

Council Chambers
7:10 PM, Thursday

A Regular Meeting
of the Planning Commission

February 17, 1983
Newberg, Oregon

Members Present:

John Cach, Chairman
Jean Harris
Jane Parisi-Mosher

Arthur Roberts
Roger Veatch
Joe Young

Members Absent:

Sally Adamson
Frank Bowlby
Darlene O'Hara

Staff Present:

Clay Moorhead, Planning Director
Rick Faus, City Attorney
Barb Mingay, Recording Secretary

Citizens Present: 11

The meeting was called to order by Chairman John Cach.

Motion: Harris-Veatch to approve January 20, 1983 Planning Commission minutes as mailed. Motion carried by a unanimous voice vote.

Public Hearing: Home Occupation Standards, Continued. A review of the standards to determine whether or not changes should be made relating to the regulation and enforcement of home occupation uses within residential zones.

No abstentions were given, none requested.

Planning Director Moorhead presented an additional Staff Report and reviewed existing standards for home occupations. Chairman Cach summed up January's Planning Commission review of the hearing to update the audience.

Proponent: Robert Church, 805 Hemlock Lane, owner of Bob Church Auto Repair, stated he operates a business out of his garage on a part-time basis. He is opposed to any additional rules and regulations relating to home occupations. He does feel that current rules should be more strictly enforced. He does not feel that all home business owners should be penalized with stricter rules just because a few businesses are in non-compliance. Further, his business is being run in an orderly and clean fashion and operates under the existing regulations. He has had no complaints from neighbors and hopes to continue reaping the benefits of a good reputation. His customers have numbered approximately 100 during the last year and he hopes to have more during the next year. Mr. Church concluded that public criticism would be great if more controls were placed in the ordinance.

Questions to Proponent:

Mr. Church responded to questions regarding his employees, signs, and advertising methods with the following information. He has no employees; he advertises locally and through word of mouth and he has a small sign located on his residence. When asked what kind of parking controls his business has, he responded that parking is adequate for his personal use off-street and that his business is limited to one vehicle at a time. He has discussed all City requirements with the City Building Official and is complying with the regulations. He feels something should be included in the ordinance to control those individuals who are overstepping the rules. He indicated further that he was required to pay a \$10 fee prior to approval of his home occupancy permit.

Opponent:

Mike Grant, 1224 Pennington Dr., N. would like to see some changes made in the current regulations. A speedy way of enforcement should be enacted. He has a concern as to the fire potential in some home businesses. He was not aware the Fire and Building Inspectors inspected the businesses. He thinks that anytime a business has a need for employees, it appears to have enough income to be in a business zone. If a business is small enough to not need employees, perhaps the home could then be used. He thinks of most home businesses as being a very temporary minor business function.

Questions to Opponent:

Mr. Cach asked Mr. Grant if he felt the general consensus was that employees should not be allowed. Mr. Grant indicated that he doesn't know where to draw the line. He feels the City should be flexible in exceptional cases. He wishes to encourage free enterprise but is a proponent of the Zoning Ordinance.

In summation, Mr. Grant acknowledged he supported the condition requiring no employees with the provision that there be a case by case review for possible exceptions which could be controlled by a conditional use permit.

Mr. Roberts asked Mr. Grant if a conditional use permit would apply an economic restraint on home business. Mr. Grant didn't think the institution of a conditional use permit should be used to apply economic restraints on home businesses but did feel that home businesses have an economic advantage over standard businesses. He felt that if you are in business you should be in a business area.

Public Agencies: None responded.

Letters: A letter was read from Leonard Rydell, 601 Pinehurst Drive. Mr. Rydell indicated that he operates a home occupancy out of his residence and indicated that this type of business plays an important part in our society. He indicated that the need for certain restrictions such as prohibitions against advertising signs and retail sales or manufacturing and repair shops involving hazardous materials or processes are obvious.

