

Council Chambers
7:00 PM, Thursday

A Regular Meeting
of the Planning Commission

May 19, 1983
Newberg, Oregon

Members Present:

John Cach, Chairman
Sally Adamson
Frank Bowlby
Jean Harris

Arthur Roberts
Roger Veatch
Joe Young
Greg Moore

Members Absent:

Jane Parisi-Mosher (excused)

Staff Present:

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

Citizens Present: 27 + Citizens

The meeting was called to order by Chairman John Cach.

Motion: Harris-Veatch to approve minutes as mailed with correction of spelling page 3 first motion to read "Nay" instead of "May". Motion carried unanimously by those present.

Public Hearing A:

Applicant: Fedor R. Manka/John & Janet Lyda
Request: A zone change from R-2 (Medium Density Residential) to R-P (Residential-Professional) zone on a .48 acre parcel and a 1.17 acre parcel
Location: 607 & 617 Villa Road, abutting the west side of Villa Road
Tax Lots: 3217CD-4601, -5100
File No: Z-1-83, Z-2-83

Greg Moore abstained due to conflict of interest and stepped down from the platform. No other abstentions were requested, none given.

Planning Director Moorhead presented the staff report as presented in the staff memorandum dated May 13, 1983 into the record and located the site on a map. He also distributed Exhibit's A (a summary of applicant's request), Exhibit B (a composite of letters received on this request) and Exhibit C (memo from City Engineer) and entered them into the record.

Proponent: Ryan O'Brian, planning consultant, 1134 SE 23rd Ave., Hillsboro, OR, representing Fedor Manka, highlighted some of the reasons why a zone change was being requested. He indicated that all the appropriately zoned properties in the City had been reviewed and that this property appeared to be the only one ideally suited for the applicant's proposed professional offices. He indicated the building would be trend setting in the area, with standards which would go beyond those required by the Building Department. He indicated that the intent

of the R-P district was being met by the requested zone change. He indicated that the downtown area was to be a primary shopping and financial area and this development would not detract significantly from that purpose as indicated in the Comprehensive Plan. He indicated there was a significant amount of multi-family development in the area and there was a much smaller amount of commercial land in relation to the development which will occur in the next 20 years. He indicated this development would about a 3 months supply to the commercial land availability in the next 20 years in the City. Ten points of conflict with the Planning Department Staff Report were pointed out (Applicant's Exhibit A). Mr. O'Brian also reviewed Dr. Manka's letter which stated 5 reasons for good close access to the hospital (Applicant's Exhibit B). He again reviewed other properties in the area with no properties reasonably applicable to such use. He indicated the property could be developed in an R-2 format (multi-family development) which could be more of a detriment to the area than the proposed use. He indicated that a survey indicated 50-75% of doctors are generally located next to or near a hospital. Other compatible facilities also tend to group around hospitals. He felt it would be an economic and aesthetic advantage to the community.

Mr. O'Brian presented a slide show orated by Mr. Manka, the applicant, which displayed various professional offices similar in design to the one proposed.

Proponent: Jennifer Parenteau, 401 Pinehurst, a registered dietician and client of Dr. Manka's indicated she would like the Planning Commission to approve the zone change request. She further stated that other people who currently use Dr. Manka's office would like to have a larger facility as the current facility is crowded and has parking problems.

Proponent: Linda Cook, 859 Maple Street, Dundee, stated the parking is inadequate at the current office site and concurred with the letter Dr. Manka submitted. She felt more specialists would be willing to come to Newberg and a higher quality of medical care would be available with the construction of this facility.

Proponent: Mary Marciniuk, 2004 N. Main, an employee of Dr. Manka, felt that the Planning Commission should consider need and availability of space and access. She stated sever examples of patient parking difficulties at the current site. She felt that having handicapped access would be a benefit to the community.

Questions to Proponent:

Chairman Cach asked Mr. Manka if the building proposed was 19,000 to 21,000 sq. ft. with an additional building of 10,000 sq. ft. to the rear of the property. Mr. Manka indicated the building sizes were correct and they would be built in two phases. He further stated that the first building space is currently spoken for so that building would not have any vacancies.

