

A Regular Meeting
of the Planning Commission
Newberg Public Library

7:30 PM, Thursday

April 16, 1987

The meeting was called to order by Chairman Roger Veatch.

Members Present:

Bryce Fendall	Kathy Kelso
John Lyda	Kathleen Sullivan
Mike Thompson	Roger Veatch
Jack Kriz	

Staff Present:

Clay Moorhead, Planning Director
James Reitz, Associate Planner
Barb Mingay, Recording Secretary
Terrence D. Mahr, City Attorney
Capt. Larry Hailey, Police Department

Citizens Present:

20 Citizens

Commissioner Kelso made a statement relating to a letter to the editor of the Newberg Graphic. She indicated that at the Planning Commission hearing last month she had asked the audience whether postponement of the Heinzl hearing would cause any undue hardship. She indicated that the only member of the audience who responded negatively indicated he would have to take additional time off work in order to attend.

Motion: Fendall-Kelso to approve the minutes of the March 19, 1987 Planning Commission meeting. Motion carried unanimously.

Public Hearing A:

Applicant: Oregon Conference Free Methodist Church
Request: This is a request for an amendment to the covenants, conditions and restrictions for Crestview Manor, a Planned Unit Development, which would extend the time allowed to complete construction of the common building and landscaping appertaining thereto.
Location: Johnson Court and Johnson Drive
Tax Lot: 3217BC-1100
File No: PUD-1-87; also see PUD-1-81

Commissioner Fendall abstained from the hearing and seated himself with the audience.

No other abstentions, objections to jurisdiction, or exparte contact were identified.

Staff Report: Planning Director Clay Moorhead presented a letter from Ken Haevernich, project manager, dated April 12, identifying the Conference's proposed method of compliance with the conditions identified by staff. He commented that the proposal appeared to be sound, with some minor adjustments to the time frame proposed. He indicated that he would

recommend the Planning Commission approve the request and refer it on to City Council.

Proponent: Ken Haevernick, the project manager, pointed out that the intent of the third paragraph of the letter was that the funds for the common building would be placed in escrow as they were collected.

Recommendation from Staff:

The Planning Director concurred with the proposal presented by Crestview Manor and he recommended approval of the project.

The proposal consisted of the following items:

1. One Common Building of approximately 2,000 square feet in size.
(Instead of the existing plan which calls for two common buildings totaling over 6000 square feet)
 - A. This has the approval of the Crestview Committee.
 - B. This has the approval of the existing homeowners.
2. Extension of time for completed construction of the common building to June 30, 1989. (It is currently due to be completed March 31, 1987)
3. An Escrow account be established to insure that 30% of all money from lot sales be deposited to this account for construction of the Common Building.
4. If the City deems it necessary to have some assets held in lien until the common building is completed, we offer the property of Crestview for that lien.
 - A. The Investment Committee of the Free Methodist Church of North America has approved a proposal that transfers our loan with them to other assets thus freeing up the Crestview property.
 - B. The Trustees of the Oregon Conference have approved this proposal.
 - C. We do not want specific lots to be held in lien. This could hurt our marketing program and the overall success of the project.
 - D. There are \$50,000 in back taxes.
 - E. We have a projected cost for the common building at \$115,000.
 - F. We are assuming that the lien would be a declining lien in proportion with the 30% of lot sales going into escrow for the Common Building.
 - G. We are also assuming that the lien would be completely satisfied upon completion of the Common Building.

Public Hearing closed.

After a brief discussion the following motion was made.

Motion: Kelso-Thompson to approve the request for an amendment to the covenants, conditions and restrictions for Crestview Manor, a Planned Unit Development, which would extend the time allowed to complete construction of the common building and landscaping appertaining thereto, based on Staff Report findings and applicant's letter dated April 12, 1987. Motion carried unanimously.

Public Hearing B, Continued:

Applicant: Rodger & Judy Heinzl
Request: A request for approval of a conditional use permit to use the entire basement of a commercial building for a public use, indoor shooting range.
Location: 400 E. First Street (commonly known as the Almond Tree Restaurant)
Tax Lot: 3219AB-8200
File No: CUP-1-87

No abstentions, objections to jurisdiction, or exparte contact were identified.

Staff Report: Planning Director Moorhead read into the record the Staff Report and identified Findings 1-19 and Exhibits 1-9.

Proponent: Rodger Heinzl, 24300 NE Old Yamhill Road, project applicant, pointed out that he had never requested approval for a "public use" indoor shooting range. He reviewed each of the staff report exhibits, commenting that the exhibits were either not applicable, outdated or did not pertain to addressing the conditional use permit criteria. Mr. Heinzl indicated that he had submitted a letter requesting approval of the site on November 3, 1986, and that on December 17 the Council* met to discuss the proposed range without inviting him to the meeting. He stated that at that meeting the Council* approved standards which would be applied to his request. He indicated that he did not feel the standards designed by the Police Department and approved by the Council* were appropriate. He added that he would comply with DEQ requirements and asked staff to identify an appropriate db level for noise at the site. He presented a diagram of the site which identified shooting stations, bullet trap location and other items. He also distributed photos taken at Magnum Alley and at an outdoor shooting range. He pointed out various differences between the two ranges and his proposed range.

