

## NEWBERG PLANNING COMMISSION MINUTES

September 14, 2023

### CALL MEETING TO ORDER

Chair Musall called the meeting to order at 7:00 p.m.

### ROLL CALL

Members Present: Jeffrey Musall, Jason Dale, Layne Quinn, Sharon Capri, and Michael Griffiths

Members Absent: Avery Hansen, Kriss Wright, and Linda Newton-Curtis

Staff Present: Planning Manager (PM) Clay Downing, Associate Planner Jeremiah Cromie, Assistant Planner James Dingwall, Senior Engineer Brett Musick, and Administrative Assistant Fé Bates.

City Council Liaison: Councilor Molly Olson

### PUBLIC COMMENTS

None

### CONSENT CALENDAR

Planning Commission Minutes 8/10/2023

[PC Minutes \(8.10.23\).pdf](#)

Action: To approve Planning Commission meeting minutes for 8/10/2023 as presented.

Motion: PC Quinn

Second: PC Griffiths

Vote: Yes: 5 (Musall, Dale, Quinn, Capri, Griffiths)

No: 0 Abstain: 0 Absent: 3 (Hansen, Wright, Newton-Curtis)

### QUASI JUDICIAL PUBLIC HEARINGS

File No. CUP23-0009 for Conditional Use Permit approval to use a single-family dwelling as a vacation rental home at 3238 E Province Court

[CUP23-0009 PC Staff Report.pdf](#)

[Attachment 1. Application Materials.pdf](#)

[Attachment 2. Agency Comments.pdf](#)

Chair Musall opened the public hearing and called for any abstentions, bias, ex parte contacts, or objections to jurisdiction. There were none.

Administrative Assistant Bates read the legal announcement.

PM Downing presented the Staff Report for the record via PowerPoint and discussed the location, zoning, utilities, and applicable criteria in the Newberg Municipal Code Sections 15.225.060, and 15.445.300 – 15.445.350. The single-family home had five bedrooms, provided four off-street parking spaces including garage and driveway spaces, and had compatible use and similar size and scope to nearby properties. The property was located 1.1 mile west from the downtown central business district, and the proposed use was similar to a long-term rental. The Applicant would be required to register with the City to pay Transient Lodging Tax (TLT). The property had a capacity of ten guests, and would not allow RVs, tents, or other temporary shelters. The Applicant must post the required information next to the front door of the vacation rental.

Staff recommended that the Planning Commission move to adopt Planning Commission Order 2023-17 with conditions, approving conditional use permit CUP23-0009 for a vacation rental home at 3238 E Province Court.

Public Testimony: Jason Phillips, Applicant, currently lives in Texas and built the property in Newberg so his family would have a place to stay when they visited. Mr. Phillips contacted a property manager who stated there was a need for more short-term rentals in the area for people visiting loved ones in the hospital and others in the community.

Chair Musall closed the public hearing.

Staff's recommendations remained unchanged.

Action:	To adopt Planning Commission Order 2023-17: CUP23-0009 for Conditional Use Permit approval to use a single-family dwelling as a vacation rental home at 3238 E Province Court
Motion:	PC Dale
Second:	PC Quinn
Vote:	Yes: 5 (Musall, Dale, Quinn, Capri, Griffiths) No: 0 Abstain: 0 Absent: 3 (Hansen, Wright, Newton-Curtis)

File No. CUP23-0011 for Conditional Use Permit approval to use a single-family dwelling as a vacation rental home at 1208 E Tenth Street

[CUP23-0011 PC Staff Report.pdf](#)

[Attachment 1. Application Materials.pdf](#)

[Attachment 2. Agency Comments.pdf](#)

Chair Musall opened the public hearing and called for any abstentions, bias, ex parte contacts, or objections to jurisdiction. PC Quinn lived close to the property, but not close enough to have received notice. PC Quinn would not let that affect her vote.

Administrative Assistant Bates read the legal announcement.

PM Downing presented the Staff Report for the record via PowerPoint and discussed the location, zoning, utilities, and applicable criteria in the Newberg Municipal Code Sections 15.225.060, and 15.445.300 – 15.445.350.

