

PUBLIC SAFETY BUILDING (401 E. THIRD STREET)

Chair Jason Dale called the meeting to order at 7:02 p.m.

ROLL CALL

Members Present: Allyn Edwards
Jason Dale, Chair
Philip Smith
Miranda Piros, Student
Patricia Watson
Ron Wolfe
Gary Bliss
Cathy Stuhr

Staff Present: Doug Rux, Community Development Director
Steve Olson, Senior Planner
Cheryl Caines, Associate Planner
Bobbie Morgan, Office Assistant II

Also Present: Brett Musick, Senior Engineer

PUBLIC COMMENTS:

None

CONSENT CALENDAR:

Approval of the September 14, 2017 Planning Commission meeting minutes

MOTION: PC Stuhr/PC Edwards moved to approve the September 14, 2017 Planning Commission meeting minutes. The motion carried (7 Yes/ 0 No).

QUASI-JUDICIAL PUBLIC HEARINGS (complete registration form to give testimony - 5 minute maximum per person except for principals, unless otherwise set by majority motion of the Planning Commission).

1. **Design review: Chehalem Pointe Apartments:** Consider a design review application to construct a 140-unit multifamily apartment development at 1317 Villa Road (north of the railroad trestle).
 APPLICANT: KWDS, LLC.
 FILE NO.: DR217-0021 ORDER: 2017-08
 CRITERIA: Newberg Development Code Sections: 15.220.050(B) & 15.220.060

Chair Dale called the hearing to order at 7:03 p.m.

CALL FOR ABSTENTIONS, BIAS, EX PARTE CONTACT, AND OBJECTIONS TO JURISDICTION: None

LEGAL ANNOUNCEMENT:

Miranda Piros read the legal announcement.

STAFF REPORT:

Staff report presentation given by Senior Planner Steve Olson. This was a design review for the Chehalem Pointe apartments. It was a 140 unit apartment project on Villa Road. If approved, the address would be changed to Park Lane as that was where the entrance would be. The property was zoned R-3, high density residential. There was a small portion in

a stream corridor in the southeast corner. He reviewed the location of the property and surrounding zoning of R-1, R-2, and stream corridor. The property was 5.9 gross acres, but after dedicating right-of-way along Park Lane and Villa Road it would be 5.57 acres. It was relatively flat with a slope down to the stream. It was currently a vacant field and the old farmhouse had been removed. In 2015 the property was approved for a zone change from R-1 to R-3. It was conditioned that any future design review application had to go to the Planning Commission for review. He discussed the site plan including the parking, building, landscaping, and stormwater designs. The buildings met the height limitations, which was 45 feet, and a portion was reduced to 30 feet because they were within 50 feet of an R-1 zone. They had about 40,000 square feet of usable outdoor area and there was more open space where the stormwater detention area was located. There was also a fire truck turn-around area. He discussed the elevations and variations on the building facades. A sign application would be submitted later on. Regarding design compatibility, the applicant did quite a few things to make the design compatible with the neighborhood. The siding, painting, and offsets on the buildings helped make them look less massive and the materials were similar to the neighborhood. The roofs were pitched as well. The buildings were oriented east-west which turned the narrow end toward the neighbors for less visual impact. There were no decks or patios on the western end of the buildings. The setbacks ranged from 14 feet to 40 feet and the outdoor areas were on the western edge. A fence and hedge plants would also be put in along the western edge. The lighting plan would have to be revised to make sure no light was trespassing over the property line. They needed 229 parking spaces and the applicant was proposing 243 spaces and most of the spaces were covered. He explained the 12 foot front yard setbacks and 5 foot side yard setbacks. Trash enclosures with chain link fencing were proposed, however the Code required masonry walls. There was a condition that verified the location of the trash enclosures with waste management. They were required to have 30% landscaping, and 47% was proposed. There were decks or patios for each unit and there was some storage for each unit. They were also required to have a five foot buffer between the property line and the parking areas with a 75% site obscuring hedge or fence. The applicant proposed fencing and hedges in those areas. Apartments were a permitted use in the R-3 zone. They could have no more than 162 units and no less than 97 units. This proposal was in the middle at 140 units. The stormwater line ran down to the stream corridor and the stream corridor would be fully landscaped. Regarding utilities, wastewater, water, and stormwater lines existed along the site and had capacity to serve the site. The applicant would have to submit detailed plans, public improvement permit, and final stormwater report and verify the fire flow was adequate. Public water hydrants would be required as well as right-of-way dedication on Park Lane and Villa Road. The applicant would be doing a half street improvement on Park Lane and would submit plans for that as well. The City was doing a project on Villa Road, so the applicant would not have to make improvements on Villa, but would pay for their portion of the improvements. The setback of the driveway on Park Lane was supposed to be 150 feet from Villa Road because it was a major collector, and the applicant had proposed 120 feet. The applicant had an alternative site plan. Because it was near the railroad, ODOT Rail required a fence along the railroad property. ODOT Rail also wanted to make sure this project was coordinated with the Villa Road project. Comments from TVF&R included standards that had to be met before a building permit was issued. A traffic study was done which showed a trip generation of 972 average daily trips, approximately 95 trips in the p.m. peak hour. After build out, all intersections except for Fulton and Villa were forecasted to meet City operational standards. The study recommended for Fulton and Villa, to upgrade it to an all way stop control. Regarding multi-family design standards, the application scored 28 points, which exceeded the needed 20 points.

