

NEWBERG PLANNING COMMISSION MINUTES

December 14, 2023

[Meeting audio begins at public testimony for CUP23-0017 on Page 2.](#)

CALL MEETING TO ORDER

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

ROLL CALL

Members Present: Jeffrey Musall, Michael Griffiths, Avery Hansen, Kriss Wright, Linda Newton-Curtis, and Layne Quinn (via Zoom)

Members Absent: Jason Dale, and Sharon Capri

Staff Present: Interim Community Development Director(ICDD)Clay Downing, Assistant Planner James Dingwall, Assistant Planner Leanne Wagener, Senior Engineer Brett Musick, and Administrative Assistant Fé Bates

PUBLIC COMMENTS

Robert Soppe commented on the importance of having appropriate criteria. Mr. Soppe felt that quasi-judicial meeting procedures should be changed, and he proposed some suggestions for how to do so. Mr. Soppe recommend that Planning Commissioners specify which, if any, criterion is not met when quasi-judicial materials are evaluated by the Planning Commission and a Planning Commissioner is not voting in support of that item.

CONSENT CALENDAR

Approval of September 14, 2023 minutes and October 12, 2023 minutes

[September 14, 2023 minutes.pdf](#)

[October 12, 2023 minutes.pdf](#)

PC Wright abstained from voting for the September 14, 2023 minutes due to being absent from that meeting.

Action: To approve the September 14, 2023 meeting minutes

Motion: PC Linda Newton Curtis

Second: PC Wright

Vote: Yes: 5 No: 0 Abstain: 1 (Wright) Absent: (Dale, Capri)

Action: To approve the October 12, 2023 meeting minutes

Motion: PC Linda Newton Curtis

Second: PC Wright

Vote: Yes: 6 No: 0 Abstain: 0 Absent: (Dale, Capri)

QUASI JUDICIAL PUBLIC HEARINGS

CUP23-0017 for Conditional Use Permit approval to use a single-family home as a vacation rental at 312 E. Chandler Drive

[CUP23-0017 PC Staff Report.pdf](#)

[CUP23-0017 PC Attachment 1.pdf](#)

[CUP23-0017 PC Attachment 2.pdf](#)

[CUP23-0017 PC Attachment 3.pdf](#)

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

PC Hansen read the legal announcement.

Assistant Planner Dingwall presented the Staff Report for the record via PowerPoint and discussed the location, zoning, utilities, and applicable criteria in the Newberg Municipal Code (NMC) Sections 15.225.060, and 15.445.300 – 15.445.350. The single-family home had three bedrooms, provided two off-street parking spaces, and had compatible use and similar size and scope to nearby properties. The property's 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 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 2023-25 with conditions, approving conditional use permit CUP23-0017 for a vacation rental home at 312 E Chandler Dr.

[\[0:01\] Meeting audio begins here.](#)

Public Testimony: Lauren Marugg, Applicant, stated she was excited to apply for the vacation rental and she had thoroughly checked her Application to ensure they had met the requirements.

Staff responded to question from PC Wright asking about "AF-10 zone." ICDD Downing clarified that AF-10 was not a zone that existed in the city. When Staff reviewed the Application, it was determined that the zoning stated in the Application materials was incorrect. The R-1 Zoning cited in the Staff Report was correct.

The original Application had been for four bedrooms; however, the Yamhill County Assessor indicated that the property only had three bedrooms. The floorplan of the house showed four legal bedrooms. If the house was permitted for four bedrooms and a maximum occupancy of eight guests, the property could have shared-housing status and become a park of workforce housing.

ICDD Downing stated that the Applicants could request an inspection from the building department to verify the number of bedrooms. When the Applicants spoke with Staff, they chose to proceed with permitting for three-bedrooms which was consistent with Yamhill County data. The Applicants were welcome to explore alternatives and return at a later date.

ICDD Downing clarified that living onsite and providing short-term rentals added affordability to a property, but there were not restrictions as to whether the whole property or part of the property had to be used as a rental for workforce housing. The property could be considered a home-share in that case, but it was not a requirement. There was a fee associated with getting an additional building inspection which ICDD Downing estimated at around \$150.

PC Wright stated that Vrbo was not accredited with the Better Business Bureau and had a rating of only 1.4 and an active alert indicating an investigation into the company with a lot of underlying issues and disputes. PC Wright was not in favor of voting for a vacation rental that would be using Vrbo.

