

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

In the Matter of the Review of the)
Hearings Officer Decision which)
denied the modification or removal)
of a Condition of Approval (#3))
of land use case CS 18-61a, which)
restricted off-site horse riding.)

FINAL ORDER
CS 3-95
96-20

WHEREAS this matter is before the Multnomah County Board of Commissioners as an appeal, filed by Mark E. Hammersmith, of the Hearings Officer's decision in land use case CS 3-95; and

WHEREAS after proper notice of a public hearing, the Board of County Commissioners heard the testimony and evidence of parties at a de novo hearing on January 2, 1996; and

WHEREAS the Board of County Commissioners being fully advised hereby orders:

1. The Applicant has met the burden of proof with respect to the approval criteria with the inclusion of the Conditions of Approval set out in section 5, below, and the December 8, 1995 Hearings Officer's Decision in the matter of CS 3-95 is reversed.
2. Condition of Approval #3 from the Multnomah County Hearings Officer's Decision in Case CS 18-61a is removed.
3. The Hearings Officer's findings and "alternative" conclusion dated December 8, 1995 are adopted, except with respect to the approval criteria listed below:
 - A. *MCC 11.15.7015, "In approving a Community service Use, the approval authority shall find that the proposal meets the following approval criteria...
"(A) Is consistent with the character of the area";*
 - B. *Policy 20: "Arrangement of Land Uses";*
 - C. *Policy 31: "Community Facilities and Uses";*
 - D. *Policy 39: "Parks and Recreation Planning".*
4. With respect to the approval criteria listed in section 3 above, the Staff Report findings and conclusions are adopted by the Board in support of its decision (see Exhibit 1, attached).

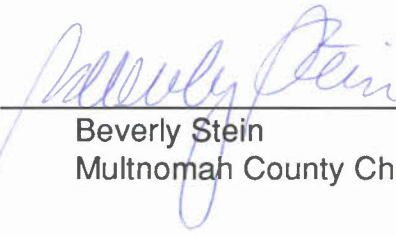
5. The approval criteria in CS 3-95 are satisfied with the inclusion of the following Conditions of Approval:

- 1. All stable patrons shall ride horses at a walking pace or shall lead the horse(s) while on the public right-of-way comprising the entirety of Jenne Lane and on the public right-of-way comprising Circle Avenue between the intersection with Jenne Lane and the Springwater Corridor.*
- 2. Until such time as the County or other entity constructs a bridge, or other all-weather crossing over the low-lying swale or "wetlands" that are in the Circle Avenue right-of-way, none of Applicant's customers shall ride within the public right-of-way comprising Circle Avenue between Jenne Lane and the Springwater Corridor from October 15 to April 15 of each year.*
- 3. None of the Applicant's customers shall trespass on adjacent private properties, damage or destroy personal property situated on adjacent private properties, or otherwise obstruct or interfere with neighbors' use and enjoyment of adjacent residential properties for any purpose or reason whatsoever.*
- 4. Off site riding shall be prohibited between dusk (1/2 hour after sunset) and dawn (1/2 hour before sunrise).*
- 5. Applicant shall include conditions one through four of this approval, and a map of the subject property and vicinity, in all written boarding agreements. Conditions one through four, and the map, shall be prominently posted at the entrance/exit to the stable facilities.*
- 6. The stable shall be used as a horse boarding facility only. Any proposed change in use or activity shall require Community Service review and approval under the provisions of MCC 11.15.7005-.7072.*
- 7. Applicant's stable facilities shall not exceed 45 horses belonging to customers, and Applicant shall not accept more than 45 horses for boarding at the stable facilities.*
- 8. Community Service Use approval for this property shall expire in the event of any land divisions or residential development of the subject property.*
- 9. Applicant's enduring fulfillment of the above conditions shall be a condition subsequent to this approval. Any violations may be brought to the attention of the Planning Director, who shall commence a contested case land use proceeding under appropriate Zoning Ordinance provisions to adjudicate allegations of violations. Any proven violation(s) shall terminate this approval.*

Dated this 15th day of February, 1996.



