

Council Chambers
7:30 PM, Thursday

A Regular Meeting
of the Planning Commission

October 20, 1983
Newberg, Oregon

Members Present:

John Cach, Chairman
Jean Harris
Greg Moore

Jane Parisi-Mosher
Arthur Roberts
Joe Young

Members Absent:

Frank Bowlby
Roger Veatch

Staff Present:

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

Citizens Present: 35 + Citizens

The meeting of the Newberg Planning Commission was called to order by Chairman John Cach.

Motion: Harris-Roberts to approve August Planning Commission minutes. Motion carried unanimously.

Public Hearing A:

Applicant: R. Joe Valasek
Request: A request for a street name change from "Effie Court" to "Elderberry Court".
Location: Carol Ann II Subdivision, near the intersection of Carol Ann Drive and Villa Road
Tax Lot: 3217BD-2000

No abstentions were requested and none were given.

Planning Director Moorhead briefly described the area, its current housing status and located the site on a map. Staff reports were made available to those interested parties who desired one.

Proponent: Joe Valasek, 1801 Carol Ann Dr., indicated he was a resident of the street and he did not think the name was appropriate for a residential street. He further indicated that no other residents in the area were in opposition to a name change. The name Elderberry was chosen due to quantities of the berry on the property.

No opponents wished to be heard. No adverse comments from public agencies and no letters were received in opposition.

Staff Recommendation: Planning Director Moorhead indicated that the Planning Staff had no major objection to the renaming of the street provided the applicants are responsible for replacing the existing street signs using the City standard sign specifications.

Hearing closed.

Motion: Harris-Roberts to recommend to City Council that the street name "Effie Court" be changed to "Elderberry Court". Motion carried unanimously.

Public Hearing B:

Applicant: City of Newberg/William Overgard
Request: Vacation of a tract of land which has previously been deeded to the City for the purpose of extending Crestview Drive.
Location: North of Columbia Drive, west of College Street, abutting the north side of Yamhill County Tax Lot No. 3218AA-3500
Tax Lot: 3218AA-3500
File No: VAC-1-83

Commissioner Young abstained from the hearing. No other abstentions were requested, none were given.

Mr. Moorhead located the site on a map and entered the staff report into the record.

No proponents or opponents wished to speak. No letters were received and no public agencies voiced comments.

Staff Recommendation: The Planning Staff recommended that the subject property be vacated and returned to the property owner as there does not appear to be a need for the street at this location.

Hearing closed.

Motion: Moore-Harris to recommend to City Council to vacate the tract of land located abutting the north side of Yamhill County Tax Lot No. 3218AA-3500 in that there does not appear to be a need for access at this location. Motion carried unanimously.

Public Hearing C:

Applicant: Pet-Prevent-A-Care
Request: A Conditional Use Permit for the purpose of permitting a mobile vaccination clinic for dogs and cats during certain days and advertised hours, two times per year.
Location: Parking lot of the Newberg Plaza, located near the intersection of Highway 99W and Everest Street
Tax Lot No: 3220AB-1100
File No: CUP-5-83

Director Moorhead reviewed the Staff Report and identified the site location on a map.

Proponent: Sharon Roberts, General Manager of Pet Prevent-A-Care, 2856 Mark Lane, West Lynn, OR, indicated the business has operated for over seven years in over 450 cities with no complaints from local property owners and citizens. The PPC agency has operated 4 clinics in Newberg in the past without complaints. She indicated the design of the clinic is attractive and functional with no traffic problems. She commented that veterinary clinics are an outright permitted use in a C-2 zone. She added that the applicants would prefer to extend the CUP for longer than a 2 year period, preferably 5 years or more. In rebuttal to a letter PPC had received from

Dr. Holveck, she commented that customers were given advice relating to follow-up vaccinations and owners were questioned as to health of their pets, past immunizations, etc. She summed up that PPC is a community service to benefit the public and store owners.

Question to Proponent: Mr. Roberts asked Ms. Roberts what length of time PPC desires the CUP to extend to and Ms. Roberts indicated a 5 year time period would be desired.

Opponent: Donald Shubin, D.V.M., Rt. 5, Box 24, Newberg, stated he is a veterinarian with Newberg Veterinary Hospital. Local vets are all local residents who pay taxes and support local businesses and would like to have their practices supported in some way. He would like to see a licensing fee applied to transient businesses to provide some support of the local community. He further stated that PPC does not provide any emergency service and that the local vets provide follow-up care on any animal if needed. He added that PPC has had an economic impact on all the vets in Yamhill County.

Opponent: Dr. Richard Kimball, Kimball Veterinary Clinic, Rt. 2, Box 326A, Newberg, indicated he has strong ties with the community and cares about Newberg. He indicated that since PPC is mobile and is only in Newberg for 2 hours, they do not follow-up on pets. He encouraged them to maintain high standards and stated that a vaccination schedule should be followed closely.

