

**MINUTES OF THE NEWBERG CITY COUNCIL
JANUARY 5, 2004
7:00 P.M. MEETING
PUBLIC SAFETY BUILDING - TRAINING ROOM**

I. CALL MEETING TO ORDER

Mayor Stewart called the meeting to order.

II. ROLL CALL

**Roger Currier
Doug Pugsley
Bob Larson**

**Bob Andrews
Robert Soppe**

Absent: Mike McBride

Others

Present: James H. Bennett, City Manager
Terrence D. Mahr, City Attorney
Barton Brierley, City Planner

III. PLEDGE OF ALLEGIANCE

The pledge of allegiance was administered.

PUBLIC MEETING SECTION

IV. PUBLIC COMMENTS

None.

V. CONSENT CALENDAR

None.

VI. PUBLIC HEARING

1. Public Hearing on appeal of Planning Commission conditions relating to conditional use approval for Granite Motor Sports, an off-road and performance vehicle shop (repair garage), to operate a repair garage at 106 S. Center Street subject to the findings and conditions identified in Planning Commission Resolution No. 2003-170.

City Attorney Terrence D. Mahr said that site visits and drive-bys are considered ex parte contacts.

Councilor Soppe said he has driven by this property many times and also had a conversation with the business owners over the same situation last summer and discussed material facts regarding this.

Councilors Andrews and Larson said that they have driven by the property.

Councilor Currier said he contacted the business owners about a year ago, talked with Councilor Soppe and Mr. Brierley about what was allowed.

Councilor Pugsley said that he has driven by the property and does not specifically recall anything out of the ordinary.

Mayor Stewart said he has driven by and met with the property owner (Andy Wilder) and advised him on what he needs to do. Not with the business owners.

Mr. Mahr said that all matters will be decided upon the record. No oral argument or testimony allowed. In addition to the record, the Council received an additional letter from the applicants and distributed to the Council. The Council may decide if the information is contained in the record or disregard portions of the letter that they feel are not contained in the record. The decision of the Council is the final City decision. The applicants can appeal the matter to LUBA.

Mr. Brierley said it is an appeal from the Planning Commission as to the conditions. The Council can affirm, modify or repeal the Planning Commission's decision, or remand the matter to the Commission for a new hearing. Mr. Brierley said the appellant wishes to operate an auto repair shop for customization of recreational vehicles. Auto repair shops are allowed in a C-3 zone. Discussion of prohibited and conditional uses. Automobile sales are not allowed in downtown. There were some buildings in the downtown area originally created for auto related uses and appropriate for auto repair usage. There are many places in which they were not appropriate. The decision was through a public hearing and conditional use process. The property consists of a parking lot and a building. Mr. Brierley said the main building on the site has been a variety of uses (recently an antique shop - formerly an auto repair shop). The applicants have already occupied and started the business. City staff has contacted them because of the violation which prompted them to apply for the conditional use permit. Testimony was received from Ms. Hall (Hoover Minthorn House Curator and Kris Horn - Downtown Association). Ms. Horn said it should be compatible with the downtown businesses. There are issues with the placement of vehicles in the landscape areas on rocks. They have concerns about having the parking lot used to show vehicles under repair or disassembled. The Commission voted to approve the conditional use permit with specific conditions which would make the business compatible with the downtown area. Mr. Brierley reviewed the conditions of approval.

Mr. Brierley said the appeal is specifically on the 9th condition about vehicle display on the exterior of the site for purpose of advertising the business. The property owners said it was important that they be allowed to display their vehicles and have received positive comments from the display. The conditions do relate to the C-3 zone. The parking lot on 1st street is visible and very much part of the downtown area. They understand a need for customers and employees within the lot, but not as an area for displaying vehicles to advertise the business. This is consistent with the prohibition of automobile sales lots. Staff's recommendation is to uphold the Commission's decision.

Mayor Stewart said across First Street and one block closer to downtown, there is a car sales lots. Mr. Brierley said they are existing businesses as they continue to sell cars. But when it is no longer in business, it would no longer be allowed.

Councilor Currier said that when a nonconforming business ceases, the use is supposed to be

prohibited. A new owner took over the auto sales lot after it had been closed for a while and started it back up. Mr. Brierley said this was only a transition from one owner to another. The lot was not closed that long. Discussion was held concerning the difference between the change of ownership of the auto sales lot and allowing the proposed use. Mr. Brierley said the parking can be used as a parking lot, but not to display vehicles, which is a different use than previously. Currier asked why it complied with the former business but not with the new one. Mr. Brierley said that the parking lot itself was built without benefit of city permits. They issued a notice to the building owner and the business went out of business prior to putting up the ADA signs. They were asked to take care of the landscaping and signage.

Councilor Currier said that Newberg Ford had 6 vehicles in the parking strip and Newberg Dodge also parked some vehicles in the landscaping and on structures. Les Schwab also had vehicles on elevated structures in their lot for promotions. How do these advertisements differ from these people [Granite Motorsports] parking vehicles in their landscaping and parking lot? Mr. Brierley said he had previously received Councilor Currier's reports on the parked vehicles and contacted the auto dealers about those situations. Subsequently, the vehicles were moved out of the landscape areas. As far as automobiles on structures go, if a vehicle is in an automobile sales lot or other area approved for vehicle display, it could be elevated on a structure. It could not be in a required landscape area.