A public submission was entered stating there was an Americans with Disabilities Act (ADA) sidewalk ramp in front of the property that could potentially become blocked by people parking illegally in front of the ramp, which would be a parking enforcement issue that could be handled by calling Code Compliance or the Police Department non-emergency dispatch.

Chair Musall closed the public hearing.

Staff recommendation remained the same.

ICDD Downing clarified that asking vacation rental owners not to use a certain service or platform because of bad ratings was not related to the applicable approval criteria.

PC Newton-Curtis discussed how vacation rentals impacted livability for residents. Property owners who did not live onsite were often away and unable to be contacted by neighbors to resolve concerns. The property in question had previously been left vacant for some time. An elderly neighbor had shared concerns about being able to maintain a stable neighborhood environment, especially in the case of medical emergency.

PC Wright noted that the meaning of the word “livability” was subjective. The City had reached out with surveys to determine the meaning of the word, which appeared to vary between different groups. The City was working on criteria to determine and address livability issues.

ICDD Downing explained that there were options other than approving or denying the Application, such as setting conditions that must be achieved before the permit became effective or leaving the case to be determined at a later point. The conditional use permit criteria tended to be very broad and highly subjective. When specific concerns were raised, such as being able to contact a neighbor, imposing certain conditions could be justified through NMC 15.225.80 which stated a hearing body could designate conditions deemed necessary in connection with the general conditional use permit criteria and require evidence that such conditions were complied with. The point of a conditional use permit was to allow the Planning Commission the opportunity to remedy problems identified in potential projects.

PC Griffiths noted the wide subjectivity within the definition of livability and stated that in one of the letters submitted a resident stated in the time they lived at that neighborhood, which was a little over a year, there had been four properties within 500 ft which had requested permission to become a short-term rental.

ICDD Downing stated that the definition for livability would be among a list of things that Staff could consider revising in the future. Livability had been brought up in the past year mostly relating to short-term rentals.

PC Newton-Curtis committed to continue addressing livability.

PC Griffiths stated issues with livability were not only applicable to this Applicant, and the State had guidelines for residential short-term rentals, which is somewhat of an oxymoron as a short-term rental was a business. Some Applicants have applied to rent out a room, but when the owner did not live on site the purpose of the property was to generate ongoing income.

PC Wright stated that the City issued home occupational permits, which was also a business. PC Wright thanked those who had submitted public testimony, especially for use of open language such as “potential outcomes” or “risk of” versus language such as “won’t be accepted in our neighborhoods” as the latter language could imply safety concerns in the future if the vacation rental was approved. People who used vacation rentals were not necessarily partiers as would be indicated by Police data in upcoming presentations to the Planning Commission and the Short-Term Rental Ad Hoc Committee.

PC Newton-Curtis explained that elderly people like to be able to reach out to neighbors in the case of medical emergencies, leaky taps, or for other support. Younger people also needed support.

Chair Musall stated the Commission had no obligation to dictate who someone’s neighbors were. The most important factor was the impact on livability as far as the cost of living and taking available housing off the market. Rather than going around in circles over undefined issues, the focus should be on identifying issues that could be used to restrict vacation rentals due to the volume of Applications which were removing homes from the market. Homeowner rights were important and needed to be balanced with the impact on the City as a whole, but not necessarily the impact on individual neighbors. Chair Musall looked forward to actionable restrictive regulations on vacation rentals being approved.

PC Wright stated there were no requirements regarding whether vacation rental operators had a one-year lease or a month-to-month lease. It was understandable to want to know your neighbors, but with the variables of life it could not be guaranteed.

Action:	To approve Planning Commission Order 2023-25 with conditions, approving Conditional Use Permit CUP23-0017 for a vacation rental home at 312 E Chandler Dr
Motion:	PC Wright
Second:	PC Quinn
Vote:	Yes: 3 (Musall, Wright, Quinn) No: 3 (Griffiths, Newton-Curtis, Hansen) Abstain: 0 Absent: 2 (Dale, Capri)

The motion failed to pass. ICDD Downing advised that at this point there could be a motion to deny the Application, the motion could be amended, or the Commission could deliberate regarding how to proceed.

Action: To deny Planning Commission Order 2023-25 for Conditional Use Permit CUP23-0017 for a vacation rental home at 312 E Chandler Dr

Motion: PC Wright
Second: PC Newton-Curtis
Vote: Yes: 3 (Griffiths, Newton-Curtis, Hansen)
No: 3 (Musall, Wright, Quinn)
Abstain: 0 Absent: 2 (Dale, Capri)

The motion failed. Commissioners continued deliberation.

