to the Commission. His wife had used the basement for hobbies and storage and it made it difficult to measure. He thought it was done accurately, but had made a mistake. He discussed a recent article by DMS Architects in Portland that listed additional benefits of accessory dwelling units. They provided rental income, enabled multi-generational living on the site, increased the home's property value, helped the planet by using existing infrastructure and reduced urban sprawl, and basements were inherently green as they were low energy users. He read the letters from his neighbors and acknowledged their concerns. He promised to be a good neighbor.

PC Philip Smith asked how he planned to keep the western half of the driveway and turn around clear, would he be putting up signage.

Mr. Goldsmith thought he and his tenants would be the only ones using the driveway and he did not think there was need for signage. Regarding the 6 foot fence, it had not been put up in the past because a neighbor liked to use his driveway for truck access to his backyard. He did not have an objection to it.

SP Olson said the applicant submitted a new floor plan, and the Commission would need to vote on whether or not to accept it.

PC Philip Smith said the new floor plan showed a reasonable way to comply with the code and he would like to see it.

MOTION: Philip Smith/Cathy Stuhr moved to accept the new floor plan. Motion carried (6 Yes/ 0 No).

The Commission reviewed the new floor plan.

Dennis Fletcher, applicant's builder, said there was a need for safe college housing that was efficient and that was how they planned this unit. After looking at the measurements again, they realized it was too big and they reduced the unit from four bedrooms to three and it was now 974 square feet. He hoped that the project would be approved.

PC Cathy Stuhr asked about the stairwell from the garage and water heater in the garage. Mr. Fletcher said the garage was an emergency exit only and the water heater in the garage would be only used for the ADU. PC Cathy Stuhr thought the water heater should be within the ADU.

OPPONENTS

Sharon Gstettenbauer, neighbor on Carol Avenue, said the original plans were for five students, then it was reduced to four students and she questioned if they could fit into a 1,000 square foot unit. She had not been able to look at the new floor plan as it was just presented. It was more like a dormitory than an additional housing unit. This was a business out of Mr. Goldsmith's home to make money. This was a residential neighborhood and the unit did not fit with the neighborhood. The square footage had been revised because the neighbors had put pressure on the issue.

PC Cathy Stuhr said the Commission's job was to look at whether or not applications complied with the code and asked if she felt the same now that it was for three bedrooms instead of four? Ms. Gstettenbauer thought the intent of the code was for a mother in law unit, not a dormitory. If Mr. Goldsmith wanted to help college students, the maximum should be two students so they each had their own bathroom.

Judy Durkee, neighbor on Carol Avenue, thought the square footage was not being measured correctly on both the original plan and the new plan. The purpose of the unit was to be a small apartment and she thought this was a dormitory as Mr. Goldsmith was planning to house up to five people. The characteristics of the unit should be reasonably compatible with the surrounding area, and she did not think it was compatible with a quiet, single family neighborhood. There would be a traffic and parking impact due to the configuration of the street corner, fire hydrant, and mailboxes. She showed a picture of Mr. Goldsmith's driveway and how it would be difficult for people to get in and out. She thought it would have a negative impact on property values and it would impact the quality and character of the neighborhood.

Janelle Nordyke, neighbor on Carol Avenue, thought adding a three bedroom unit for five college students did not align with the surrounding houses. This was a quiet neighborhood with single family dwellings. She did not think it was the same as having five children of varying ages living in the house, as the college students were older and would have their own cars coming in and out. There was not enough on street parking and the increased traffic on a dangerous corner would not add value to the neighborhood. Adding a dormitory-like unit for students was not in line with the surrounding single family homes. The public comments that had been received that were in favor of the project either did not live on the street or did not drive past this house. Reducing the bedrooms, but still keeping the same number of students did not fit with the neighborhood. She asked that the application be denied.

Randy Nordyke, neighbor on Carol Avenue, stated this was a bad idea. It was a single residence neighborhood and this unit violated that. There was no assurance that it would be used for college students in the long run. Some houses in the neighborhood had been rented to college students and they had been good neighbors. However, they were using the whole house not less than 1,000 square feet. The students all had cars and their friends visited regularly. There was no on-street parking for Mr. Goldsmith's house and it was a dangerous corner. It did not fit in with the neighborhood.

APPLICANT REBUTTAL:

Mr. Goldsmith discussed the map of his neighborhood and where other accessory dwelling units were located. He thought 1,000 square feet when properly laid out was adequate living space. The reason for the shared bathroom was to provide additional amenities, such as a washer and dryer, two toilets, three showers, and a bathtub. There was a vanity sink in each bedroom. It was designed to be better than average living space. Regarding parking, there was room for four cars inside his garage. A small number of students had cars and the students would be able to walk to and from college. The measurements were now accurate.

PC Philip Smith said the existing driveway was 18 feet wide, and Mr. Goldsmith would only use the eastern half. It would be narrow, and he suggested widening the driveway. Mr. Fletcher said a foot could be added to the west side, but there was a retaining wall on the east side. There was also a clear view of the corner. They met the code requirements, were under the square footage, and had compromised on the living space. He did not think it was out of line with the neighborhood.

PC Jason Dale clarified there would be one off street parking space, four parking spaces in the garage, and three parking spaces behind the house.

Chair Allyn Edwards suggested taking some space from bedroom 1 and enclosing the bathtub and toilet area to make it more private.

CLOSE OF PUBLIC TESTIMONY: Chair Allyn Edwards closed the public testimony portion of the hearing at 8:20 pm.

FINAL COMMENTS FROM STAFF AND RECOMMENDATION:

Community Development Director Doug Rux discussed the definition of dormitory from the code, which was six or more people sharing a common kitchen.