By


Beverly Stein
Multnomah County Chair

REVIEWED:

SANDRA DUFFY, COUNTY COUNSEL
for MULTNOMAH COUNTY, OREGON

By


Sandra Duffy, Chief Assistant Counsel

EXHIBIT 1

STAFF REPORT FINDINGS

I. MCC 11.15.7015: Community Service Use Approval Criteria

(A) “Is consistent with the character of the area”

The area immediately surrounding the site is rural in character, as is the area in the general vicinity of the site. The area in the immediately vicinity of the stable on Jenne Lane is rural residential in character, and is zoned accordingly. Most lots in the area are large and some of the residents keep horses on their property. Three residences are accessed via Jenne Lane between Jenne Road and the subject property. Rural land use patterns (large lots, lack of urban services) continue to the south and east of the site. The area to the north of the site is urban or urbanizing in character. Land uses in the urban area are predominately residential, but other uses also exist. Known exceptions to the primarily residential uses in the area include a church, and other horse stables. While most of the land in this area is zoned for residential uses (both in the City of Portland and in unincorporated Multnomah County), a few parcels to the north and east of the site are also zoned for light manufacturing and future urban (UF-10) uses. Powell Butte, a 660 acre park that allows equestrian riding on trails is located northwest of the subject site (see Case File Exhibit 2c).

The applicant notes that four other horse stables are located in close proximity to the subject property. Three of these appear to be commercial facilities (Rainbow Acres, Mark Herinckx, and Kathy Howe), although they differ in scope and scale. The Kathy Howe Training Center facility is a small training facility (14 horses) and is not a commercial horse boarding facility. Mark Herinckx is a small facility that has direct access to the Springwater Corridor. Of these three, Rainbow Acres, which has 51 stalls on approximately 5 acres, is the most comparable. The fourth, the Multnomah County Sheriff's Posse, is non-commercial. Of these four stables, only two (Rainbow and the Sheriff's Posse) appear to be operating with land use approvals. All of these stables are located in residential zones. Rainbow and Herinckx are in the City of Portland and Howe and the Sheriff's facility are in unincorporated Multnomah County.

As noted by the applicant, the site is also adjacent to the Springwater Corridor. The Springwater Corridor, a regional recreational trail facility, was opened in the early 1990s on the Portland Traction Company railroad right-of-way. This 16.5 mile facility extends from McLaughlin Boulevard in Portland east to Boring, Oregon. The trail serves walkers, joggers, and bicyclists and also serves equestrians.

In addition to the applicant's submittal, planning staff has received documentation from neighbors in the area surrounding the subject site. The documentation includes: a petition from surrounding neighbors requesting the County to take action to enforce the Condition restricting off-site riding; letters of complaint from neighbors regarding stable management, stable customer's behavior, trespass and traffic; and documentation of the off site riding in violation of the Condition of Approval.

II. Comprehensive Plan Policy 20: "Arrangement Of Land Uses"

The Springwater Corridor is a regional recreational trail designed for use by pedestrians, bicyclists and equestrians. Powell Butte is another recreation facility located nearby and used by equestrians. The proximity of the horse stable to the Springwater Corridor and Powell Butte is a complimentary blend of uses. Conversely, a commercial horse stable located on a dead end street surrounded by residential uses may create conflicts that require mitigation measures.

III. Comprehensive Plan Policy 31: "Community Facilities and Uses"

The Springwater Corridor is a significant recreational resource and the siting of stables in proximity to this resource is appropriate and meets the intent of this policy.

IV. Comprehensive Plan Policy 39: "Parks and Recreation Planning"

Removal of the condition would enhance the use of existing recreational facilities.

STAFF REPORT CONCLUSIONS

A review of the findings reveals that modification or removal of the condition is consistent with County code and policies. The stable is consistent with the rural character of the area, and because of its proximity to the Springwater Corridor and Powell Butte, is in agreement with County policies regarding location of recreation uses. Removing the restriction would maximize the recreation potential. The remaining issue that must be addressed regards compatibility with residential uses in close proximity.

The Conditions of Approval in the Hearings Officer's decision (CS 18-61a) essentially amount to an agreement between all the parties in the case. The agreement reached between the property owner/business operator and the neighbors was that expansion of the use to board horses commercially would be allowed if the anticipated impacts could be mitigated. The anticipated impacts

were mitigated through imposition of the off site riding restriction and the road improvement condition. The subject request, removal of the Condition of Approval, will result in an intensification of the use that will require mitigation to offset the anticipated impacts. Therefore, Conditions of Approval should be applied to the requested action to maintain or enhance compatibility with the surrounding residential uses.

The recommended conditions include restrictions on horse riding on the Circle Avenue right-of-way to minimize environmental degradation, and limits on off-site horse riding to minimize disturbance to the surrounding residences. A condition terminating the Community Service use approval in the event of any land divisions or residential development on the property is imposed because the horse stable will become more of an anomaly with its surroundings as the area further develops.