Mr. Heinzl concluded by challenging the whole minimum criteria list, indicating he felt he had adequately addressed the conditional use permit criteria.

Proponent: Larry Eiler, 1217 N. Meridian, indicated he would like to see the permit approved and that it would benefit Newberg.

Proponent: Art Heem, 1904 Cedar Street, a retired detective from the Multnomah Co. Sheriff's office, indicated that during his 30 years of service he had occasionally acted as range master. He felt the proposed range would be a helpful to law enforcement agencies and thought that the range should be approved.

Questions to Proponents: Mr. Heinzl was asked whether notices would be posted regarding restrictions for eating and drinking on the premises. Mr. Heinzl indicated that notices would be posted regarding a requirement to wear eye and hearing protection while in the range area; however, he was unsure what other notices he would post. Responding to questions regarding daily cleaning, Mr. Heinzl indicated that the site would be cleaned as

* This was actually a meeting of the Public Safety Subcommittee of the Council.

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necessary. In response to a question regarding noise, he indicated the noise would not exceed the outside noise. He added that he currently has a range in use at his existing business and the neighbors haven't objected to the noise. He indicated, in response to a question regarding the building interior height, that it varied from 9-10 feet. In response to a question regarding police department qualifying requirements, he indicated that a score of 80% was required to pass the course.

Commissioner McIntosh was present at 9:11 PM. He had previously indicated that he has had numerous conversations with Mr. Heinzl regarding his project; therefore he continued his abstention from the hearing.

Numerous questions were asked as to the sound level that would be produced by the use of the site, the noise impact on the neighboring building, existence of db standards and the sound level currently existing at the location. Mr. Heinzl indicated he felt that the outside noise level must be at least 90 db. He did not feel that bullet noise would be heard in the adjoining building, and that he had no information on any standards for db for this type of business. He indicated that his hours of operation would likely be from 11:00 AM to 9:00 PM.

City Attorney Mahr was asked whether State law required approval of the project by the Chief of Police. He concurred. He was then asked whether the minimum criteria were applicable to this case. He responded that he felt the criteria did apply to this case.

Additional questions were asked regarding the structural design of the project, site selection, building changes and proposed lead containment methods. Mr. Heinzl indicated that he did not intend to remove any structural beams, only unnecessary, non-bearing walls and supports. He indicated that this location was chosen because it met all the specific requirements for the bullet trap installation. He indicated that he would like to see all the shooting stalls used full time; however, the majority of his business would occur in the sales area. He added that lead from the firing of weapons would be adequately removed from the site by the use of a Smokeater ventilation system.

Opponent: Rick Mills, 617 N. Main, an attorney in the office adjacent to the proposed range, indicated he was not totally opposed to the project. He expressed his concern that the noise levels would create a nuisance.

Opponent: Glen Post, 415 N. College, member of NRA, a state certified instructor range master and firearms instructor indicated he was not anti-gun. He indicated that the Kelly Butte Range was closed 9 years ago due to indoor pollution. He expressed his concern about having a range located in the downtown area, commenting that the high visibility of weapons on the street could cause a negative effect on the community. He felt that the applicant should be required to provide adequate data regarding wall thickness and protection. He added that a range master was a vital part of a gun range any time more than one person is on the range. He stated that the trap chosen by Mr. Heinzl was excellent and that an indoor range would be a benefit in the Newberg area; however not in the proposed downtown core area location.

Opponent: Shelly Balsley, 307 E. Hancock, expressed concern for her children when there would be patrons of the business parking in her neighborhood and walking to the business with guns.

Questions to Opponents: Mr. Post was asked whether the protective deflectors were adequate to guarantee that a bullet or bullet fragment would not go through the ceiling into the main retail area of the building. He said that he didn't believe that this could be guaranteed. He stated that a range master was necessary to prevent shooters from entering the range and shooting unprotected areas.

Ms. Balsley added that parking was not sufficient to prevent overflow into private residential areas.

Public Agencies: Capt. Larry Hailey, 16 year veteran of the Newberg Police Dept., indicated that he has spoken with other police bureaus regarding the standards and the conclusion was that the standards were normal for this type of facility. He added that State and City ordinances do require the approval of the Police Chief for the installation of gun ranges. He commented it was essential that there be proper baffling, containment and security of rounds fired within the range. He added that a range master has to be on the range to prevent a catastrophe. He responded to a question regarding the location chosen for the proposed range, indicating that there is a problem with weapons being carried, both loaded and unloaded, to the range. There will be an increased potential for problems on the street.

Additional Public Agencies & Letters: Staff identified Exhibits 3, 4 and 5 of the Staff Report as memorandum from the Police, Building and Fire Departments. Exhibits 6 and 7, letters from Grace Krohn and Jane Parisi-Mosher in opposition, were entered into the record. A letter from David Simmons was presented in support of the project. A letter from Rev. James Fellers, First United Methodist Church was presented in opposition.