ICDD Downing referred to comments by Mr. Soppe about applicable criteria found in the Newberg Municipal Code which mentioned livability amongst other characteristics. ICDD Downing recommended that Commissioners deliberate which of the problems brought up in public comments and concerns could be solved, and encouraged those who favored denying the Application to determine what could not be resolved resulting in the decision to deny based on the applicable criteria including issues of livability.

Chair Musall opened public comment.

Ms. Marugg stated that she had friends and family living on the same street as her property who could help with the vacation rental, if it was approved. Ms. Marugg had not received any phone calls or contact attempts regarding anything happening with her property while she was away, and she was concerned that public comment was received regarding being unable to contact her. Ms. Marugg's family living on that street had her contact information, as did some neighbors, and she had followed the City's protocol for notifying nearby property owners. A sign posted in Ms. Marugg's front yard had contact information only for the City.

PC Griffiths stated the number of vacation rentals in a small area spoke to the livability issue.

PC Wright was concerned that the vacation rental was near a school but there was no relevant criteria.

Chair Musall acknowledged if the denial was not based on established criteria, it would create a situation where the Applicant could request another review and override the decision.

ICDD Downing clarified that Commissioners were not required to cite why they chose to deny an Application. However, decisions not based on City's criteria were vulnerable to being overturned if appealed to the City Council or the Land Use Board of Appeals (LUBA), which was discussed in the legal announcement preceding each public hearing.

Chair Musall emphasized the importance of having a strong foundation based on criteria to back up denial to avoid appearing easy to overturn.

PC Griffiths stated he would cite that livability was being impacted as a reason for denial.

Chair Musall closed public testimony.

PC Wright read a letter from the Police Department for the record stating that out of the 73 vacation rental addresses in Newberg, a total of 14 calls for service had been received regarding eight of the addresses, and the calls were comprised of one parking complaint, one junk complaint, one barking dog complaint, one dog-at-large complaint, two noise complaints, six behavioral health incidents, one information complaint, and one harassment complaint. Behavioral health incidents often involved someone in a mental health crisis because of existing mental health conditions, behavior altering drugs, or a combination of both, whose behavior was outside of social norms and was causing public concern that the person may harm themselves or others. Information calls did not require Officer response and regarded situations the caller did not know were permitted. Of all the calls for service, six calls involved a single property, five calls were initiated by the property owners, one information call and one noise complaint each were regarding a behavioral health incident that had already been reported, and one call was from a vacation rental tenant regarding their concerns about the neighborhood. No discernable trends were apparent based on the few incidents reported. Police and Code Enforcement responded to up to 27,000 calls for service per year, and short-term rental related calls comprised less than one half of a percent of those calls. Vacation rentals represented less than one percent of housing in Newberg. Sergeant Eric Roning, Supervisor of Code Compliance, had submitted the letter to both the Planning Commission and the Short-Term Rental Ad Hoc Committee. Some of the language used in letters from the public was assumptive and fear-based, but tangible data from the Police Department showed that the fears about vacation rentals were not realistic.

PC Griffiths stated that livability pertained to much more than safety incidents requiring Police response. As the volume of vacation rentals increased, the community was affected by the removal of potential long-term rentals from the market to be used as a business. The letter from the Police Department was reassuring, but only addressed one aspect.

Chair Musall stated that affordability of housing was a city-wide issue and was not relevant to individual Applications. Chair Musall called a 10-minute recess.

Chair Musall re-opened the hearing.

ICDD Downing stated that the Planning Commission guidelines did not offer guidance about what occurs in the case of a deadlock. If a vote occurred, any Commissioners present were required to vote or abstain and to declare a reason in the case of abstention. Without a majority, the matter would remain unapproved if the agenda item was closed or tabled. The agenda item could be tabled until January, provided that either the 120-day State-required rule on providing a decision was followed, or the City asked the Applicant to grant a voluntary extension. If the Planning Commission was unable to provide a decision, Staff could bring the item forward to the City Council. At this point with no approval and no denial, the matter was still open for decision. The deadline for issuing a decision according to the 120-day rule was February 28, 2024.

Action:	To table Planning Commission Order 2023-25 for Conditional Use Permit CUP23-0017 until the January 11, 2024 meeting of the Planning Commission
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Motion:	PC Wright
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Second: PC Newton-Curtis
Vote: Yes: 6 No: 0 Abstain: 0 Absent: 2 (Dale, Capri)

Chair Musall closed the public hearing until the January 11, 2024 meeting of the Planning Commission.