Opponent: Jean Nilles, co-owner of FarmGro, 303 N. Main and a Newberg resident, stated that local businesses are required to comply with safety standards as well as zoning standards. She felt PPC should have the same requirements for safety standards as other businesses. She also indicated that it should be up to the vet to determine the needs of the animal and many times the owners have not the same skill levels.

Opponent: Robert Holveck, Rt. 1, Box 133, Newberg, owner of Chehalem Animal Clinic, indicated he did not wish to challenge the rights of any doctor to practice but felt that the clinic should be required to provide emergency service up to 36 hours following the clinic setup.

Question to Opponent: A member of the audience, Mike Mitchell, asked Mr. Shubin why citizens who cannot afford the local veterinary services, should not be allowed to utilize the services provided by businesses such as PPC. Mr. Shubin indicated that he was not opposed to assisting those who could not afford medical attention for their pets and he participates in the Low Cost Spay and Neuter Program as well as the Low Cost Vaccination service which are available at reduced prices to those who cannot afford regular services.

Mr. Cach asked Mr. Shubin if a local vet were to place this RV on a site and provide this service, would there be anything wrong with the conditions as proposed in the Staff Report. Mr. Shubin indicated that the local vets would probably not participate in this kind of a clinic. Mr. Kimball indicated he agreed with Mr. Shubin, as did Mr. Holveck. Dr. Hines, associated with the Newberg Veterinary Hospital, said that if the vets were in it only for the money, it could be done, but the professionalism of the local doctors would not allow them to do so.

Mr. Cach asked Dr. Kimball if there is a Board of Ethics in the Veterinary profession. Dr. Kimball responded that there was such a board and they issued a yearly license to each practicing vet.

Mr. Young asked Dr. Kimball if vaccinations could be given by other than a veterinarian. Dr. Kimball responded that he interpreted the regulations to read that a veterinarian or someone under his direct supervision could administer vaccinations.

Proponent Rebuttal: Sharon Roberts, PPC, stated that there is a vet on every clinic site. The vet does talk to each client and tries to encourage them to follow-up with vaccinations. Physical exams are offered to clients who request it for their pets. PPC is doing a public service. She stated that the request is a zoning matter and not a medical matter.

Staff Recommendation: Mr. Moorhead indicated that the three criteria for a Conditional Use Permit must be considered, the request does substantially conform to the criteria and that if approval were granted the four conditions as stated in the Staff Report should be placed on the Conditional Use Permit approval.

Hearing Closed.

Commissioner Roberts indicated he has a concern about the precedence setting of allowing a temporary setup to occur on a permanent basis in Newberg. He indicated that all trade and commerce functions which occur in Newberg are considered to be to the public's benefit and are still considered commercial in nature. This enterprise would also be considered in those terms, and not just strictly as a public service organization. The Zoning Ordinance suggests that we provide for and promote the public health, safety, and general welfare, and to provide the economic and social advantages which result from an orderly, planned use of land resources. Further, another objective of the ordinance is to achieve excellence and originality of design in all future developments and to preserve the natural beauty of the city's settings.

Mr. Faus indicated that he and Mr. Moorhead, Planning Director, had reviewed the CUP process prior to this hearing to determine the correct procedure PPC should follow for establishment of their business. It was determined that the potential land use impacts should be decided at the Planning Commission level and the matter was referred to the Planning Commission. Current peddler's license requirements did not appear to be sufficiently applicable to PPC.

Additional discussion followed regarding the possible precedence setting which might occur if the CUP were granted. Examples of previous CUP authorizations were discussed.

Motion: Young-Roberts to deny the Conditional Use Permit based on a conflict with Finding 2, Observation 3 "consistent with the objectives of the Newberg Zoning Ordinance," in that it sets a precedent for use of temporary structures on a permanent basis and tends to bypass the purposes of the Zoning Ordinance for the regulation of both the public health and safety, and general welfare and to provide economic and social advantages which result from an orderly, planned use of land resources and based on a conflict with Condition 4 that suggests a 2 year authorization when the applicant has requested a 5 year authorization. This indicates that the business is a permanent on-going thing and thereby should be required to comply with all other City requirements for permanent structures. Vote on motion: Aye: Parisi-Mosher, Roberts, Young--Nay: Cach, Harris, Moore. Motion failed (3-3) due to tie vote.

Motion: Moore-Harris to approve Conditional Use Permit based on Staff Report Findings 1-7 and Conditions 1-4. Vote on Motion: Aye: Cach, Harris, Moore--Nay: Parisi-Mosher, Roberts, Young. Motion failed (3-3) due to tie vote.