Mr. Rydell objects to the requirement of prohibiting employees in a home occupation, indicating that the number of employees is not a valid measurement of what makes a home occupation objectionable. He recommended that the Planning Commission amend the ordinance to eliminate any restrictions relating to outside-paid employees.

Rebuttal By Proponent:

Bob Church stated he does not feel the dollar value of business activity can be related to the home occupancy standards under discussion. He doesn't think that brief exposure of business components to other neighbors is being detrimental to the neighborhood; however, an unbecoming appearance classed as an eyesore should have restrictions.

Rebuttal by Opponent:

Mike Grant stated that the Staff Report adequately addressed the businesses which were not complying with the building appearance condition.

Staff Recommendation:

Staff recommended that the ordinance not be changed but that enforcement be enacted in a strict fashion through municipal court citations. If the Planning Commission allows employees in a home occupation, they should make a motion and formal amendment processes would be enacted. He further indicated the hearing process which would be required. He emphasized Mr. Rydell's comments relating to on-site parking and employees.

Hearing Closed.

Mr. Roberts felt Mr. Rydell presented a good case for voiding the condition applying to outside employees and the control of the business through parking restrictions.

Mrs. Parisi-Mosher questioned whether all home businesses are required to have an occupancy permit. Staff indicated that a permit was required. She further questioned the adequacy of the inspection process. Staff clarified the inspection process, indicating it was not a very formalized process. If the ordinance is left as it exists, the option is available to route the application to all City departments. He recommended that the Planning Commission clarify that section if they chose to alter the ordinance.

Staff indicated that current enforcement is only carried out when valid complaints are turned in.

Mrs. Parisi-Mosher indicated there should be some special assessment to cover the cost of those home occupations currently in non-compliance. She also felt the employees should be regulated through the restriction on parking on-site.

General discussion continued as to the meaning of outside employees, part-time employees and parking restrictions.

Motion: Roberts-Harris to ask for revision of the home occupation standards to make condition 5 less restrictive. Motion carried by a unanimous roll call vote (6-0).

Public Hearing: CUP-1-83

Applicant: Dale Goldsmith/James Davis

Request: To allow for the creation of a group care home for up to 5 elderly and incapacitated persons and up to 4 staff members within a duplex located at 608 Villa Road, currently zoned R-2 (Medium Density Residential)

Location: 608 Villa Road

Tax Lot: 3217CD-400

Chairman Cach indicated Gerald Cash is a distant relative but Mr. Cach did not wish to abstain. No other abstentions were given, none requested.

Planning Director Moorhead identified the site with Polaroid pictures of the site and pictures of the care facility located at 2009 Cherry which is currently operated by the applicant. He presented the Staff Report, modifying Page 4, paragraph 2 relating to a limitation on the number of provider/personnel. In addition, he amended finding 3 to indicate the request is for approval of a facility similar to the one existing at 2009 Cherry Street, which would continue its current usage as a care home. He requested that the applicants provide the square footage for both structures.

Proponent: James Davis, 2009 Cherry Street, stated he is the president of "Hands of Joy, Inc." who is the actual applicant. Mr. Davis indicated he would like to clarify the record and have the permit issued to the corporation and not to him. He remarked that he had discussed alternatives to the proposed request with several agencies and he affirmed that the intent of his agency was to only pursue the request as mentioned in the application. He indicated he does not object to the condition relating to sidewalk installation. He commented that the number of clients and staff would not exceed the total number of people residing in the duplexes currently. He stated Carol Dodge from Senior Services Division had been consulted and was present if needed to confirm any points of question.

Proponent: Carol Dodge, Senior Services Division representative, Community Center, Rm. 203, McMinnville, stated the Staff Report should be revised to indicate only 90-120 as the typical case load of a SSD case worker. She further remarked that the Agency tries to promote convalescent homes such as the proposed home.