The Planning Commission addressed Item V.C CUP23-0015/MIMD323-0002 Conditional Use Permit and Minor Modification of Crestview Green Planned Unit Development at this time.

CUP23-0016 for Conditional Use Permit approval to use a single-family home as a vacation rental at 609 E Sheridan Street
[CUP23-0016 VR 609 E Sheridan St Staff Report DRAFT.pdf](#)

The Planning Commission addressed this item immediately following Item V.C CUP23-0015/MIMD323-0002 Conditional Use Permit and Minor Modification of Crestview Green Planned Unit Development.

Chair Musall opened the public hearing and called for any abstentions, bias, ex parte contacts, or objections to jurisdiction. PC Newton-Curtis declared that she lived within 500 feet of the subject property but would not let that affect her vote.

PC Hansen read the legal announcement.

AP Wagener presented the Staff Report for the record via PowerPoint and noted that there had been an error in the mailer referencing a wrong address, but this had been corrected on the webpage prior to the hearing. One public comment had been received before completion of the Staff Report. AP Wagener discussed the location, zoning, utilities, and applicable criteria in the NMC Sections 15.225.060, and 15.445.300 – 15.445.350. The single-family home had three bedrooms, provided two off-street parking spaces, and had compatible use and similar size and scope to nearby properties. The property was located approximately 400 ft south of 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 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 2023-24 with conditions, approving conditional use permit CUP23-0016 for a vacation rental home at 609 E Sheridan St.

Public Testimony: Christian Petersen, Applicant, stated he assumed his Application would be tabled, but he wanted to see if he met the current criteria with his Application.

PC Wright identified a typographical error on page 20 referencing CUP22-0017 and an incorrect address. Staff confirmed the current Application was CUP23-0016 for a vacation rental at 609 E Sheridan St.

Mr. Petersen stated that he lived down the road from this property and could enforce the parking limit of only two vehicles by driving by the property frequently as well as stating the two-car limit automatically in the booking email with the rules for staying at the property.

PC Wright noted that the City had free parking lots that could be used if guests needed extra parking.

ICDD Downing stated that on-street parking was available to the general public and confirmed that only two off-street parking spaces were required to be provided by the Applicant.

Public comment provided by Robert Soppe who stated he was a neighbor of the subject property. Mr. Soppe stated he was not speaking for or against the specific vacation rental, and just wanted to comment on the property and the long-term view of vacation rentals. Mr. Soppe noted that a previously approved vacation rental that had claimed to provide two off-street parking spaces did not really have the spaces available that they had claimed, but the subject property actually had the two required off-street parking spaces. Mr. Soppe hoped the property owner would make the garage parking space convenient so occupants would actually use the space in the garage. The property was on a block that only allowed parking on one side, was around the corner from another block that only allowed parking on one side and was half a block away from a large facility that was recently given a 60 percent reduction in parking requirements. Parking availability was a common issue in the immediate area around the subject property. The property was limited to six occupants, but Mr. Soppe could not find a definition for “occupant” in the NMC. It was unclear whether the property could never have more than six guests at one time, or if the limitation only applied to overnight guests. Mr. Soppe had observed that the occupancy limit in other vacation rentals was often exceeded during the day, and wondered if this limit was enforceable by the Police. Mr. Soppe recommended a change to Item 3 in Exhibit B regarding refuse collection to remove the words “every Monday” to allow Waste Management the flexibility to change the pickup schedule. Mr. Soppe appreciated the Planning Commission’s previous request to the City Council requesting that the City consider creating policies regarding vacation rentals and recognized that without Code changes the Planning Commission was limited in their ability to deny vacation rentals meeting the existing criteria. The neighborhood surrounding the subject property already had a significant number of vacation rentals, and three of the five properties on the same side of the street would be vacation rentals if this Application was approved. The Application had a comment about three Applications within 500 ft, but if this Application was approved there would be five vacation rentals within 300 ft. Mr. Soppe hoped the Planning Commission would continue to provide input on future Code changes to address vacation rentals.

ICDD Downing confirmed that his interpretation of the occupancy limit was that it applied only to overnight guests. Limits on the number of people allowed in the home during the day would be determined by safety or nuisance guidelines provided in the NMC. ICDD Downing did not know of any Code that would provide a basis for enforcement of the number of people in the building. If a complaint about exceeding the occupancy limit was brought forward to the Planning Department, they would be forced to look at the incident as a possible violation.

Mr. Petersen confirmed he planned to enforce the six-guest limit overnight.

Chair Musall closed the public hearing.