A supplemental packet was provided to Councilors with a comment from the Engineering Department stating one of the two off-street parking spaces shown on the Application exhibits was in conflict with the location of a future sidewalk. The Applicant would need to identify another location for the required second off-street parking space. The Applicant had stated they were willing to make the garage available for the second required parking space.

The single-family home had three bedrooms, two available off-street parking spaces, had compatible use with other residences in the area, and it was similar in size and scope to nearby buildings. This property was located one half of a mile south of the central downtown business district, and the proposed use was similar to a long-term rental. The Applicant would be required to register with the City to pay TLT. The property had a capacity of six guests, and would not allow RVs, tents, or other temporary shelters. The Applicant must post the required information next to the front door of the vacation rental.

Staff recommended that the Planning Commission move to adopt Planning Commission Order 2023-19 with conditions approving conditional use permit CUP23-0011 for a vacation rental home at 1208 E Tenth Street.

Public Testimony: Garret Lukens, Applicant, grew up in Newberg and bought this property with his wife as their first home. Mr. Lukens kept this property to maintain connections in Newberg while being involved in Portland. If the property was unable to be approved as a short-term rental, the Applicant would rent the property long-term.

Chair Musall closed the public hearing.

Staff's recommendation remained the same.

Action:	To adopt Planning Commission Order 2023-19: CUP23-0011 for Conditional Use Permit approval to use a single-family dwelling as a vacation rental home at 1208 E Tenth Street
Motion:	PC Quinn
Second:	PC Capri
Vote:	Yes: 5 (Musall, Dale, Quinn, Capri, Griffiths) No: 0 Abstain: 0 Absent: 3 (Hansen, Wright, Newton-Curtis)

#### **ITEMS FROM STAFF**

Anticipated Schedule of Planning Commission Activities

[Planning Commission Forward Looking Calendar.](#)

PM Downing introduced Associate Planner Cromie and discussed upcoming items on the attached calendar.



PC Capri, as an alum of Portland State University (PSU) Architecture, wanted to talk with Urban Design about assigning a term project based on the City of Newberg. PM Downing described the current process which worked with Engineering students from George Fox University, welcomed possible collaboration with students from PSU, and stated he would be happy to provide the relevant information to the University. PC Capri shared her experiences as a student and hoped to see more ideas for creating more public space. PM Downing agreed that engaging students in the process of planning was beneficial to the City, and he encouraged reaching out and preparing adequately to move forward with collaboration.

Administrative Assistant Bates informed Commissioners they would receive an updated iPad within the next month, and noted they would need to turn in their previous iPad.

Request for Planning Commission Comments on a Draft Vacation Rental Home and Short-Term Rental White Paper Available

[GEN23-0007 PC Memorandum.pdf](#)

[Attachment 1. Draft Vacation Rental Home and STR White Paper.pdf](#)

PM Downing reported on the trends and observations found by staff during research of vacation rentals as follows:

- Vacation rental regulations were initially adopted in 2013.
- In 2022, City Council asked Staff to research vacation rentals and report back in about a year.
- Trends associated with vacation rentals were analyzed and provided as data.
- Number of vacation rentals were estimated using data from the Community Development Department permitting activities, TLT registrations and payments, and business license registrations. There were approximately 74 vacation rentals operating in Newberg as of July 2023, of which 42 applied for or received a permit from the City and 57 were currently registered to pay TLT.
- There was a general clustering in the density of vacation rentals north and south of the downtown area.
- The number of new vacation rentals being permitted surged during 2020-2021, and high levels of new applications continued through 2022.
- Staff research analyzed 77 public comments, and some of the most frequently mentioned topics were parking concerns, safety issues, traffic increases, and noise concerns.
- The Community Development Department had only received one complaint about vacation rentals since 2016.
- Comparisons were made between different regulatory approaches associated with vacation rentals including grandfathering, amortization, production-based policies, prohibitions of certain types or aspects of vacation rental operations, concentration regulations or density caps, operation-based regulations, using technology to ensure compliance, permit conveyance or duration, and enforcement mechanisms such as enhanced technology, increased or enhanced inspections, and different mechanisms for addressing complaints or violations.
- Less than .01% of the City's housing stock was occupied by vacation rentals.
- PM Downing presented the the Planning Commission's recommendation to place a 120-day moratorium on vacation rentals to Newberg City Council on September 5, 2023. The City Council did not take action to implement a moratorium at the time but was interested in the topic and formed a committee containing two City Council members to work with Staff to look into the issue further. Council members were aware that more research on vacation rentals would be presented to them soon.

