

NEWBERG PLANNING COMMISSION MINUTES

November 14, 2019

Newberg Public Safety Building
401 E Third Street

Chair Edwards called meeting to order at 7:00 pm.

ROLL CALL

Members Present: Allyn Edwards, Chair
Kriss Wright
Sharon Capri
Jason Dale
Jeffrey Musall
John Wuitschick
Colin Bolek, Student Planner

Members Absent: Robert Ficker, excused

Staff Present: Doug Rux, Community Development Director
Cheryl Caines, Senior Planner
Keith Leonard, Associate Planner
Kristin Svicarovich, Engineering

PUBLIC COMMENTS:

None

CONSENT CALENDAR:

1. Approval of the October 10, 2019 Planning Commission meeting minutes

MOTION: PC Dale/PC Capri moved to approve the October 10, 2019 Planning Commission meeting minutes. Motion carried (6 Yes/0 No).

LEGISLATIVE PUBLIC HEARING

1. An amendment to the Newberg Municipal Code, Title 15 Development Code, to modify the residential parking requirements for C-3 zoned property. File No. DCA19-0002, Resolution 2019-349

CALL TO ORDER: Chair Edwards called hearing to order at 7:01 pm.

STAFF REPORT:

Associate Planner Keith Leonard presented the staff report. In 2016, the Downtown Strategic Parking Management Plan was drafted. It looked at the entire downtown area for both on street and off street parking. There was a focus on Second Street to increase the number of residential units and implementation of a fee in lieu program for parking. There were 960 on street parking spaces and peak usage was between 12 pm and 1 pm where 47.6% or 460 of the 960 spaces were being utilized during the peak hour. The average length of stay was 2 hours and 50 minutes. For off street parking, there were 85 lots and of those, 81 were private with 1,016 spaces and 4 were public with 130 spaces. The top uses of the lots were for retail, office, and public use. The peak usage was between 11 am and 12 pm with 460 or 47.6% of the spaces being utilized during the peak hour. Currently there was no shortage of parking, but there was a perceived shortage as people had to park and walk a distance to their destination. The fee in lieu program would allow developers to pay a fee in lieu instead of putting in parking. The fee would be used for parking projects. He had surveyed the other cities in the area and no other city had a fee in lieu program except for Bend. He explained what Bend's program entailed and the amount of the fee. The Engineering Department had looked into the cost of surface parking spaces which were between \$10,000 to

\$15,000 and in a parking structure it cost about \$20,000 per space. Staff recommended charging \$13,000 per space for the fee in lieu program. He reviewed the questions from the Downtown Coalition about the program and staff's answers to the questions. The fee in lieu would go directly into a fund that would be only used for parking projects. They would need to build more parking when they reached 80% usage, and currently they were at 47% for both on and off street parking. The typical walking distance for parking to a location was a quarter of a mile. The funds collected would not fully pay for the parking projects and other funding sources would need to be used. The parking utilization study would be updated in the fall of 2020. He did not know why parking was not required for commercial development. He summarized the applicable Statewide Planning Goals and Comprehensive Plan Goals as well as the recommended Code language changes. Staff recommended approval.

Chair Edwards asked about the inventory of available parking spots and how some of the spots included in the study were private and for a particular business. Community Development Director Doug Rux responded the inventory looked at all of the parking in downtown and one of the strategies in the Downtown Plan was to work with the private parking lot owners to find ways to better utilize those parking lots. That had not occurred yet. They would also be talking with property owners about acquiring land for public parking.

Chair Edwards thought the fee in lieu should only be used for public parking projects and the language said it would "likely be used" for parking projects. CDD Rux responded the fees collected would go into a specific fund to acquire property, design, and construct public parking. He thought the language could be changed to clarify that.

PC Capri asked about population growth and future expansion on Second Street and what they would do if a property that was being leased for parking was redeveloped into something else. It was important to have places for residents to park. CDD Rux discussed short term and long term options for parking.

PC Wright asked if there was an option to designate areas as residence only parking during certain times. CDD Rux responded that was a management tool that could be used.