Staff recommendation remained the same.

PC Newton-Curtis felt it was wrong to allow 60 percent of homes on the subject property's block to become vacation rentals. The public comment that had been submitted was written by a woman who had submitted three previous comments regarding vacation rentals. PC Newton-Curtis lived near the subject property but was not speaking from bias but on principle in stating that having 60 percent vacation rentals in a neighborhood would impact livability.

PC Wright clarified the difference between all the houses on a block, and the houses on one street frontage. PC Newton-Curtis had looked at four blocks surrounding the subject property, and out of 37 residences 11 would be vacation rentals if this Application was approved, which was 29 percent or almost one-third of the houses in the area. PC Newton-Curtis felt this percentage impacted livability and it would be wrong to allow it.

PC Wright stated that the current Code did not have any regulations regarding density of vacation rentals, and that denying an Application that met the criteria could make the City vulnerable to a lawsuit.

ICDD Downing agreed that Commissioners should not arbitrarily deny Applications, but the livability of the area was part of the criteria. Usually, the language in the Code criteria was used to create findings, such as that the excessive number of vacation rentals was having an impact or did not meet the project criteria. Former Community Development Director Rux had encouraged Commissioners that if they were going to deny, propose denying or add conditions to an Application that it should be based on a finding, that adding conditions to bring the impact to an appropriate level should be considered before denial, and denial should only occur if the issues could not be mitigated. Denying an Application could potentially be taking away private property rights. Though the Commission had the ability to approve or deny things, there were better and worse ways to do so. Denying an Application without basing it on findings could be construed as arbitrary or capricious versus consistently basing findings on the criteria. ICDD Downing encouraged Commissioners to consider what they had qualms with, consider ways to remedy the issues based on the criteria, and if they chose not to support an issue to make a finding or "because statement" on behalf of the City to state why the criteria was not being met.

PC Newton-Curtis asked about the feasibility of using the finding that 30 percent of the residences in the four blocks around the subject property were vacation rentals, or proposed vacation rentals, which impacted livability. ICDD Downing advised that statement could work, although Applicants could contest that there were no existing standards regarding vacation rental density. The public comment that had been received for this hearing had focused on the number of short-term rentals in the area which would be a difficult issue to remedy, so the question would be whether it met the existing criteria. ICDD Downing suggested structuring findings with an observation, such as there being a certain number of vacation rentals in an area, and reasons why the criteria had not been met, such as homes which were frequently unoccupied or had other factors negatively affecting livability. Other properties with similar Applications had been approved, but they were different properties which may have a different impact on the community. Staff had no criteria for density-based standards, and there was also no definition for livability which made it harder to use as a defensible basis for denial.

PC Griffiths said that NMC 15.225.060 Subparagraph A discussed livability in the context of the location, size, design, and operating characteristics of the proposed development, and stated that the property must

be reasonably compatible with and have minimal impact on livability. This piece of Code could be cited as the reason for denial of a vacation rental Application.

Action: To approve CUP23-0016 to use a single-family home as a vacation rental at 609 E Sheridan St.

Motion: PC Wright

Second: PC Hansen

Chair Musall asked whether PC Newton-Curtis driving by the subject property counted as ex-parte contact. ICDD Downing stated that should have been disclosed at the beginning of the hearing but did not constitute ex-parte contact. PC Newton-Curtis confirmed this did not bias her opinion as she had been making the same arguments against other vacation rentals regardless of their location. People in the area were protesting over houses in the area. PC Newton-Curtis drove by the subject property on a regular basis, and regularly walked by the property while walking her dogs.

Vote: Yes: 4 (Quinn, Musall, Wright, Hansen)

No: 2 (Griffiths, Newton-Curtis)

Abstain: 0 Absent: 2 (Dale, Capri)

The Planning Commission addressed Item VI. New Business at this time.

CUP23-0015/MIMD323-0002 Conditional Use Permit and Minor Modification of Crestview Green Planned Unit Development at 4813 and 4821 Portland Road

[CUP23-0015 MIMD323-0002 Staff Report.pdf](#)

[Attachment 1 Application Materials.pdf](#)

[Attachment 2 Agency Comments.pdf](#)

[Attachment 3 Public Comments.pdf](#)

[Attachment 4 Five Party Agreement.pdf](#)

[Attachment 5 Planning Commission Order 2022-06.pdf](#)

This item was addressed immediately following Item V.A CUP23-0017 for a vacation rental at 312 E. Chandler Drive.

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

PC Hansen read the legal announcement.