- PM Downing encouraged Commissioners to work together to create cohesive, concise, productive comments to submit to the City Council, and he recommended that a Commissioner make a motion to call a vote to transmit the comments to City Council.

Commissioners and City Councilor Olson conversed with Staff about vacation rentals touching on the following key points:

- Discussion of possibly limiting vacation rental locations to create areas without vacation rentals where families and schools could be undisturbed; concentrating rentals toward the downtown area; or limiting vacation rental locations by area, zone, or other factors.
- Discussion of the vacation rental approved earlier in the meeting had a capacity for ten guests. How would it impact the families living nearby to have so many guests staying in their neighborhood?
  - Guest capacity being determined by number of bedrooms allowed 12 guests to stay in a six-bedroom house. Guest capacity in residential areas could possibly be limited beyond bedroom availability. However, to be actionable, limits would need to be applied by zone or other objective criteria. Limits could only be imposed by creating criteria applicable to all vacation rentals.
  - Most existing vacation rentals were in a residential zone, and vacation rentals allowing more than ten guests were rare.
- Discussion of initiating vacation rental density caps could prevent Newberg from becoming a vacation rental town by slowing growth in dense areas and establishing a base level of control over where vacation rentals were operating.
  - A concentric ring model allowed differing vacation rental density limits throughout the city and kept the main concentration toward the downtown area. It also encouraged vacation rentals to be in the areas where people wanted them.
  - In McMinnville, a vacation rental could not be established within 500 feet of another vacation rental. This model worked for McMinnville to keep density low.
- City Councilor Olson advised focusing the response to City Council on the problems that need to be solved, such as parking issues, rather than on preferences, and reaching out to City Councilors Kilburg and Wheatley to share perspectives as they serve on the Ad Hoc Short-Term Rental Committee. The City Council was not fully decided on the issue of vacation rentals.
  - PM Downing would be meeting with Councilors Kilburg and Wheatley to discuss vacation rental comments. Council members were considering different solutions through their connections, but the perspectives of the Planning Commission on vacation rentals were respected as the Planning Commission dealt directly with the public. Robust comments to the City Council about problems to be solved would inform the creation of actionable solutions.
- Discussed housing costs noting that housing costs were high, and vacation rentals were one of the many factors affecting housing costs. There was no current limit on the number of long-term rentals being converted to short-term rentals. Regulating everyone equally would avoid creating issues with property rights and would keep the housing situation balanced.
  - Housing affordability was a big issue before the City Council. Affordability was tied to quality of living, but so was trash, noise, and parking problems.
  - The goal was to make a structure around vacation rentals that allowed the cost of living to remain affordable to locals, maintained quality of life, brought in TLT, and did not discriminate against property owners. A vacation rental spacing restriction would support those goals and the continuing changes in Newberg.

