

MINUTES OF THE PLANNING COMMISSION
Newberg Public Library
Newberg, Oregon

Thursday, 7:30 PM

June 21, 1990

Subject to P.C. Approval at 7/19/90 P.C. Meeting

I. ROLL CALL

Present:

Jack Kriz
Celine Hall
Martin McIntosh
Mary Post
Wally Russell
Kathleen Sullivan
Roger Veatch

Staff Present:

Dennis Egner, Planning Director
Mike Unger, Associate Planner
Barb Mingay, Recording Secretary

Others Present: 12 Citizens

II. OPEN MEETING

The meeting was called to order by Chairman Roger Veatch.

III. APPROVAL OF MINUTES

Motion: Kriz-Russell to approve the minutes of the May 17 and 31, 1990 Planning Commission meetings with the following corrections: 1) Kathleen Sullivan was not present at the May 17 meeting and 2) the title of the May 17 agenda item IV was corrected to read "CUP-5-90". Motion carried unanimously.

IV. P-2-90 - PUBLIC HEARING:

APPLICANT: Charles Schmidt
OWNER: Charles Schmidt
REQUEST: Appeal of conditions of a partition of 33,705 sq. ft.
into two parcels of 9,525 sq. ft. and 24,180 sq. ft.
respectively
LOCATION: 512 S. Dayton
TAX LOT: 3219-5701 and part of 3219-5400
FILE NO: P-2-90 (Appeal)
ZONE: R-1 Low Density Residential
PLAN
DESIGNATION: LDR
CRITERIA: Newberg Subdivision Ordinance Sections 12 and 17

No abstentions or ex-parte contact were identified. No objections to jurisdiction were identified.

Staff Report: Planning Director Dennis Egner reviewed the partition and appeal criteria, lot/parcel size requirements and the history of a previous partition request. He reviewed preliminary approval conditions relating to the current partition request. He identified that the conditions under appeal relate to driveway and public/private street improvement conditions. He noted that the appellants are requesting that the driveway remain a private driveway to serve only their site. He also noted that an adjoining neighbor has constructed a garage which encroaches into the setback area adjacent to the driveway within Schmidt's proposed partition site. He reviewed staff referrals from the Fire and Engineering Departments. He summarized the Conclusionary Findings, noting that the partition substantially conformed with the partition criteria. He then reviewed the appeal criteria.

Proponent: Allyn Brown, 501 E. First, attorney representing Charles and Fonda Schmidt, indicated that the applicants desired to site two houses where one previously existed. He stated that the applicants were opposed to improving the roadway as a public road. He added that no one is currently interested in developing the remainder of the property to the rear of the Schmidt site. He entered into the record a letter of objection to the conditions of the partition which had been signed by the surrounding property owners. He reviewed each of the appealed conditions. He suggested that the roadway would be a security problem as well as a detriment to the neighborhood and the applicants. He indicated that oversized utilities and a street light requirement are not necessary to service a single house. He added that the Schmidt's would be willing to install a fire hydrant which would be of benefit to the entire neighborhood. He distributed a diagram which indicated an alternative access to the Millage site to the east. He indicated that the driveway would be a private road, used as an exit from the Schmidt's excavation business and security protection would be installed on it. He concluded that the applicants are requesting that the conditions be revised to allow them to proceed with their development. He noted that issues of safety would be adequately addressed with the existing driveway plans.

Proponent: Fonda Schmidt, applicant, indicated that the traffic from their site was minimal; 10-15 vehicle trips per day were average.

Proponent: Stacey Jensen, 516 Dayton Avenue, noted that she liked the neighborhood as it was and would like the appeal approved.

Opponent: None

Public Agencies/Letters: Mr. Egner noted that no letters had been received other than those noted in the Staff Report.

Proponent/Opponent Rebuttal: None

Staff Recommendation: The Planning Director recommended that the Planning Commission affirm the Planning Director's decision with the conditions identified in the original staff approval. He added that if the appeal is supported by the

Planning Commission, they should consider deleting only conditions F and I, and adopt a finding to identify that other access is available for future development.

Public Hearing Closed.

The Commission discussed the accessway drive and the egress from two driveways onto Dayton Avenue, as well as the public versus private drive issue. They also discussed non-conforming uses and non-conforming use limitations. In response to a question from the Commission, Mr. Egner indicated that the cul-de-sac proposal was acceptable as a possible future access to surrounding developable property.

Commissioner Kriz expressed concern that this request was an expansion of a non-conforming use. Mr. Egner noted that the existing egress for the Schmidt's business would be closed and this proposal was only a swap. He commented that after much staff discussion, it was concluded that the proposed driveway was not an expansion of a non-conforming use.