Opponent: Terry Mahr, PO Box 511, Newberg, representing a number of property owners in the area (Finis Carter, Dr. Abbott, Roger Giles and others) presented a petition to the Planning Commission from 35 property owners in the area who are opposed to the zone change. He stated the applicant is required to prove need for a change even though the property is located in proximity to similarly zoned properties. He indicated the Planning Commission was required to consider 4

items in their decision making process; 1) availability of property to meet current need, 2) market/vacancy factor, 3) City's direction of growth and 4) available use by owner. He reviewed the 4 items and their relationship with this request. He pointed out several available sites which were correctly zoned and available and indicated that the City's needs were currently being met. He further stated that a strong downtown area was desirable according to our adopted Comprehensive Plan. He stated that a consideration of economic concerns for the property owner should not be a major issue with the Planning Commission and that zoning lines should not be blurred. Mr. Mahr discussed the letter submitted by Mike's Medical Pharmacy, relating that a pharmacy had been established for a brief period in Newberg Professional Center and it had closed down shortly after opening due to lack of business. He concluded that the Planning Commission should deny the request based on lack of need for additional R-P land and the great amount of property owners opposition as supported by a petition he asked to have placed within the record (Exhibit D).

Opponent: David Abbott, Newberg physician, 500 Villa Road, reviewed the applicant's packet of proponent letters (Exhibit B), indicating that most were close associates of Dr. Mankas. He pointed out that the Professional Center currently approved on Villa Road has adequate available square footage to accommodate Dr. Manka's requirements. He indicated that a 2-story office building would not solve access problems for handicapped people. He concluded that 37,000 sq. ft. of office space is currently available and Mr. Manka was proposing that 32,000 sq. ft. of additional space would be added. He doubted that a doubling of office space was needed at this time in Newberg.

Questions to Opponent:

Mr. Abbott responded to a question about the pharmacy in Newberg Professional Center by indicating that it had used 1,000 sq.ft. of space which was now empty and available.

Public Agencies & Letters:

Planning Director Moorhead entered a memorandum from Bob Sanders, City Engineer into the record (Exhibit C). He identified by writer the letters received in favor and opposition and briefly reviewed them (Exhibit B).

Proponent Rebuttal:

Fedor Manka, applicant, responded to Mr. Mahr's statements regarding downtown office with the statement that the location was very poor but that at the time the office was located there, there were no other locations available. He reviewed the history of Dr. Manka's search for a more adequate facility. He indicated he purchased the property under consideration at this hearing for a price much higher than residential property was worth. He indicated that a two story structure was much more economically feasible and practical and would not affect the surrounding community adversely. He indicated the letter writers who responded in favor of this proposal were not solicited for by him but came to him offering their support.

Proponent Rebuttal:

Ryan O'Brian, indicated that doctors usually do locate in residential areas, sewer was accessible, water was available, and additionally, he could supply a petition from others to rebut the opponents petition. He feels that doctors should have a right to choose what facility they wanted to be located in.

Proponent Rebuttal:

Jennifer Parenteau indicated that the major problem appeared to be only a few parcels being available for the proposed use. These available parcels were not convenient to use and not adequate for parking needs and patient needs. She stated that if the population were going to double by the year 2000, it made sense that the physicians required would also double, requiring more space. She felt that the community needed a full time practicing pediatrician in Newberg, many people leave Newberg for services which could be provided by the applicant and the facility would make Newberg a more attractive place for other doctors to come to.

Opponent Rebuttal:

Terry Mahr, representing the property owners previously indicated, stated that there was other available property, even as indicated by the applicants property negotiations and that there is a facility which is currently available for use which does meet City standards and complies with the Comprehensive Plan requirements.

Proponent Rebuttal:

Mary Marciniuk indicated that topography appears to be the issue for the properties and felt that it was obvious that the Professional Center was not sufficient in either access or office size to be suitable for doctors to use.

Motion: Adamson-Harris to return to point 11, Proponent Rebuttal, Public Hearing Proceedings, failed by voice vote.

Staff Recommendation: Planning Director Moorhead stated that though there does appear to be a need for a limited amount of medical office space, adequate land is available and that land should be used first. He concluded by entering the Staff Recommendation as presented in the Staff Report into the record.

Public Hearing Closed.

Motion: Roberts-Young to deny a request for a zone change from R-2 (Medium Density Residential) to R-P (Residential-Professional) zone on a .48 acre parcel and a 1.17 acre parcel identified as Tax Lot 3217CD-4601 and -5100 based on issues 1-5 stated as follows:

1. The Planning Commission is not charged with the responsibility to determine the adequacy of the present facilities of the applicant because the subject request involves the construction of leasable professional space which is in excess of the need for such space. The arguments relating to the First Street area and accessibility problems to this area for professional office space are not relevant. In determining whether other available lands for medical/professional office space exist, all locations in zones which permit such uses must be considered. Medical/professional uses are permitted within the R-P, C-1, C-2 and C-3 zones.
2. The request could be considered to be spot zoning in as much as 2 houses to the north and 3 houses to the south will be isolated by this professional office complex in ways which render their use in the future rather problematic and somewhat difficult because of the small size of these lots.
3. It is not the responsibility of the Planning Commission to make a determination between the investment and commercial interest of two

contending parties, but to determine if sufficient reason exists to make a zone change.