SP Olson explained a proposed finding change, page 21 of 452 of the meeting packet. This had to do with easements that were needed on the site. The standard requirement was for a 10 foot utility easement along all frontages and the applicant requested that the wording be modified to say that the 10 foot easement was required unless determined by the City Engineer to not be needed or not feasible due to site conditions. The west side of Villa Road was steep and would have a retaining wall and it was likely that the utilities would run on the east side of the road instead.

SP Olson discussed the original site plan that showed the 120 foot driveway setback from Villa Road, modified site plan where the driveway was moved to be 150 feet from Villa which realigned some of the buildings further west towards the neighborhood and took out some open space, and summarized the vehicular access standards in the Code. There were exceptions to the standards that the applicant would like to use as the applicant would like to keep the 120 foot setback. The one that most applied was Criteria C, that it would result in safer access, less congestion, better level of service, and more functional circulation on the street and on the site. One of the impacts of moving the driveway to the 150 feet was a more complicated circulation whereas the 120 feet was simpler. If the Commission approved the exception, they would have to make a finding that it was a safe and functional option as practical in this circumstance and they could require a traffic study by a registered engineer to show the proposed access met the criteria.

PUBLIC TESTIMONY:

Proponents:

Applicant Kim McAvoy, representing KWDS LLC, stated KWDS was a family owned and operated business and had been doing multi-family development for over 30 years. Their goal was to develop, manage, maintain, and keep these communities. They had their own management company that employed an on-site management team, management staff, and landscape staff. They also screened all of the applicants to the full extent the law allowed. When designing these communities, they tried to provide more than required parking, open space, and landscaping and tried to take the neighborhood into account. They wanted the developments to be clean, inviting, and well taken care of. She showed pictures of one of their developments in Bend that showed the siding, colors, and landscaping that would be similar to what they were proposing in Newberg.

Applicant Keith Jones, project engineer, presented a PowerPoint on the application. They were in favor of the staff report findings and conditions except for the driveway on Park Lane. He explained the site had been laid out as proposed to help with noise and provide space between the development and low density residential area. There would be no openings other than windows facing the residential area. The patios and entryways would face towards the interior courtyards or interior parking areas. The building mass was reduced as well. They planned to put vinyl slats in the chain link fence and he explained how the stormwater would flow to the swale. There would be some open flat area around the stormwater system that people could use as well. He compared the 120 foot setback and 150 foot setback for the driveway. He thought the 120 foot setback better maintained the buffer to the neighborhood. There was no difference in safety, access, or circulation.