SP Olson clarified the limitation for ADUs was based on the number of residents, not number of bedrooms. Having three bedrooms did not limit it to three residents. They could go up to five per code. A lot of the ADU criteria were clear and objective, but Conditional Use criteria was more subjective such as compatibility. Staff thought due to the size of the unit, two off street parking spaces should be required, but that was a judgment call for the Commission. There were three parking spaces available in the rear. Staff thought the driveway width would be functional, but that was also a judgment call.

PC Cathy Stuhr asked how the parking requirements were passed on if the house was sold. SP Olson said if the Conditional Use was approved, it was a permanent condition. It had the force of law and would exist in City records and would have to be continued to be met.

PC Cathy Stuhr clarified each single family dwelling unit was allowed five unrelated occupants and they could not reduce it to three. If the Commission was going to move forward with the application, she thought a condition should be added that the water heater was included in the ADU space.

SP Olson said it had to be an independent living unit, but the utilities would be shared and some things were in common. CDD Rux said the code did not specify where a water heater could be located. It would be a judgment call of the Commission.

Chair Allyn Edwards thought it should be included in the ADU because if the heater had to be repaired they would have go through the garage to access it.

PLANNING COMMISSION DELIBERATION:

PC Philip Smith said the Commission had to look at the criteria in the code and not the applicant's intentions for its use. There had to be adequate parking and he thought there was. It needed to fit in with the neighborhood, and this was under the house and invisible to the neighborhood. There was safe access, and the design was for students. He thought the application met the code.

MOTION: Philip Smith/Jason Dale moved to approve the Conditional Use Permit for 1916 Carol Avenue with the conditions that a fence be installed on the western property line, the water heater be part of the ADU, there should be at least two parking spaces in the back, and a clear turnaround with a sign.

PC Ron Wolfe suggested that three parking spaces in the back be required.

Philip Smith/Jason Dale made a friendly amendment to the motion that three parking spaces be required in the back.

PC Gary Bliss said the tenants did not own the water heater and if it had to be fixed, the owner renting the units would be fixing it. He thought that condition should be deleted.

PC Cathy Stuhr thought it should be a self-contained unit.

Chair Allyn Edwards was concerned about a new owner not wanting someone to access the garage. He thought it was a privacy and access issue. The water heater could be put in the kitchen.

ACTION BY PLANNING COMMISSION:

Motion carried (6 Yes/ 0 No).

LEGISLATIVE PUBLIC HEARING:

1. **Marijuana Regulation Reconciliation:** A resolution amending the Newberg Development Code for medical marijuana dispensaries, processors, wholesalers and recreational marijuana processors as permitted or conditional uses in districts and subdistricts within the City of Newberg
File: DCA-16-003

CALL TO ORDER: Chair Allyn Edwards opened the public hearing at 8:51 pm.

STAFF REPORT: CDD Rux presented the staff report. The City had passed regulations regarding marijuana, however in 2016 the legislature passed new rules that more aligned the medical and recreational programs together. A reconciliation had to be done regarding what had already been passed by the City, especially in regard to where facilities would be allowed. The marijuana subcommittee recommended medical dispensaries be allowed in C-1 and C-4, allow medical marijuana processors as a Conditional Use in C-2 with a 1,000 foot buffer from schools and parks, medical marijuana wholesalers should mirror the recreational wholesalers regulations, include medical dispensaries in the same subdistricts as retailers, reject the idea of reducing the buffer from a school to 500 feet if there was a physical separation barrier and keep the 1,000 foot buffer, and allow recreational processors in the same subdistricts as medical processors and keep the 1,000 foot buffer. He reviewed the changes included in Exhibit A of the Development Code regulations.

Chair Allyn Edwards asked about the Department of Revenue and the fee for collection of marijuana taxes. CDD Rux responded that the Department of Revenue was allowed to collect the taxes for local jurisdictions, but they would have to negotiate the fee with each jurisdiction. Currently the City was collecting the tax and the City had not asked the Department of Revenue to do it. Taxes had to be filed appropriately to make sure the retailers were paying the tax. Newberg adopted a 5% tax on medical marijuana and 10% on recreational, and the State passed regulations that local jurisdictions could only collect a 3% tax on retail. The Council directed staff that Newberg's taxes were passed before the State regulations and they would leave them as they were.

PC Philip Smith asked about combining recreational retailers and medical dispensaries. CDD Rux said there were currently three operating medical dispensaries in Newberg, but they could now apply to be recreational retailers. Medical wholesalers could now apply to become retail wholesalers, and the same situation was for processors. There was potential for four or five more retailers/dispensaries.

FINAL COMMENTS FROM STAFF AND RECOMMENDATION:

CDD Rux said staff recommended adoption of the resolution. He thought the changes aligned the regulations to make them consistent across the board.

PC Cathy Stuhr said there was a consideration to allow wholesalers in residential zones, but she thought it should be kept out of residential.

ACTION BY PLANNING COMMISSION:

MOTION: Cathy Stuhr/Ron Wolfe moved to approve Resolution 2016-321. The motion carried (6 Yes/ 0 No).
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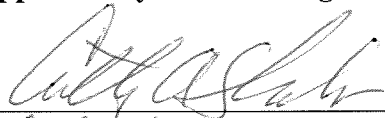
ITEMS FROM STAFF:

The next Planning Commission meeting would be held on September 8, 2016.

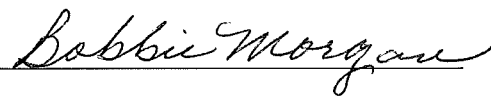
ITEMS FROM COMMISSIONERS: None.

Chair Allyn Edwards adjourned the meeting at 9:16 pm

Approved by the Newberg Planning Commission this October 13, 2016.



Cathy A. Stuhr for,
Allyn Edwards, Planning Commission Chair



Bobbie Morgan, Office Assistant II