- Affordability was the undertone in all the issues presented, and improvements made to vacation rental properties may drive up the price of local housing. A man making public comment at a previous meeting had a vacation rental to the right of his home, another in front of his home, and one behind his home, and such a situation may cause issues of gentrification and native people would be driven out.
- Discussed vacation rental spacing requirements were simple and applicable to everyone, the rentals had good points and people liked to use them, and the City gained direct revenue from TLT, and the community benefitted from tourism. The impacts of wine country and tourism changed the Newberg area significantly over time. It was important to keep Newberg a wonderful place to live, and tourism was one of the main positive effects of vacation rentals.
  - A concentric circle model would support wine country in the downtown corridor but may impose limitations on the new Waterfront Plan, which would be better supported by a spacing restriction.
  - The public comments received by the Planning Commission expressed real concerns about safety issues, school proximity, noise, and other problems. A spacing restriction may be better since allowing vacation rentals to be too close in the downtown corridor may cause further concerns.
  - A spacing restriction for vacation rentals would not address all neighborhood concerns but would keep vacation rentals from taking over neighborhoods.
- Vacation rentals have been approved regardless of public comments because the property met the criteria which made people feel unheard. Should the proposed restrictions go before voters? Existing vacation rentals would be grandfathered in, including those who had not applied for permits.
- PM Downing discussed the possibility of taking a programmatic approach of enhanced enforcement such as using technology to monitor for compliance. Vacation rental platforms could verify who was advertising vacation rental services and the results could be compared to the list of permitted vacation rentals. However, researching vacation rental platforms had produced unreliable results.
  - PM Downing added the Community Development Department was not the main body receiving complaints about vacation rentals. Enforcement policies could be enacted which would tie permitting to monitoring to ensure there were no violations or complaints.
  - If complaints were the exception to the rules, it could be unwise to devote resources where there was no problem. Code compliance complaints did not distinguish between complaints about vacation rentals and other locations making it difficult to determine whether there was really a problem.
- Recommendations could be made to gather further information toward Code Compliance, implementing monitoring and a cap of some kind. Regulations based on zone could allow flexibility for future plans, but may not be distinct enough to enforce, and would not address the downtown area in an ideal way. The recommendation could include several options for capping density of vacation rentals. One possibility was to set a distance restriction based on zone.
  - The Waterfront area could be a prime place for vacation rentals, though mixed zoning may not have many areas consisting of single-family homes. Councilor Olson advised Commissioners not to discount the people who live in neighborhoods that exist downtown.
- PM Downing shared regulation methods being used by nearby Cities including the distance-based restrictions used by McMinnville, density restrictions based on proximity to corridors or community features used by Ashland, and density restrictions by zone used by Seaside. Commissioners could consider restrictions other than density, such as a hard cap on the number of vacation rentals.

- A hard cap on the number of vacation rentals may be more open to legal challenges, may ignore demographic changes, and may seem draconian. However, different hard caps could be applied by zone, distance, or distance within zones.
- A density cap system based on proximity to corridors could be tailored and directed toward the specific needs of the community.
- The purpose of a cap would be to keep vacation rentals from becoming a problem, but throwing out numbers was difficult. The purpose was to create a formula to keep a certain percentage or ratio of private homes to registered vacation rentals, or contiguously account for all inbound homes, but making a cap was difficult with the amount of inbound growth.
- PM Downing discussed the types of procedures, Type I being clear objective criteria, Type II being an administrative decision made with public comment, Type III being a review before the Planning Commission or City Council, and Type IV being a legislative decision. Different types of procedures were used for different zoning districts. PM Downing asked Commissioners to consider whether they concurred with existing procedures.
  - If the Planning Commission was unable to deny vacation rentals when they met certain criteria, the decision should remain a type two procedure.
  - Vacation rentals were a Type III procedure in order to allow the public to express concerns before the Planning Commission and not just the Planning Director. Public concerns were not being addressed when the Planning Commission had to approve the vacation rental based on it meeting objective criteria.
- Discussion of interest in seeing a mechanism for monitoring enforcement, stricter enforcement on the unregulated to bring non-compliant vacation rentals either to the permitting process or to cease operation, tracking incidents, and implementing density control to keep total numbers of vacation rentals from getting out of hand to address the affordability issues, using TLT funding to finance tech solutions for monitoring of vacation rentals to ensure compliance to permitting and paying TLTs, which would create a positive feedback loop.
- Councilor Olson discussed the possibility of determining the total number of vacation rentals that could exist in Newberg if a distance restriction was implemented since providing the numbers to the Council would clarify the impact the restriction would have on the community.
  - While the actual number of vacation rentals operating in Newberg was unknown, vacation rentals occupied less than one-hundredth of housing in Newberg. Was there really a problem?
  - Limiting numbers of vacation rentals before they got out of hand was a good idea as long as the purpose of the limit on vacation rentals could be explained.
- Discussion of concerns about vacation rentals brought up by the public indicated there was a real problem. It was important to be proactive rather than wait until there was a big problem. The City Council had not heard the frustration of the public first-hand, but the Planning Commission had voted unanimously to recommend a 120-day moratorium for a reason.
  - Councilor Olson proposed holding a joint meeting of the City Council and the Planning Commission. A joint meeting could be part of the Planning Commission's recommendation. A joint meeting to discuss vacation rentals with the City Council would be more effective than just sending a recommendation.
- Possibly reaching out to other Cities to ask about what vacation rental problems they had identified, and whether their regulations had solved the problems. For example, why did McMinnville have a 300-foot restriction that was later increased to a 500-foot restriction? What feedback did they receive, and did the restriction work?