Brian Dunn, traffic engineer with Kittleson & Associates, said they understood if the exception was approved that there would need to be an evaluation of the 120 foot setback. He thought that evaluation would include vehicle queuing, site distance, level of service, and circulation. He explained what each of those would entail.

PC Bliss discussed how the site could be reconfigured to allow for the 150 foot setback and maintain the buffering. He did not think there was justification for the 120 foot setback. Mr. Dunn did not think the driveway would function any differently at 120 feet or 150 feet. They had presented two options for the Commission to consider.

Chad Juranek was with applicant but had no comments.

Opponents:

Bonnie Edghill, Newberg resident, was opposed to a multi-unit complex in a residential neighborhood. She understood they were planning for future residents and it looked like it would be a good development. This was a neighborhood of single family homes and a community of 55 and older seniors. There were a lot of people walking on the streets and adding almost 1,000 trips per day was going to have an effect. The neighbors were not happy about the development, but many did not come tonight because they thought it was a done deal. She had researched the impact of an apartment complex in a single family residential neighborhood and what it did to property values. She thought it did impact property values in a negative way. She would rather have 20 single family homes built on the lot than 140 units crammed in. She appreciated the height limits and buffering that was being proposed, but it was missing the mark for what the residents in the neighborhood would be comfortable with. It would impact traffic and pedestrians. Park Lane was narrow and had many pedestrians. She appreciated the green space that was being added, but she did not think it was enough. She suggested a central playground area for the kids. The overflow parking for the apartments would go on other residential streets especially since there was no parking on Villa. She thought it would be much better to build single family homes here.

PC Smith said it sounded like she did not have an issue with the proposed plan, but the issue was she thought the City made a mistake in rezoning this to R-3. Ms. Edghill responded that neighbors had voiced their objections to the rezoning to high density. She thought townhomes would be better than an apartment complex. Two stories would be better than three stories, which would be looming. It would make more sense to build 100 units and have more greenspace and a central play area for the kids.

Rebuttal:

Applicant Keith Jones stated Park Lane would be widened to 32 feet of pavement and there would be enough room for parking on both sides and two way traffic. There would also be a planter strip of 5.5 feet and a 5 foot sidewalk that would tie into Villa. This was a family owned business and they owned and maintained the projects. They were exceeding the

minimums for parking. The number of units was below the maximum. They had taken many steps to be a good neighbor and mitigate impacts. Under Oregon Goal 10, only clear and objective standards could be applied to needed housing projects such as this. The property was zoned R-3 and they had tried to make a good project where people would be happy to live in this community.

PC Stuhr asked if there was a kid's play area. Mr. Jones responded there was open space, picnic tables, and pathways in the development.

Chair Dale asked about the typical unit size and the cost. Mr. Jones gave a unit summary. There was three bedroom units that were 1,100 square feet, 2 bedroom units that were 921 square feet, and so on. The rent for the 3 bedroom unit would be about \$1 per square foot.

Late Opponent: Paul Blattner, Newberg resident, thought the buildings were well designed, much better than he had anticipated, however when he went out to his yard the first thing he would see when he looked out towards Villa Road would be a three story building and the word looming came to mind. He brought up an issue that had not been addressed, the people who lived on Park Lane across from the three story buildings. There were no setbacks from Park Lane and the buildings were right up to the street. When those on Park Lane looked out their windows, they would be staring at a three story building without the kind of setback or lawn that a private home would have. While the people on the west side had been taken care of, the brunt of the affront of large buildings would be faced by people on the north side of the development.

Applicant Keith Jones gave rebuttal. There was about 90 feet of separation between the proposed building and Mr. Blattner's house. There would be landscaping in the front as well. They thought the separation should be to people's backyards on the west to offer more privacy.

CLOSE OF PUBLIC TESTIMONY:

Chair Dale closed the public testimony portion of the hearing at 8:26 p.m.