Councilor Andrews addressed the parking of farm equipment by a business in the downtown. Is it handled the same as for an auto sales lot? Mr. Brierley said he thought the sale of farm equipment in the downtown might be treated similarly, but that he would have to check it out.

Councilor Currier said they had a long, hard discussion about abandoned vehicles in the community that resulted in an ordinance. Are we using the definition of that ordinance? He said that the business owner could be working on a vehicle as part of his business, but have a vehicle considered to be disassembled and abandoned. Mr. Brierley reviewed the Municipal Code regarding abandoned vehicles. If they have a vehicle with no license plate, or half of it gone, it would be a violation of the conditional use permit criteria. The CUP says that no disassembled vehicles may be stored in the parking lot. At the Planning Commission hearing, the applicants indicated that these would be finished vehicles and not disassembled. Councilor Currier said the ordinance could be used to discriminate against a business like this one if, in someone's judgment, they don't like the way something looks. Mayor Stewart said we may need to tweak the Development Code. He made a point for the record to define a disassembled vehicle as a vehicle that could not move under its own power and was not registered (did not have a license plate).

Councilor Pugsley asked about whether a computer repair facility within the C3 zone would be allowed to display in its parking lot a vehicle that had been modified to look like a Macintosh computer. Mr. Brierley replied that it would be allowed.

Mr. Mahr said that after the record is closed to everyone, the statute provides that the appellant can submit final written arguments. However, this would prevent the Council from making a decision tonight. Are the appellants willing to waive any further written submittals? The appellants indicated that they will not be presenting any further written findings.

MOTION: Soppe/Andrews to modify the Planning Commission action by removing condition #9

prohibiting the display of vehicles on the exterior of the site for purposes of advertising the business and to uphold the rest of the Planning Commission's decision.

Councilor Soppe said the PC findings do not support the imposition of the condition.

Councilor Currier said that vehicles of this type normally support advertising and sponsorship for racing. If the applicant happens to sponsor a vehicle, he will have it displayed on the vehicle.

Councilor Andrews said that this appears to be legitimate advertising for the business.

Mayor Stewart asked, if he owned a sponsored vehicle and parked it in the parking lot and went inside the building to discuss a race, would that be included in this restriction? Mr. Brierley said that it would not. That would not be for advertising the business.

Councilor Pugsley said that he did not find any consideration of the condition by the Commission in the findings.

Councilor Andrews said he does not find the condition supported by the findings.

Councilor Soppe said he is concerned that there were no findings in the original decision. His concern is that there is a potential for someone to build a large sign out of the vehicle (possible first amendment issues). His question for staff is how do we keep from allowing a vehicle that is a large sign in the parking lot? Mr. Brierley said we have a sign ordinance and then we have the conditional use permit. Under the sign ordinance, if there is anything permanently attached to a legally licensed vehicle, it is not a violation (similar to UPS vehicles).

Councilor Larson called for the question.

Councilor Currier said that the condition is too broad and open to enforcement problems. Mayor Stewart asked if he wanted to amend the motion to include his statement. Discussion was held concerning the statement being guidance only to the Planning Commission only. Councilor Currier said he withdrew his statement.

ROLL CALL ON MOTION: (5 Yes/1 Absent [McBride]). Motion carried.

BUSINESS MEETING SECTION

VII. CONTINUED BUSINESS

None.

VIII. NEW BUSINESS

1. Appointment of three Newberg citizens to the Traffic Safety Commission for terms to expire 12/31/2006. 3 Positions.
Doris Brandt
Ronald Sult
Tamera Lynn Wimmer

Discussion was held concerning the vacancies.

MOTION: Soppe/Larson to accept and appoint three Newberg citizens to the Traffic Safety Commission. (Unanimous). Motion carried.

Tape 1 - Side 2:

2. Appointment of two Newberg citizens to the Budget Committee for terms that will expire on 12/31/2003.
Dione Baumer
Mike Boyes
Sally Dallas

These appointments are for new three year terms that will expire on December 31, 2006.

Dione Baumer was not in attendance.

Sally Dallas, 115 N. College Street, Newberg, served on the Budget Committee last term. She has requested to be reappointed.

Mike Boyes, 1109 S. River Street, Newberg, wants to be more involved in the community.

Nominations:

Currier/Soppe to nominate Mike Boyes.

Pugsley/Soppe to nominate Sally Dallas.

MOTION: Currier/Soppe to appoint Sally Dallas and Mike Boyes to the Budget Committee. (4 Yes/1/Abstention [Andrews])/1 Absent [McBride]. Motion carried.

IX. EXECUTIVE SESSION

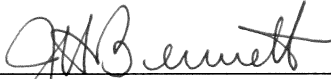
None.

X.

ADJOURNMENT

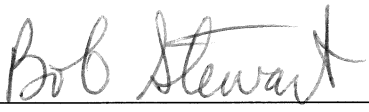
MOTION: Soppe/Currier to adjourn at 7:50 p.m. (Unanimous). Motion carried.

ADOPTED by the Newberg City Council this 17th day of February, 2004.



James H. Bennett, City Recorder

ATTEST by the Mayor this 18th day of March, 2004.



Bob Stewart, Mayor