PC Wright asked if for private party contracts for leasing parking lots if they could include that a new owner was obligated to continue the lease for the parking. CDD Rux responded there would be discussions with the private parties on what was included in the contracts. So far there had been no contracts negotiated.

PC Wuitschick asked about the pros and cons of the program from a developer standpoint. CDD Rux responded it was a positive for developers.

PC Wuitschick was concerned about the surrounding neighborhoods and people parking in those neighborhoods as well as the cost for a parking structure and not having enough funds to construct one. CDD Rux responded the fee in lieu would not be enough to build a parking structure, but it could build surface parking. They would have to find other funding sources for a parking structure. The parking spaces on the street in front of businesses or residences were not private, but public parking spaces.

PUBLIC TESTIMONY:

Applicant/Proponents: None

Opponents and Undecided:

Molly Olson, Executive Director of the Newberg Downtown Coalition, thought the Code changes were in alignment with the Downtown Plan and a good tool for using parking more efficiently. They were not opposed to this tool, but had concerns about the implementation. A lot of the Coalition members were located in the hot spot and their perception was that there was a parking problem. It might be 47% usage on average, but in the hot spot it was higher than that. If new housing was going in at the hot spot, they were concerned that the parking issues would get worse. They were requesting if this was approved, to work together to make sure that the parking that was purchased was not six blocks away. There might be better ways than building a parking structure like parking management. They needed to create a parking strategy for the downtown core and the Coalition wanted to work with the City on implementation.

Applicant Rebuttal: None

CLOSE OF PUBLIC TESTIMONY: Chair Edwards closed the public testimony portion of the hearing at 7:54 pm.

FINAL COMMENTS FROM STAFF AND RECOMMENDATION:

AP Leonard recommended adoption of the resolution.

PLANNING COMMISSION DELIBERATION;

PC Dale was in favor of the fee in lieu to promote development downtown.

PC Capri had reservations due to future growth. She thought developers should supply parking for their projects.

Student PC Bolek thought this was another tool in the tool box and was a good option.

PC Wright asked how often the parking would be reviewed. CDD Rux responded every three years or so.

ACTION BY THE PLANNING COMMISSION:

MOTION: PC Dale/PC Wright moved to approve Resolution No. 2019-349. Motion carried (6 Yes/0 No).

2. Recommend City Council amend the Newberg Municipal Code to allow small wireless facilities on private property and adopt design standards for these facilities.
File No. DCA18-0008, Resolution 2019-351

CALL TO ORDER: Chair Edwards called the hearing to order at 8:02 pm.

STAFF REPORT:

Senior Planner Cheryl Caines presented the staff report. She stated in September of this year, the Planning Commission had a work session on small cell wireless facilities and the proposed Code amendments. She gave a background on FCC regulation changes for small cell facilities and how Newberg needed to update the City Code in order to add standards for these facilities. The proposed Code amendments only applied to private property, not public rights-of-way. They would likely be located on existing poles, lights, or buildings. There were limits to local regulations for the facilities. The Commission expressed concern about aesthetics, which local jurisdictions could address, and health concerns, which they could not address. There was also discussion about the number of facilities and locations. Based on the FCC ruling, making regulations based on location and number started getting into an area where they could be prohibiting these types of facilities and that was something local jurisdictions were not allowed to do. The proposed amendments focused on the aesthetics. They included adding a definition for small cell facilities as well as a use category. They would be a Type I review and allowed in all zones as a special use. The special use would have design standards including requirements for height, setbacks, volume of the antenna, size of the support equipment, and concealing and blending in. She explained the applicable Statewide Planning Goals and Comprehensive Plan Goals.

PUBLIC TESTIMONY: None

CLOSE OF PUBLIC TESTIMONY: Chair Edwards closed the public testimony portion of the hearing at 8:16 pm.

Questions for staff:

PC Wright suggested adding language to allow something to be built if there was nothing on the property. SP Caines did not think there was anything in the code that would prohibit putting in a new structure.