FINAL COMMENTS FROM STAFF AND RECOMMENDATION:

SP Olson said staff thought the application met the design review standards with conditions of approval. Staff recommended approval with findings and one change to the findings regarding the utility easement. There was a question regarding the driveway. The current findings and conditions were based on the 120 foot setback and required the applicant to submit a revised site plan. The applicant had already submitted a new site plan. He asked if under the exception process, was it possible for the Commission to make a decision tonight or did they need to wait for the traffic engineer report. The report was not required, and it was his understanding that if the Commission thought the questions had been answered, they could make a decision tonight.

Community Development Director Doug Rux agreed the Commission could require the applicant to submit the report or they could take the information that was submitted and the public testimony and if that was adequate, they could approve it with findings.

Chair Dale called for a five minute break at 8:31 p.m.

PC Bliss asked about the setbacks, and SP Olson explained the minimums required in the Code.

PC Bliss discussed the criteria for an exception to the driveway setback. He did not think any of them applied to this application, especially in making it safer. SP Olson clarified that if they allowed an exception, they would have to make a finding that at least one of the criteria applied. He thought the findings could be written tonight if they were crafted carefully.

CDD Rux added there were two options for the Commission, they could verbally craft a finding tonight or provide enough clarity and direction to staff to draft findings and bring them back to the Commission on November 9.

PC Smith asked how the development would affect Park Lane. SP Olson and Senior Engineer Brett Musick explained the improvements that would be made.

PLANNING COMMISSION DELIBERATION AND ACTION:

PC Stuhr thought the applicant had worked with the community in the design. She thought it met all of the standards and criteria. She did not have a problem with the change to the finding regarding utility easements. She thought the exception Criteria C might apply. She thought an analysis from a traffic engineer could show that the criteria were met including how it made the development safer overall. They could make a finding that if it met the exception as shown by a traffic engineer then the 120 foot setback was acceptable, and if not it would need to be 150 feet. The 120 feet would allow them to keep the 40 foot setback to the neighborhood and would allow for a safer and better interior traffic flow.

PC Bliss liked the design of the buildings, landscaping, and drainage management. He did not think the exception standard was met and he did not think a traffic engineer would prove it was a safer access. Having a jog in the alignment slowed people down instead of a straight line as proposed. There would also be issues regarding turning left onto Park Lane. He thought the application met all of the criteria except for the driveway setback. He did not think zoning R-3 next to R-1 made sense, however given the layout and setbacks proposed, he thought it could be justified.

PC Wolfe agreed that if the driveway setback was 150 feet, it would create a jog in the long driveway and would slow people down inside the complex. He thought that would be safer than a straight pass through. It would also help with the movement of traffic and people turning left onto Villa Road.

PC Stuhr asked if they wanted to make the decision tonight or allow for a registered engineer to make that call.

PC Smith said the City had adopted a policy of deliberately spreading R-3 land throughout the City. He thought it was a good policy to deliberately put R-3 land among R-1 land. The City needed more housing and a mix of housing types. The shortage was greatest in R-3. When putting R-3 land next to R-1 there were rules that helped mitigate for the R-1 neighborhood. He thought this plan did that and met the requirements in the Code. He liked the 40 foot setbacks on the west end. He did not know if the 120 feet met the criteria, but he did not want to close off the possibility in order to retain the 40 foot setbacks. He did not think they should make a decision tonight, but to ask for an engineer report for the driveway.

PC Edwards thought the straight through design that came with the 120 foot buffer was safer, especially for fire truck access. If the issue was speeding, it could be resolved with a speed bump. He thought Criteria C could be met in the safer accessibility and functionality.

PC Watson agreed that the straight through was safer and that a speed bump could be used. It would be better for fire trucks and she wanted to retain the 40 foot setbacks. She liked that the neighborhood had been taken into consideration. The City needed more R-3. She did not think a decision could be made tonight.

Chair Dale discussed how the driveway might meet Criteria A, where the exception could be allowed due to physical constraints such as topography, parcel configuration, or similar conditions that could prevent access. The proposal did not prevent access, but it did affect access.