Motion: McIntosh-Post to support the appeal of conditions F and I of the Staff report. This action will retain Staff Report Conditions A-E and J, delete Conditions F and I and revise Conditions G and H as follows:

- G. Construction of a minimum twelve foot wide paved access road to serve Parcel 2 is required. The drive must have a minimum 20 foot of clear width for fire access.
- H. The damaged Dayton Avenue curb and gutter must be removed and replaced. The unused curb cuts on Dayton Avenue must be replaced with a full curb. Only one direct access from parcel 1 to Dayton Avenue will be permitted.

The following findings will also be incorporated into the Staff Report:

- 1. The property to the south can be accessed and serviced by a cul-de-sac.
- 2. Approval of the appeal is not intended to encourage the existing use as a non-conforming use; but is in the interest of public safety.

Vote on Motion: Aye-Hall, McIntosh, Post, Russell, Sullivan, Veatch; Nay-Kriz. Motion carried 6-1.

Planning Director Egner stated that there is a ten day policy during which the decision can be appealed.

V. G-6-90 PUBLIC HEARING:

APPLICANT: City of Newberg

REQUEST: Adopt Airport Overlay Zone

Staff Report: Planning Director Egner noted that the issues under discussion at this hearing are unrelated to the recently completed airport study which related to possible purchase of the airport by the City. He identified that approximately 10 years ago Congress adopted Federal Aviation Part 77 requirements relating to airport protection for public use airports. Sportsman Airpark is designated a public use airport on FAA maps and falls under the regulation of the State Aeronautics Division. The State Aeronautics Division requires placement of an airport overlay zone for all public use airports. If an overlay zone is not adopted, possible loss of the public use status would result.

He then distributed a revised ordinance and reviewed diagrams relating to the location of the "primary surface", which extends 200 feet off the runway; the "approach surface", which goes up one foot for every 20 feet out; the "transitional surface", which goes up one foot for every 7 feet out; the "horizontal surface", which has a 150 foot height limit; and the "conical surface". He identified the approach surface and the transitional surface as being of primary concern to the property owners in the immediate area of the airport as they set some height and use limitations on those properties. A secondary concern is the horizontal surface as it relates to the industrial zones around the airport. The industrial zones do not have a height limitation and possible development could conceivably pierce the horizontal surface. He noted that notice of this hearing had been sent to those properties within the horizontal surface area. He reviewed the Part 77 standards as they apply to Newberg's airport.

He noted that the proposed ordinance has use limitations within the approach surface area which would prohibit places of public assembly; however, shopping areas were excluded from the prohibition. Impacts on specific areas of Flightways Industrial Park with the State model ordinance in place were noted. The proposed ordinance has revised the model ordinance to lessen the impacts on Flightways Industrial Park properties. He then reviewed the "displaced threshold approach surface", a different approach surface which would set a height limitation at a point further back from the runway than the Part 77 standards had designated. Effectively it would shorten the runway slightly. He noted that Mr. Whitney had a deed restriction over Flightways Industrial Park which creates a clear zone in a specific area which has a height limitation of 25:1. The proposed approach slope would be more permissive than the existing deed restriction. Existing construction within Flightways has been built to comply with the deed restriction. He highlighted revisions to the draft relating to Part 77 standards and restrictions on the ability to obtain FAA money for future expansion if these standards were not met. He noted that the new draft included language to allow revision to the ordinance in the future if FAA funds were desired for an airport expansion. He noted that if FAA money were desired for airport improvement, the ordinance would be revised to include placement of a building use restriction within the Part 77 standards "clear zone"; existing

buildings within that zone would exist as non-conforming uses and no new construction could occur. He noted that in the new draft, any use which obstructs Part 77 standards but is below the proposed "displaced approach surface" would go through a conditional use process. The criteria for a conditional use would require that the use not create an obstruction, submission of hold harmless agreements, and that appropriate lighting would be placed on structures to comply with FAA requirements.

Audience Comments:

Jeff Kizer, property owner in the area of the proposed overlay zone, expressed concern about the impacts of the proposed overlay zone on specific properties, and requested a detailed copy of the minutes of this meeting.

Staff Report, Continued: Planning Director Egner reviewed the definition section of the ordinance, permitted uses within the airport approach safety zones, and the displaced threshold surface. He noted that if the use is permitted by the underlying zone and no hazard is being created, the use would be permitted. If the use is conditionally permitted in the underlying zone, the use would be processed through the normal conditional use permit procedures if there is no interference with the airport. If the proposed use pierces the Part 77 requirements but is below the proposed standards, applicants would be required to not create an obstruction, to submit a hold harmless agreement, and to install appropriate lighting on the structure in lieu of standard CUP requirements.

He noted that specific development information would be required for sites within the "Runway Protection Zone". He commented that many of the development issues for sites in this area would be addressed at a design review level without the need for Planning Commission review. He added that completion of a Federal form would be required on construction within 10,000 feet of the runway if the site was not shielded from the runway by a pre-existing structure. He added that "Runway Protection Zone" should be deleted from Section C, Page 2.