- PM Downing affirmed Staff could communicate with other Cities but noted the City Council had only requested an update on vacation rentals, which drifted from the purpose assigned to Staff. The Planning Commission's recommendation could include reaching out to other districts which was an actionable step that could be taken if the City Council added it to their project list. At this time there were no changes to the Code as part of the project list.
- PM Downing reviewed the ideas he had heard including a density-based regulation, enhanced monitoring for violations, and enhanced monitoring for compliance with permitting and TLTs. If those recommendations went through, what would happen with those operating vacation rentals without a permit, and would the policy be effective to address issues?
  - Vacation rentals not in compliance could be given a timeframe to become compliant or cease operation. Current non-compliance was in the form of not paying a TLT. A timeframe could be given to become compliant or grandfathered in areas where density caps were beyond the limits.
  - Tracking the length of non-compliant operation and calculating back taxes would be a mess, but there needed to be some measure of enforcement or people would go around the requirements. Providing a timeframe to become compliant for operation was a cut and dry measure which would be carried out through Code Enforcement.
  - If an area had already reached the density cap, the permitted vacation rentals could be grandfathered in and vacation rentals without a permit could be grandfathered in if they reached compliance within a certain time period. There were already vacation rentals that were grandfathered in without needing to acquire a permit, which made compliance a challenge. Grandfathered vacation rentals could be given an amortization period.
  - PM Downing discussed the regulations for vacation rentals in Hood River to become qualified as lawfully pre-existing, and the seven-year path to requiring full compliance of those vacation rentals. In Lincoln City, a vacation rental that was not a conditional use and was approved prior to current standards could continue operation, provided the owner obtain annual vacation rental licenses. Lincoln City's model was a good example of applying pressure to comply with the rules.

Action: Recommend having a joint session of the Planning Commission and the City Council

Motion: PC Quinn

Second: PC Dale

PM Downing clarified that the Commission could send the recommendation of holding a joint session along with any other ideas that reached a consensus, and he shared a review of concepts agreed upon in the meeting thus far including:

- A joint work session with the City Council to continue looking into and addressing vacation rental regulatory options.
- Enhanced monitoring of permit and TLT enforcement.
- Enhanced monitoring of violations and complaints associated with vacation rentals.
- Possible regulations using a density-based cap, subject to future development.
- Possible amortization of non-compliant vacation rental operators.

PC Dale mentioned there was agreement regarding the vacation rental management process in Lincoln City.



PM Downing stated that the word “monitoring” could be replaced with “enforcement.” He clarified that “enhanced” meant Staff would take further action, although it was uncertain exactly what further actions Staff would take. The Commission was in favor of the wording “enhanced enforcement of permit and TLT activities and compliance, and enhanced monitoring of violations and complaints,” as well as the revision “discussion of amortization of non-compliant vacation rental operators similar to those used by Lincoln City.”

PM Downing read the revised recommendation as follows:

- The City Council and the Planning Commission engage in a joint work session to investigate and consider regulatory approaches for vacation rentals;
- That the City Council consider enhanced enforcement of permitting and TLT activities for improved compliance;
- That the City Council consider enhanced monitoring of violations and complaints associated with vacation rental activities;
- Discuss the need for regulation using a density-based cap.
- Discuss the amortization of non-compliant operators similar to policy used in Lincoln City.

PM Downing indicated that once the Planning Commission recommendation was approved, Staff would present the Planning Commission’s recommendations along with the report on vacation rentals at a City Council meeting.

PM Downing and Councilor Olson discussed contacting the Planning Commission liaison or Mayor to coordinate the joint meeting of the Planning Commission and the City Council.

Action:	To approve presenting the vacation rental recommendations to the City Council
Motion:	PC Quinn
Second:	PC Capri
Vote:	Yes: 5 (Musall, Dale, Quinn, Capri, Griffiths) No: 0 Abstain: 0 Absent: 3 (Hansen, Wright, Newton-Curtis)


#### **ITEMS FROM COMMISSIONERS**

None

#### **ADJOURNMENT**

The meeting was adjourned at 9:15 pm.

Attest:

  
Jeff Musall, Planning Commission Chair

  
Fé Bates, Planning Commission Secretary