

MINUTES
MULTNOMAH COUNTY BOARD OF COMMISSIONERS
SEPTEMBER 18, 1990 MEETING

Chair Gladys McCoy convened the meeting at 9:35 a.m., with Vice-Chair Gretchen Kafoury and Commissioner Sharron Kelley present, and Commissioners Pauline Anderson and Rick Bauman absent.

Chair McCoy announced that Commissioner Anderson is out of town and Commissioner Bauman will be late.

1. CU 15-90
HV 10-90 De Novo Review of the July 9, 1990 Planning Commission Decision denying request for a conditional use and variance to allow the use of an existing 30' x 40' building as a kennel for the applicant's own show dogs plus the establishment of a pet grooming facility. The proposal would require a variance to the 250' property width and 2 acre minimum site size requirements for sites with kennels, boarding or breeding of 4 or more dogs over 6 months of age, all for property located at 5031 SE Jenne Road

At the request of Chair McCoy, Deputy County Counsel John DuBay outlined the process for today's hearing, explaining Board members should announce any ex parte contacts they may have had, then Planning staff will present its report, appellant will present any additional testimony and the Board may then affirm, reverse or modify the Planning Commission decision.

Vice-Chair Kafoury announced that appellant works in the grooming shop where she takes her dog, but they curtailed a conversation which may have touched upon this issue.

Commissioner Kelley and Chair McCoy stated they had no ex parte contact with appellant.

Planner Mark Hess gave the staff report and outlined the basis for the Planning Commission's denial. Mr. Hess submitted copies of a letter from neighbor Lynda Pumpelly expressing concern over the noise.

In response to questions of Chair McCoy, Mr. Hess advised he has been to the site where appellant keeps her 20 afghans in a 30 by 40 foot metal barn structure; and that the County requires that appellant first obtain land use approval in the form of a conditional use permit for a kennel and then she must obtain a facility license from Animal Control.

In response to a question of Commissioner Kelley, Mr. Hess advised he could not address whether the County ordinance is consistent with City of Portland regulations concerning dog kennel businesses.

In response to Vice-Chair Kafoury asking about how Gresham deals with these issues, Mr. Hess advised he met with Animal Control about a year ago and they discussed the fact that neighboring jurisdictions have slightly different regulations from the County, ranging from the number of dogs which would represent a kennel, to a distinction between commercial and hobby show dogs.

Appellant Cathy Todd of 5031 SE 174th, testified that her kennel building abuts property which neighbor Jody Fritz uses as a horse pasture and that it floods every year and is inappropriate for residential use. Ms. Todd explained the surrounding area is rural with some light industry.

In response to questions of Chair McCoy, Ms. Todd advised her kennel building is about 200 feet from Ms. Pumpelly's property, who seems to be the only neighbor in the area impacted by noise. Ms. Todd explained she has lived with her 20 show dogs at her present address for almost 2 years and estimated there may be 500 people living in Multnomah County who have more than 3 dogs and do not have licenses.

In response to a question of Vice-Chair Kafoury, Ms. Todd advised that 5 years ago she had a facilities permit from the City of Portland allowing her to keep 16 dogs in the basement of her home on a 40 by 80 foot lot.

In response to questions of Chair McCoy, Ms. Todd advised she does not intend to have more than 20 dogs and that she has had 4 dogs surgically debarked and plans to have the procedure performed on the rest of them. Ms. Todd explained the process and advised it does not appear to negatively impact the animals and would curtail the noise. Ms. Todd advised she has plywood on the walls of the kennel now, but has hesitated to expend anymore funds pending resolution of this issue.

In response to questions of Commissioner Kelley relating to the original application, Ms. Todd advised that due to conditions which would be placed on the establishment of a dog grooming shop, she has dropped those plans and her appeal is just asking for a permit allowing her to keep the dogs. Ms. Todd explained she had received an Animal Control citation for unsanitary conditions once which occurred during a time she was physically incapacitated, and that she received a citation for not having a facilities permit last October and is attempting to obtain one with this process.

Mr. Hess advised that for the purposes of Planning's appeal notice, they must report to the Board the issue which was considered and decided by the Planning Commission. Mr. Hess stated appellant would have to alter her application if she wishes to obtain land use approval for the kennel only.

Vice-Chair Kafoury proposed that the County determine what requirements other jurisdictions have in place so the County is not applying a different standard than neighboring jurisdictions, and possibly revise the County ordinance to comply with them.

Mr. Hess noted the process for revising the County's ordinance would take 3 to 4 months to complete. Mr. Hess suggested in the interest of staff time that Ms. Todd be directed to gather the information from the other jurisdictions.

Ms. Todd advised that she has spoken with Animal Control and they say their facilities permits average 20 show dogs, and opined the County would make money if it would change its current zoning policies.

Chair McCoy stated she would prefer having her staff research that matter rather than asking appellant to do it; and suggested that Ms. Todd address as many of the concerns raised as possible prior to submitting a new application.

In response to a question of Vice-Chair Kafoury, Mr. DuBay advised the Board could only either affirm, reverse or modify the Planning Commission decision and that it would be difficult to modify the denial.

In response to a question of Chair McCoy, Mr. DuBay advised the Board could affirm the Planning Commission denial and instruct staff to look at amending the County ordinance regarding dog kennels.

In response to questions of Vice-Chair Kafoury, Mr. Hess advised he does not believe there is a time restriction in connection with reapplication of appellant's conditional use permit, but that Ms. Todd could make a new application immediately.

Commissioner Kelley expressed concern regarding the conditional use application which appears to be substantially different from what Ms. Todd is appealing to the Board, advising she feels the effort made this morning was not in anyone's best interest and that Ms. Todd should have gone through a different process.

In response to questions of Commissioner Kelley, Mr. DuBay related that Ms. Todd asked for a conditional permit to keep animals and to conduct a grooming business, the Planning Commission denied that application, it was appealed, and the issue the Board must respond to is the Planning Commission decision. Mr. DuBay stated if appellant wants to withdraw her application and submit a different one, it would be a new issue. Mr. DuBay advised appellant still needs a conditional use permit to keep in excess of 4 dogs.

Commissioner Kelley suggested that the Board affirm the denial and release appellant from having paid the fees to mitigate the process of going back to the Planning Commission.

UPON MOTION of Commissioner Kafoury, seconded by Commissioner Kelley, the July 9, 1990 Planning Commission Decision denying request for a conditional use and variance in case CU 15-90, HV 10-90 was UNANIMOUSLY AFFIRMED.

Chair McCoy asked Ms. Todd to work with Mr. Hess on the process to submit a new conditional use application and advised that her office will find out what the other jurisdictions do and share it with the Board as soon as they get that information in an effort to bring some uniformity to the County ordinances.

In response to Commissioner Kelley's earlier comment, Mr. Hess stated that this process brought the Board's attention to a potential problem with the County zoning ordinance and so he does not feel it was a wasted effort as there is no way Planning staff would be able to take on a new study or issue such as this unless staff was directed to do so.

Mr. DuBay suggested it would be better for appellant to wait on submitting a new conditional use application if the Board is seriously considering amending the County ordinance because the standards and criteria in effect at the time of submission are used when considering permit approval.

There being no further business, the meeting was adjourned at 10:05 a.m.

OFFICE OF THE BOARD CLERK
for MULTNOMAH COUNTY, OREGON

By DEBORAH ROGERS