Motion: Moore-Roberts to continue deliberation of Public Hearing C to follow Agenda Public Hearing D on tonight's docket. Carried unanimously.

Public Hearing D:

Applicant: New Life Fellowship of the Four Square Gospel/Denny Strong, Minister
Request: Annexation of unincorporated territory surrounded by the corporate limits of Newberg, pursuant to the Oregon Revised Statutes, Chapter 222.750, and a zone change from Yamhill County LDR-9000 (Low Density Residential - 9000 square foot minimum lot size) to a City R-1 (Low Density Residential) and withdrawal from the Newberg Rural Fire Protection District.
Location: 3777 Portland Road (Previously 3714) abutting the west side of Spring Meadow Subdivision, north of Highway 99W.
Tax Lot No: 3216CA-2190
File No: ANX-2/Z-5-83

No abstentions were requested, none were given.

Staff entered the Staff report into the record and located the site on a map. He indicated the procedure for annexing islands into the City and the Comprehensive Plan requirements for doing so.

Proponent: Denny Strong, Pastor of New Life Fellowship, 3810 Vittoria, indicated that the site was chosen for its suitability as a church site. The Church has complied with all City code requirements even though it is still in the County, and City services are either available or already on the site.

Mr. Strong responded to a question about transportation access to Highway 99W by indicating that a turning lane would be installed on Highway 99W with a 3 lane access-egress onto 99W. The access to Libra would be from the Church parking lot on the north.

Opponent: Paul Gilliman, 1400 Libra, an abutting property owner, indicated his preference for an entrance to the site from Highway 99W in order to eliminate any potential traffic problems through Spring Meadow Subdivision. He indicated his desire to work with the Church to resolve any potential problems.

Proponent Rebuttal: Mr. Strong indicated the Church would be willing to install traffic bumps on the Libra access, and would also be installing signs indicating through travel would not be permitted.

Staff Recommendation: Staff recommends approval of the annexation based on the City planning policy requiring annexation of islands.

Hearing Closed.

Motion: Roberts-Young to recommend to City Council annexation of Tax Lot 3216CA-2190 with a corresponding zone change from County LDR-9000 zone to a City R-1 zone, together with a withdrawal from the Newberg Rural Fire Protection District based on Staff Report findings 1-9. Vote on Motion: Aye: Cach, Harris, Moore, Parisi-Mosher, Roberts, Young. Nay: None. Motion carried unanimously.

Mr. Moorhead indicated that the annexation would be heard by City Council, November 7, 1983 at 7:30 PM in the City Council Chambers in a full public hearing.

A 3 minute recess was called.

Meeting reconvened.

Motion: Roberts-Moore to reopen Hearing C to allow inclusion of letters previously omitted. Motion carried unanimously.

Public Hearing C, Continued:

Planning Director Moorhead entered two telephone communications and one letter into the record; all three items were entered in favor of PPC's requested Conditional Use Permit.

No proponent or opponent wished to address the contents of the letter or telephone communications.

Hearing closed.

Staff reviewed the findings as indicated in the Staff Report one by one with any opposing comments to be discussed by the Planning Commissioners. Finding 7 was restated to read "30-40% vacant parking spaces available."

Mr. Roberts again stated that the proposal does not comply with the Comprehensive Plan and that Criteria 3 has not been met. Criteria 3 states that the proposed development will be consistent with the objectives of the Newberg Zoning Ordinance, the Comprehensive Plan, and any other applicable plans or policy resolutions as adopted by the City.

Staff read the Conditional Use Permit purpose section of the Zoning Ordinance into the record.

Motion: Moore-Harris to accept the Staff Recommendation for approval based on findings 1-7 of the Staff Report and Conditions 1-4. Vote on Motion. Aye: Cach, Harris, Moore-- Nay: Parisi-Mosher, Roberts, Young. Motion failed (3-3) due to tie vote.

Motion: Harris/Parisi-Mosher to continue Hearing C, a Conditional Use Permit request, to the next regularly scheduled Planning Commission meeting with renotification of interested parties and new testimony to be allowed.

Amendment to Motion: Moore- to amend the motion to allow absent members to review the record and have only a partial public hearing. Amendment to motion failed due to lack of a second.

Vote on Motion: Motion carried unanimously.

Old Business: Chairman John Cach gave the Commission an update on the bypass project. A round of applause was given to John for spearheading the signature effort.

New Business: Planning Director Moorhead introduced the topic of the Newberg/Dundee corridor area. He indicated that the Ordinance Committee of the City of Newberg has also discussed the topic. He also announced that John Cach has been appointed as a member of the Newberg/Dundee Task Force as a representative from the Newberg

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Planning Commission. Tom Tucker has been appointed to the study group as a representative of the Newberg City Council.

A general discussion followed regarding the area's current development and building standards.

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