Audience Comments, Continued:

George Alexander questioned why the City needed to maintain the public use designation. Mr. Egner and Mr. Veatch commented that it was an advantage to the industrial expansion of the community to maintain Newberg's identity as a public use airport. Mr. Alexander requested that the Commission consider support of the McMinnville Airport as the primary airport facility in the County.

Attorney Mike Gunn asked why the City had to adopt this ordinance and what kind of restrictions relating to FAA funding would be placed on the properties. Mr. Egner indicated that further restrictions based on FAA funding would only apply if such funding were requested by the City. Currently, no funding request is being considered by the City. Mr. Gunn commented that if the further restrictions were put in place, all construction in the area would become non-conforming, thus shutting down any new construction. Mr. Egner noted that the FAA funding section was a State requirement; however, the State has accepted less

stringent height and use requirements in the proposed ordinance.

Larry VanZant, Newberg Transmission, was concerned about height and building construction issues.

Proponent: None

Opponent: George Alexander felt that the proposed ordinance was placing Ex Post Facto zoning on the affected sites, after they were purchased in good faith. He indicated that financial loss to the property owners was a likelihood and he questioned who would be responsible for reimbursement to the owners for any loss.

Opponent: Larry VanZant indicated that numerous pilots currently fly below the aircraft flight approach path while entering and exiting the runway.

Opponent: Don Halbrook supported the overlay; however, he indicated that property owner's rights either be protected or the owners should be compensated for any financial loss due to the restricted zoning.

Public Agencies: State Aeronautics Division comments are included in the Staff Report. There were no other public agency comments.

Letters/Public Contact: Mr. Egner noted that he has had personal contact with a number of property owners in the area of the proposed zoning overlay. No letters have been received.

Staff Recommendation: Planning Director Egner recommended that the proposed Airport Overlay Zone be approved by the Planning Commission and forwarded to the City Council for their adoption.

Hearing Closed.

Planning Director Egner was asked to review the differences in the Zoning Ordinance and the impacts on affected properties if this overlay zone were enacted. He indicated that the Conditional Use Permit process would be required if desired construction heights exceeded Part 77 requirements. In addition, he noted that uses which allow public assembly would be restricted on certain sites within the overlay zone.

The Commissioners briefly discussed property owner rights as opposed to State mandated requirements for a zoning overlay.

Motion: Kriz-Hall to recommend to the City Council approval of the revised Airport Overlay Zone based on Staff Report Findings and with the following additional finding:

- D. It is important to the City of Newberg that the airport be a public use airport.

Vote on Motion: Aye-Kriz, Hall, McIntosh, Post, Sullivan, Veatch; Nay-Russell.
Motion carried 6-1.

Mr. Egner noted that this issue would be discussed by the City Council at the July 9, 1990 Council meeting.

The meeting was reconvened after a 5 minute recess.

VII. PR-90 PUBLIC HEARING:

APPLICANT: City of Newberg

REQUEST: Adopt Periodic Review Order and related documents
1. Historic Preservation Ordinance
2. Periodic Review Order

Motion: McIntosh-Hall to postpone discussion of the Historic Preservation Ordinance to the next Planning Commission meeting.

After a brief discussion, the motion was withdrawn.

Chairman Veatch polled the Commissioners regarding the length of time to allow discussion. A consensus of the Commissioners agreed to adjourn the Planning Commission meeting at 11:00 PM.

Planning Director Egner then requested that the Commissioner's revise the agenda order to address one item under New Business before beginning discussion on the Historic Ordinance. The Commissioner's concurred.

VIII. NEW BUSINESS:

A. Renaming of Sunset Drive

After a brief review of the request, the Commissioners made the following motion:

Motion: Sullivan-McIntosh to rename Sunset Drive between North College and Sunset Court to Sunset Court. Motion carried unanimously.

V. HISTORIC PRESERVATION ORDINANCE - DISCUSSION CONTINUED:

The Commissioners began discussion relating to the Historic Preservation Ordinance. Commissioner Post expressed concern as to the qualifications of the Planning Commission to serve as the Historic Review Board. Commissioners discussed the diversity of interest on the Commission as it relates to historic preservation. It was generally noted that the contrast in views of the Commissioners would allow the Commission to more equally represent the community. Sections of the ordinance were then discussed. It was concluded that a work session was necessary to resolve some verbiage concerns within the proposed ordinance. The Commission agreed to attend a 6:30 PM work session prior to the next regular Planning Commission meeting scheduled for July 19, 1990 to further review the ordinance.

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Chairman Veatch noted that the hearing would be continued at the July 19, 1990 Planning Commission meeting.

XI. ADJOURN

Motion: McIntosh-Hall to adjourn. Motion carried unanimously.