Assistant Planner Leanne Wagener presented the Staff Report for the record via PowerPoint and discussed the following points:

- This request regarding the Crestview Green properties, owned by Bruce and Valerie Thomas, related to the CUP22-0001 and PUD 22-0001 cases for Crestview Green from last year.
- AP Wagener discussed the location, the zoning (R-1, R-2, and C-3), and applicable criteria found in the NMC Sections 15.225, 15.220.060, and 15.240.

- The two property lots were brought into the Urban Growth Boundary in January 2007 and were annexed into the City limits in 2008.
- A lot line adjustment was completed in 2022 to allow a stream corridor at the northeast corner of the site to become part of the lot.
- The Crestview Green Planned Unit Development was approved by the Planning Commission on June 9, 2022 as Planning Commission Order 2022-06. The original approval included a 111-lot single-family, townhouse, and apartment development with a total of 133 residential units. Conditions of approval were attached and included in Commissioner's packets for reference.
- The previous CUP had expired, but as the proposed application was only modifying the proposed construction timeline by one year and was not proposing any changes to the development as it was previously approved, the modification would not affect the location, size, or operating characteristics associated with the planned unit development. The Applicant acknowledged that they would need to adhere to all previous conditions and carry out construction, site development, and landscaping in accord with the plans, drawings, conditions, sketches, and other previously approved documents from CUP22-0001 and PUD22-0001. The Applicant acknowledged they would be required to commence construction within one year of a favorable decision on the Application.
- NMC 15.220.060 provided for modifications to previously approved developments that were within a five percent change of the previous proposal which did not significantly alter the impact on surrounding properties. The Applicant requested a one-year shift in the construction timeline from the previous approved Planned Unit Development (PUD).
- AP Wagener detailed the phases of construction for the project and the construction goals associated with each phase. The Application had fully described the phasing sequence and could assure that the project could be completed as described.
- The development would proceed according to the timeline described in the Application beginning in 2024 and ending in 2026.
- The Applicant had acknowledged that they must stay in sequence with all submittal materials and the approved phasing of the project so that the PUD would not expire prior to execution. The Applicant had acknowledged that they shall complete the required landscaping as previously approved with PUD22-0001 prior to certificate of occupancy or post-performance bond for completion of work as required by the Director.
- Staff had received one public comment which had been included in the supplemental packet for review.

Staff recommended that the Planning Commission move to adopt Planning Commission Order 2023-0023 which approved the requested new Conditional Use Permit CUP23-0015 and Minor Modification MIMD323-002 of previously approved Planned Unit Development PUD22-0001.

Public Testimony: Mercedes Serra, 3J Consulting, represented the Applicant and property owners of the Crestview Green Planned Unit Development. Westwood Homes, Applicant, proposed a new Conditional Use Permit and a modification of the original PUD to adjust the phasing schedule for the project by one year. The proposed modification would not alter the design in the original proposal. The development would include a mixture of detached single-family homes, attached single-family homes, and multi-family apartments. A Conditional Use Permit was required because of the C-2 Commercial zoning on the south portion of the site with residential use allowed by permit only. Ms. Serra described the three phases of construction for the PUD and included details on the extensions of Willakenzie St and Jory St, construction of private streets A, B, C, and D, provision of fire access, OR-99 frontage improvements including a bike

lane, curb sidewalk, and streetlights, construction of a pump station and a Stormwater facility, realignment of Benjamin Rd, and parking and landscape provisions for the multifamily development. The project was anticipated to be completed within the proposed adjusted timeframe.

Chair Musall closed the public hearing.

Staff recommendation remained the same.

AP Wagener and ICDD Downing confirmed that public notice had been sent out regarding the project.

Administrative Assistant Bates and PC Wright worked to identify a discrepancy with the “Attachment 5_Planning Commission Order 2022-06.pdf” file which had been attached to the digital agenda but was missing from the hard-copy Commissioner packets, and had been referenced in the narrative of the Staff Report but was not on the cover page. The link included in the agenda worked to access the document.

Action:	To approve CUP23-0015/MIMD323-0002 Conditional Use Permit and Minor Modification of Crestview Green Planned Unit Development
Motion:	PC Wright
Second:	PC Newton-Curtis
Vote:	Yes: 6 No: 0 Abstain: 0 Absent: 2 (Dale, Capri)

The Planning Commission addressed Item V.B CUP23-0016 for a vacation rental at 609 E Sheridan Street at this time.