PC Capri asked about only being able to regulate the aesthetics and not how many were put in residential areas as opposed to commercial areas. SP Caines responded that it was based on the FCC ruling and litigation that was occurring. Over time the code might need to be amended, but they could not regulate the location and number of facilities. CDD Rux explained how many were put in depended on how many were needed for the services. They needed to have something in the code to address the aesthetic issues on private property as currently there was nothing in the Code.

ACTION BY THE PLANNING COMMISSION:

MOTION: PC Wright/PC Musall moved to approve Resolution No. 2019-351. Motion carried (6 Yes/0 No).

QUASI-JUDICIAL PUBLIC HEARING

1. Appeal of a 2 lot partition, PAR19-0004, located at 712 & 714 E Third Street.
File No. APLG19-0001, PC Order 2019-09

CALL TO ORDER: Chair Edwards called the hearing to order at 8:25 pm.

CALL FOR ABSTENTIONS, BIAS, EX PARTE CONTACT, AND OBJECTIONS TO JURISDICTION: Chair Edwards commented that he knew Lori Peterson, but that would not interfere with his ability to make a decision.

Legal description read by Student PC Bolek.

STAFF REPORT:

AP Leonard presented the staff report. This was an appeal of a two lot partition located at 712 and 714 E Third Street. The property was about 7,000 square feet, and Parcel 1 would be 4,000 square feet and Parcel 2 would be 3,000 square feet. The zoning was R-2, medium density residential, and the current land use was a single family dwelling with an attached ADU. The minimum lot size for the R-2 zone was 3,000 square feet and ADUs were exempt. The applicant had a pre-application meeting at which different options for developing the property were discussed, and this partition option was chosen. The Community Development Director had approved the Type I Design Review ADU decision request in July, and there was no appeal at the time and the decision became effective in August. Type I reviews did not require notification of surrounding property owners. The Partition decision was appealed in October and notices for the appeal were mailed to all property owners within 500 feet and posted on the site. The appellants were Gordon and Lorraine Hall and Judith Holznagel. The basis of the appeal was that it was not valid due to the conversion of the duplex to a single family dwelling and attached ADU. He discussed the timeline of the application and reviewed the applicable criteria for the partition. Staff found the applicant had demonstrated outright compliance with the Code along with the proposed conditions. Staff thought the basis for the appeal was invalid since it occurred after the appeal period and the application met the Code. Staff recommended denial of the appeal.

PUBLIC TESTIMONY:

Applicant:

Dan Danicic, project engineer, supported staff's recommendation. Staff followed all of the rules and regulations in the Code. The project would provide in-fill of residential land which was a goal of the City.

Doug Peterson, property owner, introduced himself.

PC Wright asked if the new house would be built in the same style to be consistent with the nearby historic homes. Mr. Peterson responded yes, it would.

PC Wright asked how many bedrooms the new house would have. Mr. Peterson responded three bedrooms, two bathrooms.

PC Wright asked about parking. Mr. Danicic responded the requirements for parking were for two off street spaces. They planned for one parking space in the garage and one on the driveway.

Appellants:

Gordon Hall & Lorraine Hall shared diagrams that they had put together to show where the new construction would be located in relation to other homes in the neighborhood which was already densely built. She explained how some of the homes were not being used as single family, but that some of the floors and workshops were being used as rentals. She thought they totaled more than 12 dwelling units on the block. Since it was a Type I review for the ADU, they had no idea about this application and no opportunity to address it.

Mr. Hall read Judith Holznagel's letter. Her home was on the historic register and she wanted to preserve the structure and grounds around it. There were other historic homes around her and this development would impact the historic neighborhood. She expressed concern about devaluing the neighborhood, two old trees that would be removed, and parking issues.

Mrs. Hall continued to discuss the current parking issues in the neighborhood and how they might become worse with this development. They had been left out of the Type I process. She thought the application failed to comply with the definition of an attached ADU per City and State requirements. She showed before and after pictures that showed there was no attached ADU that had been built. It was an interior small unit of the duplex, not an ADU. An ADU could not be used to replace existing interior housing in a primary dwelling. The purpose of building ADUs was for additional affordable housing, and she did not think that had happened. Even if the developer had really built an ADU, it would be an attached ADU to a duplex, not a single family home, which would require a 6,000 square foot lot. There was no single family dwelling on this lot and the ADU was not detached.