Proponent: Dale Goldsmith, 608 Villa Road, Unit A, and current property owner, indicated the size of Unit A is approximately 1,560 s.f. It is to be remodeled to have three full bedrooms, a family room, dining room, kitchen and bathroom. The Cherry Street house is much smaller in comparison. The main floor is estimated as twice as large as the Cherry Street house and the unit is all on one level. The property has 3 carports with 8 vehicles currently using the parking areas. The deeded ownership access width to the property is 30 feet which is only currently partly paved. The drive area is 120 feet long--room enough for an additional 10 parking spaces, each 12 foot wide. The other unit is approximately

1000 s.f. with 2 bedrooms and amenities. An additional building on the property is usable as a chapel. The lot is 120 x 217 s.f.--over 15,000 s.f. which could house a 4-plex. The existing garage building has approximately 800 s.f. He objected to placing of a sidewalk on the street frontage as there are not existing sidewalks in the general area. He feels the sidewalk would be like a road going nowhere. He would like that requirement dropped. He remarked that the applicants have no intention of turning the site into anything greater than the current request. He stated that fire access is no different than other homes in the area. The density would be no greater than it has been.

Questions to Proponent:

Mr. Veatch asked Mr. Davis to identify the number of providers anticipated and how many would be walking outside the building or on the sidewalk at times during their stay. Mr. Davis identified the potential number of providers as being four and he further stated that few if any clients would desire to go out walking. If they did, a staff person would be supervising them.

Mr. Young asked if there was a standard patient/provider ratio and if Mr. Davis would be providing a better ratio. Mr. Davis indicated there was no standard; however, the next higher level of care he could qualify for would require a 1-6 provider/patient ratio. The intended level of care would be greater than that. He indicated that the people expected to be residing in the provider unit would be staff and guests, not paying renters. The staff would reside in Unit B and the clients in Unit A. He further indicated that he does not desire to abandon the Cherry Street unit but desires to maintain both units. He indicated the new location is larger in size and meets the requirement of a minimum of 70 s.f. per client per bedroom.

Mr. Veatch asked Mr. Goldsmith how many current residents there are in both units. Mr. Goldsmith responded each unit contained 4 individuals for a total of 8 residents.

Mr. Goldsmith indicated he doesn't object to dedicating a strip of land for a sidewalk for a future LID through a non-remonstrance agreement. Mr. Young indicated there were sidewalks in the general area though they were sparse in some places. Mr. Goldsmith reaffirmed the access to Villa Road was 30 ft. wide, when questioned by Mr. Cach. He further indicated that none of the clients had a car. Staff is sharing a car.

Opponent: John McGhehey, 605 Holly, Newberg, Tax Lot 3217CD-800 testified he is not opposed to group care homes. He is concerned about the location of the proposed home, being on a flag lot with 8 lots surrounding it. He stated accessibility to the Cherry Street home was much greater with less traffic and less noise impact as compared to a flag lot surrounded by the backyards of 8 lots on a busy street with poor access.

Questions to Opponent:

When questioned as to his biggest concern by Mrs. Parisi-Mosher, Mr. McGhehey said that 8 families have bought properties for residences and would like to avoid the possible disruption of a home occupation in their backyards. He indicated that there was a major difference between 9 adults and 2 adults

with 7 children. He questioned who would generate the most noise. He felt the group care home was not compatible with the neighborhood.

Public Agencies: None responded

Letters: Mrs. Gary Anderson, Rt. 2, Box 229C, Newberg, Tax Lot 3217CD-401, indicated her desire for a fence to be installed for property protection.

Mr. Myrland Gilbert, 610 Villa Road, Tax Lot 3217CD-300, stated his opposition to the Conditional Use Permit due to insufficient access, parking problems and congestion. He felt it would reduce adjacent property values and could cause potential fire access problems.

Carol Dodge, SSD, McMinnville, had added a letter to the file clarifying the number of residents authorized at the facility.

Proponent Rebuttal:

Mr. Goldsmith indicated the entire rear yard section has a 6 ft. high site obscuring fence on a concrete foundation with steel posts. He has had 30 plus people visiting at one time without disturbing the neighborhood. He stated the staff members are a Christian monastic order that are celibate. No families are expected to be forthcoming. He indicated that older adults would be a great deal less disruptive than children.