PC Stuhr agreed that might be applicable. She would like to know the safest thing to do from a traffic perspective.

CDD Rux said if the Commission was looking for additional information, the applicant's traffic engineer could produce a report and the City Engineer and Planning staff could review that report and come back with a recommendation.

PC Bliss stated if the applicant's traffic engineer could prove that the exception criteria could apply, he could go with that.

Chair Dale asked if the applicant was willing to do a traffic report as proposed. Traffic Engineer Brian Dunn said the applicant agreed to pursue the design exception for the 120 foot setback subject to the City's approval of an engineer report. He thought the report would focus on Criteria C.

MOTION: PC Smith/PC Bliss moved to continue the hearing for DR217-0021 to November 9, 2017, and to request the applicant provide a traffic engineer report, especially in regard to the safety of the 120 foot and 150 foot setback.

PC Stuhr suggested a friendly amendment to the motion to have the report address all of Criteria C. PC Smith and PC Bliss accepted the amendment.

The motion carried (7 Yes / 0 No).

2. **Conditional Use Permit – 801 E North St.:** Consider a conditional use permit application to allow use of an existing single-family dwelling and accessory dwelling unit as a vacation rental.

APPLICANT: Hans and Kristi Larsen

FILE NO.: CUP-17-0005

ORDER: 2017-07

CRITERIA: Newberg Development Code Sections: 15.225.060, 15.445.300-350

Chair Dale called the hearing to order at 9:08 p.m.

CALL FOR ABSTENTIONS, BIAS, EX PARTE CONTACT, AND OBJECTIONS TO JURISDICTION: None

LEGAL ANNOUNCEMENT:

Miranda Piros read the legal announcement.

STAFF REPORT:

The staff report presentation was given by Associate Planner Cheryl Caines. This was a request for a Conditional Use Permit to allow an existing three bedroom single family home and an existing accessory dwelling unit to be used as vacation rentals. The location was on E North Street near George Fox University. The zoning was R-2, medium density residential. She showed a map of the general vicinity of the site. It was in the middle of an R-2 zone with M-2 to the northwest and George Fox to the east. The applicant's son would be residing in the main house while attending George Fox. When the son was not there, the applicant was proposing to use the main house as a vacation rental. The accessory dwelling unit would be used as a vacation rental only. This was a good location for a vacation rental, especially since it was close to George Fox and downtown. Whether this was used as a permanent residence or as short term rentals, there would be a similar number of people and cars coming and going. Overall the use and characteristics would be the same. There were five off street parking spaces provided on the site. Two spaces were in the garage and three in the driveway. She showed an aerial photo of the neighborhood which was made up mostly of single family homes with some industrial uses in the M-2 zone and George Fox to the east. She then showed street views of the home and garage. The applicant was not proposing any changes to the existing home. The location was attractive for short term rentals. There were existing parking spaces for both units. It was compatible with other residential uses in the neighborhood. Vacation rentals must be single family dwellings, and this was a single family dwelling with an existing ADU. The applicant would register the rentals with the City. They had to provide two off street parking spaces, provide regular trash collection, and the maximum occupancy was two visitors per bedroom. The maximum number of visitors for this property was 8, 6 in the main house and 2 in the ADU. The applicant would also need to post the standards and contact information by the front door. RVs, temporary tents, and temporary shelters were not allowed on site. There might be overhang into the right-of-way from cars parking in the driveway, however this was a common occurrence in these older neighborhoods.

Chair Dale asked about the driveway situation and how it would be an undue burden to make the home owner tear down the garage and/or change the building structure to comply with the Code. CDD Rux discussed a previous application that had the same issue with the driveway. The Planning Commission had said it was a pre-existing non-conforming use that was grandfathered in. There was a driveway apron on this property so pedestrians could walk around the back side of the cars.

PC Bliss asked about the condition of approval that stated two occupants per bedroom up to a total of 15, but he thought it was confusing since there was a maximum of 8 for this property. AP Caines responded the posting by the door required including the Code criteria and that was what the Code stated. It could be clarified on the side that in this case the maximum was 8 guests.