NEW BUSINESS

PC Resolution 2023-391 – A Planning Commission Resolution of Appreciation for Public Service Provided by Doug Rux to the City of Newberg and its Residents
[12-14-23 Staff Report and Resolution 2023-391.pdf](#)

This item was addressed immediately following Item V.B CUP23-0016 for a vacation rental at 609 E Sheridan Street.

ICDD Downing stated that the former Community Development Director Doug Rux retired on November 1, 2023 after doing a lot of valuable work for the City of Newberg. The Staff Report discussed things that former CDD Rux had done for the City over his tenure. Commissioners chose to hear the Resolution as read by title only.

Mayor Rosacker acknowledged the important contributions made to the City by former CDD Rux.

PC Wright stated everyone had relied on CDD Rux at moments when they did not know what to do. PC Wright stated that CDD Rux would be missed, and that she looked forward to meeting the new Community Development Director as the City was currently hiring for that position. PC Wright thanked CDD Rux for his service to the City and wished him a happy retirement.

ICDD Downing stated that CDD Rux was aware this item was on the agenda and although he was unable to attend the meeting, he had expressed his appreciation for being recognized.

Action:	To approve GN23-0010– A Planning Commission Resolution of Appreciation for Public Service Provided by Doug Rux to the City of Newberg and its Residents
Motion:	PC Wright
Second:	PC Quinn
Vote:	Yes: 6 No: 0 Abstain: 0 Absent: 2 (Dale, Capri)

The Planning Commission congratulated CDD Rux and wished him luck moving forward.

ITEMS FROM STAFF

Anticipated Schedule of Planning Commission Activities and Staff Updates

[Planning Commission Forward Looking Calendar.pdf](#)

[Staff Updates for Planning Commission \(attachments\).pdf](#)

[1:58:35]

ICDD Downing discussed the following points with Planning Commissioners:

- The retirement of CDD Doug Rux in November 2023.
- The Planning Commission's recommendations on short-term rentals had been received by the City Council along with the white paper and the Police statement on short-term rentals, which had also been available at the Short-Term Rental Ad Hoc Committee (STRAHC) meeting. The City Council chose not to take action on the Planning Commission's recommendations at that time except to say they wanted to receive recommendations from the STRAHC before taking action. When Staff brings the topic again to the City Council, the STRAHC recommendations will be provided alongside the Planning Commission's recommendations, the white paper, and the Police statement documents.
- STRAHC meetings were open to the public.
- ICDD had begun an email list months ago to keep interested parties informed about the work being done on short-term rentals. Commissioners or members of the public could be added to the email list by request. Several Commissioners requested to be added to the email list.
- The next STRAHC meeting would be in January 2024 which would likely be the last meeting held with the purpose of wrapping up the recommendation for the City Council. It appeared that the STRAHC would likely recommend that the City Council give a work assignment to Staff.
- ICDD Downing appreciated the recommendations made by the Planning Commission which had included as the first recommendation a joint session with the City Council.
- PC Griffiths was concerned that there was too little interest in solving the issue of short-term rentals and suggested that City Manager Will Worthey could write an editorial or make an appearance at the Newberg City Club to inform the public on the topic of short-term rentals.
- Staff had not been given any specific task in relation to short-term rentals and had been trying not to overstep while determining the direction of the City Council. The email list of interested parties was somewhat small and interest in the topic could be increased. People who have made public comments on the matter or have shown other interest may be contacted in the future if the project becomes more serious. ICDD Downing would consider writing an editorial or asking the City Manager to write an

editorial for the newspaper or asking the Newberg City Club if someone could be scheduled to speak on the topic of short-term rentals, which were both good forms of public outreach. If Staff was directed by the City Council to do work on short-term rentals, Staff would recommend that the City Council include public outreach and community involvement in the scope of work of the project, as the public had strong and diverse opinions on the topic, and there were many different approaches being taken by other jurisdictions statewide.