Staff Recommendation:

Planning Director Moorhead recommended approval of the Conditional Use Permit based upon 14 conditions identified in the staff report with amendment of Condition 3 to read..."No vehicles will be allowed for group care residents of the facility. No more than a total of three vehicles shall be located on the site associated with residents, staff members or tenants of the facility unless additional parking spaces are provided pursuant to the Newberg Zoning Ordinance"; Condition 11 to read..."The Conditional Use Permit is issued to Hands of Joy, Incorporated at 608 Villa Road"; and Condition 14 to read..."An additional 5 ft. of right-of-way shall be dedicated for street purposes to accommodate a sidewalk and install a sidewalk adjacent to the curb". In addition, the following paragraph was added to Condition 8 to read as follows: Upon receipt of 2 written complaints from 2 separate households located within 200 feet of the boundary of the affected property, the Planning Commission shall hold a public hearing to review the status of the Conditional Use Permit. Said complaints shall set forth the nature of the objection. Such complaints shall be investigated by the Planning Department, and results of the investigation shall be reported to the Commission at a public hearing. The public hearing procedure shall be the same as outlined in Section 642. The Planning Commission may decide to take no action, void the Conditional Use Permit or attach such other conditions as will make possible the development of the City in an orderly and efficient manner in conformity with the intent and purposes set forth in Sections 632 through 670 of the Newberg Zoning Ordinance.

Hearing Closed.

Mrs. Parisi-Mosher asked Staff whether the same conditions included in Staff Report applied to the Cherry Street house. Staff responded that prior to the above mentioned revisions the conditions were the same. Staff also indicated that a change in living conditions could be cause for review of the facility.

Motion: Veatch-Harris to approve CUP-1-83 to allow for the creation of a group care home for up to 5 elderly and incapacitated persons and up to 4 staff members within a duplex located at 608 Villa Road, currently zoned R-2 (Medium Density Residential) based on the Staff Report findings and Conditions 1-14 as amended. Vote on the Motion: Aye-Cach, Parisi-Mosher, Harris, Roberts, Veatch. Nay-Young. Motion carried (5-1).

It now being 10:00, a motion was required to continue to the next docket item, Hearing C.

Motion: Veatch-Roberts to continue to Public Hearing C. Motion carried.

Public Hearing: A review of the Newberg Comprehensive Plan--Transportation Goals and Policies--together with the Plan Map--to determine its effectiveness in implementing the long range transportation needs associated with the establishment of a bypass transportation route. Amendments to the Newberg Comprehensive Plan may be proposed to help implement a strategy for establishment of a bypass route which could take Highway 99W through traffic out of the City of Newberg.

Staff Report: Staff presented the staff report and, there being no opponents or proponents, he presented the Staff Recommendation that the Planning Commission find a need to establish a bypass and to revise the Comprehensive Plan to institute plans to establish a bypass.

Hearing Closed.

Chairman Cach reviewed the past history of bypass activity.

A general discussion followed as to the inclusion of a Capital Improvement Fund into the Comprehensive Plan. Staff indicated that a capital improvement plan is essential; however, adopting it into the Comprehensive Plan would make any changes in the Capital Improvement Fund difficult and cumbersome.

Motion: Roberts-Young to reinsert the 99W Bypass into the Comprehensive Plan. Motion carried by a unanimous roll call vote.

Old Business: None

New Business: Staff reviewed a request from Oak Hollow developers to allow the subdivision to construct units separately instead of building patio units. Oak Hollow design changes may or may not be initiated by the developers; however, consideration of the options available to them has been requested. The Planning Commission consensus of opinion was that the developers should present any proposed changes through a hearing process and the Commission would be open-minded as to any changes suggested.

Motion: Veatch-Roberts to adjourn. Motion carried unanimously.