4. Relating to justifying a public need for the request, it is not sufficient that prospective lessors prefer one property or development to another in respect to the other available property which could be used for such uses. The applicable question is whether there is a need for 31,000 sq. ft. of additional medical/professional office space within the community. "Letters of intent" from local professionals who are currently practicing within various areas of the community indicating their interest to relocate and lease space within the proposed structure, if approved, is not sufficient evidence to prove public need for the facility. Such evidence simply indicates an interest in a location rather than satisfying a public need for additional professional office space within the community.
5. It is not the role of the Planning Commission to offer creative alternatives but only to know that they are reasonably possible. It is reasonably possible to provide additional professional related office facilities within the community, and specifically within the vicinity of the Newberg Community Hospital through administrative processes which are currently available to the applicant or other interested persons.

Amendment to Motion: Roberts-Veatch to amend the motion to include Staff Report findings 1-8. Motion carried by unanimous voice vote.

Vote on Amended Motion: Nay:--Adamson, Bowlby; Aye:--Cach, Harris, Roberts, Veatch, Young; Abstaining:--Moore;--Absent; Parisi-Mosher. Motion carried (5-2)

Planning Director Moorhead identified the appeal procedure to be followed if any person wished to appeal the Planning Commission decision on this matter. Ten days are allowed for an appeal to be turned in to the Planning Director's Office; however, due to a holiday conflict the last date an appeal would be accepted was set at May 31, 1983 at 5:00 PM.

Public Hearing B:

Applicant: Butler Chevrolet-Oldsmobile
Request: A conditional use permit to allow for the installation of a mobile home to be used as an office in a commercial area.
Location: The southeast corner of the intersection of Hancock Street and Washington Street
Tax Lot: 3219AB-6900
File No: CUP-3-83

No abstentions were requested, none given.

Staff Report: Planning Director Moorhead presented the staff report as presented in Staff Memorandum dated May 12, 1983 and located the property on a map.

Proponent: John Gotter, applicant, 1803 Leo Lane indicated he desired to make the site more usable and the facility more attractive. He understood the conditions of the staff report and found them to be acceptable.

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No opponents wished to speak.

No public agencies responded.

Letters: A letter was received from Minthorne Investment Corporation in favor of the proposal. A letter was received from Grace & David Neitling in opposition to the proposal.

Proponent Cross-Examination:

Mr. Gotter responded to a question of appearance on site of the proposed unit by indicating that the unit is not intended to look like a trailer but more like a permanent structure which will be sided with T-111 siding.

Hearing Closed.

Motion: Young-Harris to approve the request for placement of a mobile home for office use on Tax Lot 3219AB-6900 through a conditional use permit, based on Staff Report findings 1-4 and Conditions 1-3. Motion approved unanimously by those present.

Public Hearing C:

Applicant: James & Darlene Cain

Request: Annexation to the City of Newberg of a 5.03+ acre parcel, together with a zone change from Yamhill County LDR 9000 zone to a City R-1 (Low Density Residential) zone, together with a Comprehensive Plan Amendment to change the Newberg Comprehensive Plan Map designation from PP (Proposed Park) to LDR (Low Density Residential) and withdrawal from the Newberg Rural Fire Protection District

Location: On the east side of Main Street, being approx. 113 feet south of Pinehurst Drive

Tax Lot: 3218AC-700

Staff Report: Planning Director Moorhead presented the Staff Report and indicated the property location on a map. He further indicated that the property is identified as a Proposed Park on the Comprehensive Plan Map. In addition, a statement was made that the Park Board has been considering placing an option on the property. As of the Planning Commission meeting May 19, the Park Board has approved placing such an option on the property and the applicant has not appeared to desire accepting the option. In addition a supplemental Staff Report was presented from the City Engineer dated May 19, 1983.

Proponent: Joe Brugato, 301 Donald Lane, Newberg, indicated he was representing the owners of the property but not as legal council. He said for the record that the Marita Park property indicated by the Planning Director as available land was not available as the Catholic Church had purchased that site. He reviewed the owner's choices for development of the property; leaving the property in the County to be developed with County standards or annexation to the City for development with City services. He mentioned that the Park Board could purchase

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the property at any time if the money were available. If the Park & Recreation Department were given a 1 year option and a minimum value were established, he doubted the Park would be able to purchase the site due to lack of funding. His opinion was that the idea of the park purchasing the property was mute. He addressed the issue of compliance with the Comprehensive Plan by indicating that the Staff Report Finding 4. agreed that the property would implement the correct zoning. He indicated the annexation would straighten out boundaries and provide a clear identification with the City limits. He further stated that the annexation would add to the City's revenue an amount that would at least be equal to the cost of providing services to the area. In addition, this property was assessed a fair share of the Main Street LID which appeared to indicate that those lying outside the City would be provided service. It appeared that the final resolution regarding that LID did not allow that connection access. He felt it would be to the City's advantage to control the growth and development of this area, possibly through the application for annexation into the most restrictive zone R-1 (Low Density Residential). If feasible economic development occurred, possible consideration would be given to a subdivision use; however, any potential use over 4 single family homes would require the Planning Commission review anyway. If the site were developed by a church, City services would not be impacted adversely. He indicated no objection to the donation of a 10 ft. strip of land abutting Main. He summarized that the applicant was seeking annexation approval by the Planning Commission to its most limiting zone of R-1.