AP Leonard explained the Code did not say anything about not allowing a duplex to be converted to a single family dwelling with an attached ADU. They did not differentiate between an interior and exterior ADU. The definition of ADU was one or more rooms with a private bath and kitchen facility comprising an independent, self-contained dwelling unit that was attached to an existing or new single family dwelling. He listed the sections of the Code that regulated ADUs.

Chair Edwards commented there were square footage limits on ADUs and there were interior ADUs in Newberg currently. They had been mandated by the State to have more high density housing and developing these types of units.

PC Dale asked about state law versus the City's code and which they should follow. CDD Rux discussed how the Code had been changed to comply with state law.

PC Dale recommended the appellants take the issues of over-density in the neighborhood to Code Enforcement and to take the issues of overall density in the City to their State representatives.

Applicant Rebuttal:

Mr. Peterson and Mr. Danicic agreed there was no exterior ADU, but there were stringent standards for ADUs in the City's code and those had been followed including being an interior ADU. This particular development was not the root cause of the traffic and parking issues; it was a bigger issue of a successful downtown. They were helping to meet the housing needs of the City and it would be a good addition to the community. Mr. Peterson noted the building was constructed in 1938 and the ADU was a granny flat. People are calling it a duplex but it is not.

PC Wright asked about the plans for the old trees. Mr. Danicic responded that both trees would be preserved.

PC Capri wanted clarification on the square footage required for a duplex and single family dwelling with an ADU. Mr. Peterson replied the duplex was built in 1938 and when they started to do construction on it, it looked like it was a residential unit with a small granny flat. It was called a duplex because it looked like a duplex on the outside, but it was not internally as the two sides did not mirror each other.

CLOSE OF PUBLIC TESTIMONY: Chair Edwards closed the public testimony portion of the hearing at 9:20 pm.

FINAL COMMENTS FROM STAFF AND RECOMMENDATION:

AP Leonard recommended denial of the appeal and approval of the partition.

PLANNING COMMISSION DELIBERATION;

PC Dale thought the application had followed all of the rules and met all of the criteria.

PC Wright agreed that since the sides did not mirror each other, the original intent was not for a duplex.

Chair Edwards commented that it met the ADU requirements in the Code and it was a creative way to allow for a single family dwelling on the new lot. He thought it would complement the neighborhood and would increase the values.

ACTION BY THE PLANNING COMMISSION:

MOTION: PC Musall/PC Wuitschick moved to approve Planning Commission Order No. 2019-09. Motion carried (6 Yes/0 No).

ITEMS FROM STAFF:

1. CDD Rux gave the anticipated schedule of Planning Commission activities and reviewed City Council actions on planning items. He explained the changes that would need to be made to the City's Code due to HB 2001 and HB 2003.

PC Wright asked a question about the size of rooms that would be allowed to be rented as some storage space was being rented as living space in an apartment complex. CDD Rux responded that he would look into it.

CDD Rux said there would be a public meeting on December 5, 2019 at 6:00 pm on HB 4006 regarding rent burden causes and solutions.

ITEMS FROM COMMISSIONERS:

Chair Edwards thanked the Commission for their work, especially in difficult situations with public emotion such as tonight.

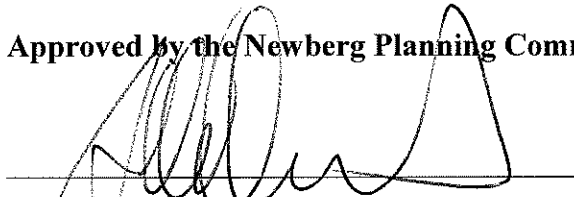
PC Wuitschick commented on his future attendance due to medical issues.

The next Planning Commission meeting was scheduled for December 12, 2019.

ADJOURNMENT:

Chair Edwards adjourned the meeting at 9:40 pm.

Approved by the Newberg Planning Commission this December 12, 2019.



Allyn Edwards, Planning Commission Chair



Bobbie Morgan, Office Assistant II