- PC Wright stated that in the Staff Updates for Planning Commission Memorandum (attached above) a paragraph at the bottom detailed the dates of the meetings of the STRAHC and stated they were open to the public and that the agendas and minutes were available on the Newberg City website. When PC Wright looked up the information on the meetings she identified several discrepancies, including a meeting that occurred but was not posted, a meeting that had been cancelled, and meetings that did not have minutes attached. PC Wright encouraged other Commissioners to read through the meeting minutes of the STRAHC before the next meeting.
- ICDD Downing committed to have a Staff member send all the information received and generated by the STRAHC thus far to the Planning Commissioners.
- Staff had been directed by the City Council earlier in the month to initiate a sequential Urban Growth Boundary (UGB) amendment which was the first step of a very large and long-term project. Although the scope of work was still undefined, it was likely that some of the steps of the UGB project may come before the Planning Commission or the Newberg Urban Area Management Commission (NUAMC).
- DCI International had a fire occur in their facility in 2022 and an Emergency Ordinance had been adopted to put a restriction on land use regulations to allow them to temporarily occupy another building where that use would not typically be allowed. DCI had requested an extension of the Ordinance to allow them more time to rebuild.
- Staff had been considering process improvements in customer service in response to customer-service oriented City Council goals. Staff may reach out to the Planning Commission, external stakeholders, and others to ask for participation in a work session or open house to provide input on how Staff was doing things and how things could be made easier and simpler for the public to understand.
- The Update Memorandum had included an attachment that was a statement from the Newberg-Dundee Police Department.
- A pair of graduate students from California Lutheran University were doing a Capstone project study related to enhancing local government service delivery and promoting good governance. A Staff member had attended their Public Policy and Administration program, so Faculty had reached out to ask for participation in the study as it was aligned with current City Council goals that had been shared. The study hoped to determine what good service delivery from local governments looked like, and what reasonable expectations could be set.
- ICDD Downing committed to continue posting the Planning Commission Forward-Looking Calendar to keep Commissioners informed about upcoming matters.
- PC Griffiths asked about the feasibility of looking at advertised short-term rentals to identify short-term rentals that were not compliant with City regulations. Software modules were available to the City that would automatically identify advertised short-term rentals that were not authorized.
 - ICDD Downing stated that technology enhanced enforcement had come up particularly in the meetings of the STRAHC, who were very interested in compliance rates. The three streams of information regarding short-term rental compliance were vacation rental permits, business licenses, and Transient Lodging Tax (TLT) remittances. If a vacation rental was not participating in any of those compliance activities, Staff would have no information on the rental property which would

confuse the process of doing a search for non-compliant vacation rentals on Airbnb and Vrbo platforms, as well as the added uncertainty of timeframes which limited the reliability of the information.

- Technology enhanced enforcement had been mentioned in the white paper indicating the desire for higher compliance rates to avoid City revenue loss and to enforce rules consistently. The City Council may be in favor of using enhanced options to ensure high levels of compliance, which may include using technology, but no funds had been allotted for enhanced enforcement in the current budget. If Staff was directed to work on instating enhanced enforcement during the winter, the funding could potentially be worked into the next year's budget.
- PC Newton-Curtis asked about the estimated total yearly revenue of TLT. ICDD Downing was unsure of the amount or which institutions had paid what amount into the TLT. TLT was part of the City's revenue portfolio, and the amount had been increasing in recent years.
- PC Wright stated that in her first conditional use permit hearing in 2019 she had seen over 277 vacation rental listings in Newberg on one website. The Planning Commission had previously received public comment stating that non-compliance allowed vacation rental operators to sidestep tenant-landlord issues and created loss of City revenue.
- According to Staff information, the amount of TLT between July 2021 and June 2022 was \$947,256.08. The portion of the TLT from vacation rentals was approximately \$96,526 which represented around 10 percent of TLT. Staff could further differentiate between sources of TLT in the future, if directed to do so.

ITEMS FROM COMMISSIONERS

PC Newton-Curtis hoped to find out who was in charge of the Christmas lights in Newberg, which were not impressive when compared with the holiday lights of other nearby communities, and often had burnt out bulbs in the display.

Chair Musall thought Chehalem Parks and Recreation District (CPRD) handled the lights.

ICDD Downing stated that the responsibility for holiday lighting varied by location, but some of the holiday lights, banners on streetlights, and decorations at City Hall were done by the Public Works Department. Grievances or constructive input could be sent to the Public Works Department, or to City Councilors. CPRD was responsible for decorations in parks. Staff at City Hall had put up very festive and inviting decorations, and ICDD Downing encouraged Commissioners to stop in to visit.

Administrative Assistant Bates stated that the Public Works Superintendent stated that the old holiday lights that were being used had been around for a long time and were nostalgic. Public Works had been working to replace the bulbs LEDs to extend the life of the lights. The Fire Department also had a say in holiday lighting. Concerns could be brought up to the City Council.

PC Newton-Curtis suggested putting up a notice letting the public know that the lights were being used for nostalgia.

ADJOURNMENT

The meeting was adjourned at 9:49 pm.

ATTEST



Planning Commission Chair

Fé Bates, Planning Commission Secretary