Questions to Proponent:

Mr. Cach asked how long the property had been under consideration for purchase by the Park and how long the property was in the hands of the Cains. Mr. Brugato indicated the property had been purchased approximately 6 weeks ago and that the Park had been approached approximately 30 days ago at the recommendation of Mr. Moorhead. He indicated that the basic problem for the Park District was that a grant could not be pursued by them on a property that was currently under their ownership. He stated that the seller was still very cooperative and would be willing to sell the property to the Park District if they were able to raise funding.

Mr. Moorhead asked Mr. Brugato to clarify the development of the property in the County LDR9000 zone. Mr. Brugato said he could have that as an option. Mr. Faus clarified that the property would not be served by City sewer and water if it were to remain in the County as per Resolution No. 77-678.

Opponent: Rosemary Watt, 104 Pinehurst Drive stated that the development of the park was not the issue and that the owner of the property must have been aware of the PP (Proposed Park) designation when it had been purchased. She questioned whether enough open space were going to be preserved for parks if the designation of this site were changed.

Opponent: Sally Marshal, 200 Pinehurst Drive was opposed to the proposed change in status. She asked if the City were required to redesignate another site for a proposed park. Mr. Moorhead responded that was not required.

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Opponent: Mada Cummings, 308 Pinehurst, encouraged the Planning Commission to place a park in that vicinity, that the proposed site could not be reclaimed for a park after the fact and that the purchaser of the site should have been aware of its park status at the time of purchase. She continued that the general site features do not appear to be suitable for construction of homes as the area has springs and is soggy.

Opponent: Nina Waters, 2200 Prospect Drive stated that the Commission should support the Comprehensive Plan and allow the property to remain as designated, Proposed Park.

Public Agencies: Jere Jackson, Chehalem Park & Recreation District Superintendant, indicated that an option to purchase the property was suggested approximately 30 days ago by Mr. Brugato. Option terms were considered at the Park Board meeting. He indicated that the Park Board did approve at a meeting just preceding the Planning Commission Meeting a \$5,000/non-refundal 18 month option to purchase the site at the appraised fair market value.

No letters were entered into the record.

Proponent Rebuttal:

Mr. Brugato stated that the Park Board was in favor of the creation of a park and that the option by the Park Board is in the record; however the money availability is still a problem. He indicated that the property still could become a park even after it had been annexed.

Staff Recommendation:

Planning Director Moorhead found the use of the subject property for residential purposes or any other use permitted in the R-1 (Low Density Residential) zone does not appear timely in that other available properties which are currently zoned for residential purposes exist, together with some 370 single family building lots which are currently available for construction. He indicated that annexation was a commitment by the City to urban development. He informed the Planning Commission members that this matter would be heard at the City Council level no matter what the outcome of this hearing was.

Hearing Closed.

Motion: Harris-Adamson to recommend to City Council the denial of the application for annexation and Comprehensive Plan change based on Staff Report findings 1-9 and additional finding 10 - An annexation is a commitment to urbanization and adequate lands are now available within the community to accommodate existing land use needs. Motion carried unanimously by those present. (8-0)

Planning Director Moorhead indicated this item would be placed on the City Council agenda June 6, 1983. New public testimony will be accepted at that time.

Motion: Young-Veatch to continue to agenda public hearing D. Motion carried unanimously.

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Public Hearing D:

Applicant: City of Newberg

Request: An amendment to the Newberg Comprehensive Plan (transportation element) to include long and short range policies together with proposed transportation routes relating to the rerouting or bypassing of Highway 99W through traffic in or around the City of Newberg

File No: G-6-83

Staff Report: Staff indicated the scheduling of an aerial flight was not completed and requested continuation of the hearing to next month's Planning Commission meeting.

Motion: Veatch-Moore to continue the above mentioned hearing to June 16, 1983 regular Planning Commission hearing. Motion carried unanimously.

Old Business:

A letter from Darlene O'Hara indicating her thanks for the Planning Commission's support during her tenure on the Commission was entered into the record.

New Business:

None

Motion: Young-Veatch to adjourn carried unanimously.