CDD Rux added it was a requirement to list out the standards and post them by the door. To change that, the Code would have to be changed.

PC Smith said the purpose was for the renters to know the rules verbatim out of the City Code.

PUBLIC TESTIMONY:

Proponents:

Applicant Hans Larsen said the primary goal was to provide a place for his son to stay while he earned his degree. There was also an ADU that he would like to use himself and also provide a nice place for those visiting the college or City. It was a nice, quiet neighborhood. He would like to use the main home as a vacation rental when his son was not there during the summer. That would be worked into the lease agreement he would have with this son. He was viewing this as a long term investment. Newberg was a destination, and he would like to be a part of that. The ADU did have one bedroom, but there was the capability of having a pull out couch to provide for more guests as he had seen in other vacation rentals. He was requesting to have 4 guests allowed in the ADU for a total of 10 guests for the site.

Opponents: None

CLOSE OF PUBLIC TESTIMONY:

Chair Dale closed the public testimony portion of the hearing at 9:30 p.m.

FINAL COMMENTS FROM STAFF AND RECOMMENDATION:

AP Caines stated staff recommended approval of the application.

PC Stuhr said in regard to allowing more people to stay in the ADU, the Code clearly said two people per bedroom was allowed. If they wanted more than that, it would have to be through a variance. AP Caines concurred there was not a way to approve that request without a variance.

PLANNING COMMISSION DELIBERATION AND ACTION:

PC Watson thought the maximum occupancy should remain at 8 people.

PC Smith said he often walked this way to work, and cars did hang over the sidewalk. There was no traffic on the street and pedestrians could cross and walk on the other side.

Chair Dale thought this was a straightforward application.

MOTION: PC Edwards/PC Wolfe moved to approve CUP-17-0005. The motion carried (7 Yes / 0 No).

LEGISLATIVE PUBLIC HEARING (complete registration form to give testimony - 5 minute maximum per person, unless otherwise set by majority motion of the Planning Commission)

1. **Private street regulations in Planned Unit Developments:** Consider a proposal to amend the Newberg Development Code to allow the creation of private streets within a Planned Unit Development.

Applicant: J.T. Smith Companies

File No.: DCA-17-0004

RESOLUTION: 2017-335

Chair Dale called hearing to order at 9:35 p.m.

CDD Rux said the applicant had requested this hearing be continued.

MOTION: PC Smith/PC Wolfe moved to continue the hearing for DCA-17-0004 to November 9, 2017. The motion carried (7 Yes / 0 No).

ITEMS FROM STAFF:

CDD Rux stated the land division regulations went into effect on October 5. The marijuana regulations were passed by Council and would go into effect on October 17. He then discussed items on upcoming agendas.

The next Planning Commission meeting was scheduled for November 9, 2017.

ITEMS FROM COMMISSIONERS:


PC Edwards recommended the Commission keep the packet for tonight for the continued hearing. Chair Dale cautioned the Commission on ex parte contact.

PC Bliss asked if the Sign Ordinance had been published. If a project was approved with conditions and the Code was changed to have stricter or more relaxed requirements, the original conditions of approval stayed static. He thought Argyle was stacking hundreds of units in their front parking lot when they were conditioned to be in the rear. CDD Rux replied the sign regulations were on the City's website. Regarding Argyle, the regulations were modified to be looser, and the City Attorney's opinion was they could not impose the conditions because the regulations had been loosened.

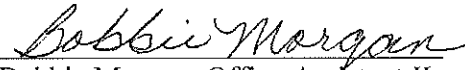
PC Bliss said the conditions were not being adhered to. If they were stricter, they would not have to follow them, and it should be the same if they were loosened. It was an eyesore and he did not think it was unreasonable to consider.

Chair Jason Dale adjourned meeting at 9:43 p.m.

Approved by the Newberg Planning Commission this November 9, 2017.



Jason Dale, Planning Commission Chair



Bobbie Morgan, Office Assistant II