Proponent Rebuttal: Mr. Heinzl rebutted the need for an on-site range master. He indicated that the remote monitor system he proposes for each booth is an even more efficient method of control. He commented that his business involves sales of 1000's of guns, without any objections from citizens. He added that the proposed business can provide good hands-on experience for hunter safety course students as well as law enforcement personnel. He indicated that the Almond Tree Restaurant accommodated over 100 people but that the new use would normally only have approximately 20 people on-site. He indicated that he would work with the neighbors regarding the sound control question.

Mr. Moorhead distributed the letter Mr. Heinzl originally presented to the City in November.

Opponent Rebuttal: Glen Post commented that it was illegal to carry a loaded firearm on the streets of Portland but no such restriction was evident in Newberg. In addition he commented that he is only familiar with the FBI and police ranges in Portland. There are no other public ranges on the west coast in the downtown core area that he is familiar with; however

there are some on the east coast.

Agency Rebuttal: Capt. Hailey indicated that strict discipline must be maintained on the range. He added that 166 decibels of sound is created by 357 magnum weapons; 114 decibels will cause permanent hearing damage; and current hearing protection is not always sufficient to shield all the sound.

Staff Recommendation: Planning Director Moorhead indicated that the parking issue is very important to consider since most users will be parking on the street and will be bringing to the site both loaded and unloaded weapons. This type of facility should have a provision for on-site parking and recommended that parking requirements should be included as finding 20.

He added that safety standards are a very important consideration for this request. Without having adequate design drawings to indicate that safety factors can be met, staff recommended that the Commission deny the application, based on Staff Report findings 1-19 and the additional parking standard, finding 20.

Hearing Closed.

Mr. Heinzl was asked whether a continuance of the hearing would present a problem to him. Mr. Heinzl indicated that it would cause him a substantial financial burden to further delay the hearing process.

Mr. Post was asked whether rounds being fired could be heard above the traffic noise at Magnum Alley. He indicated that they could.

The Commission discussed the potential problems that could develop if the facility became very popular. Staff was questioned as to the Commission's personal liability in the event of any shooting incident at the site. City Attorney Mahr indicated that the Commission's decision would not create that type of personal liability. Conditional use permit criteria and standards were also discussed.

Mr. Heinzl's attorney, Mark Bierly, spoke regarding the City's conditional use permit criteria, indicating he did not think that the criteria required such specific detail as staff has indicated.

The Commission debated the conditional use permit criteria and their application to this permit request.

Capt. Hailey was asked to identify the source for the Minimum Standards document. He indicated that he had researched the FBI requirements, other cities experiences, other ranges, OSHA standards, City Fire Department criteria and magazine articles on construction of ranges. He added that the standards were sent to the Planning Department through the City Council Public Safety Committee.

Staff was asked whether there was an existing noise standard. Mr. Moorhead indicated there was not. He indicated that findings for approval could be taken from Mr. Heinzl's report to the Commission.

Motion: Sullivan-Kriz to approve the request for approval of a conditional use permit to use the entire basement of a commercial building for a public use, indoor shooting range, provided Exhibit 1, "Minimum Standards and Criteria for Indoor Shooting Ranges", and any other development codes imposed by the Police and Fire Departments are met by the applicant, and based on findings provided by the applicant in Staff Report Exhibits 8 (Application), and 9 (Impact Statement).

Vote on Motion: Aye - Fendall, Kelso, Kriz, Lyda, Thompson, Sullivan, Veatch; Nay - 0; Abstain - 1; Absent - 1. Motion carried (7-0).

Planning Director Moorhead identified the appeal process to the Commission and audience.

Commissioner McIntosh returned to his seat on the Commission.

Public Hearing C:

Applicant: City of Newberg
Request: Vacation of property previously deeded to the City for future street purposes, being approximately 40 ft. by 894.5 ft.
Location: East of Villa Road and North of SP Railroad
Tax Lot: North 40 ft. of 3217BD-100
File NO: VAC-1-87

No abstentions, objections to jurisdiction, or exparte contact were identified.

Staff Report: Planning Director Moorhead identified the site location and reviewed the Staff Report. He indicated that the proposed roadway would no longer be appropriate and recommended that the Commission approve the vacation.

No proponent or opponent wished to speak.

No letters and no additional public agency comments have been received.,

Hearing Closed.

Motion: Kriz-Lyda to recommend to City Council the vacation of property previously deeded to the City for future street purposes, being approximately 40 ft. by 894.5 ft., identified as the northerly 40 feet of tax lot 3217BD-100, located east of Villa Road and North of the SP Railroad tracks, based on Staff Report findings and Conditions. Motion carried unanimously by those present.

Old Business: None

New Business: Comp Plan Update progress was briefly discussed.

The meeting was adjourned to a special meeting of the Planning Commission, 7:30 PM April 30, 1987 at the Newberg Public Library meeting room.