

Council Chambers
7:30 PM, Thursday

A Regular Meeting
of the Planning Commission

August 23, 1984
Newberg, Oregon

Members Present:

John Englebrecht
Brian Erickson
Jean Harris
Jack Kriz

John Lyda
Arthur Roberts
Roger Veatch, Chair
Joe Young

Staff Present:

Clay Moorhead, Planning Director
Barb Mingay, Recording Secretary

Citizens Present:

5 Citizens

The meeting of the Newberg Planning Commission was called to order by Chairman Roger Veatch.

Motion: Young-Erickson to approve June 21, 1984 Planning Commission minutes. Motion carried unanimously by those present.

Public Hearing A:

Review of a proposed ordinance for the purpose of regulating mobile or transient merchants who occupy a temporary or fixed location and do business in much the same manner as a permanent business.

Staff Report: Clay Moorhead, Planning Director, reviewed the staff report, highlighting the four major issues suggested for discussion. He further pointed out some definitions provided to distinguish between various types of temporary merchants. He reviewed the history of the transient merchant question in Newberg and the application process which is currently in effect. He further commented on court rulings regarding temporary merchant sales. Common requirements for the regulation of temporary merchants were identified. He indicated that additional criteria could be included which would address modern zoning requirements. He pointed out that the Planning Commission had a number of options to discuss, including 1) leaving the current ordinance intact, 2) adding additional requirements to the current ordinance, 3) allowing the use in only specific zones, and 4) requiring that the business be wholly conducted in an enclosed building.

Proponents: (Those in favor of leaving the existing ordinance intact, with no changes in current requirements)

Proponent: Will Baker, Rt. 4, Box 111A2, Newberg, indicated that he felt the present ordinance was satisfactory and was interested in how the Commission would propose changing the ordinance.

Proponent: Randall Linke, 1209 E. 10th, Newberg, stated that he was a mobile vendor within the City. He indicated that he didn't see any problem with the existing ordinance. He felt that the problem was with enforcing the ordinance. He stated that initially he was unaware of the permit process but has since complied with the requirements and has obtained a peddler's license. He thinks the owners of lots currently available to vendors should be informed of the possible penalties attached to lack of appropriate authorization and license.

Questions to Proponents:

Mr. Linke was asked whether he considered himself a vendor or a transient merchant and under which definition he fit best. He responded that he was a local small businessman who was currently not in a position to locate his business in a building. He felt that businesses such as his should not be forced into a building. He considered himself a seasonal merchant.

Opponent: (Those in favor of revising or replacing the existing ordinance with more stringent requirements)

Opponent: Bob Holveck, Rt. 1, Box 133, Newberg, indicated his main concern with precedent setting. He commented that the future potential for quantities of such merchants in town on the weekends should be considered now before it occurs. He felt that the permit fee was too low, that the business should be allowed in only certain zones and that they should be located in buildings. He felt the ordinance should be established now, before the situation develops into a major problem.

Questions to Opponent:

Mr. Holveck was asked to specify examples of problems. He commented that recently a vendor located in Newberg set up his wares in a manner that caused it to look shabby, and because the location of the vendor's business was highly visible, it caused the whole town to present a shabby appearance. When asked if temporary businesses had to comply with the same regulations as a permanent business, he indicated temporary businesses appeared to have less regulations to comply with. He commented that a setup similar to Saturday Market might be more appropriate in Newberg.

No public agencies responded and no letters were received.

Proponent Rebuttal: Mr. Linke indicated that most mobile vendors do move from town to town and such free movement of business was legal. He indicated that transient merchants don't stay long and some do have a shabby appearance. He asked what right the City had to restrict who does business in Newberg. He didn't think a Saturday Market type situation would work in Newberg unless it were well regulated.

Proponent Rebuttal: Mr. Baker commented that he has worked with Saturday Market for a number of years. He indicated that it was formed by the Oregon Arts Association. Newberg has a number of lots that could be used for that purpose. He commented that the City appeared to be

trying to restrict free enterprise. He felt that a Saturday Market would be a tremendous draw to this community. He further commented that most vendors are willing to comply with the existing regulations. He commented that by way of aesthetic standards, regulation of second hand merchandise should occur. He would like to see some kind of market set up to unite the local craft people.

Opponent Rebuttal: Mr. Holveck indicated that some control through zoning was needed and felt that the vendors should be restricted to only one or two locations in the City. He also felt that the permit fee was too low.

Additional comments were made by several of the Commissioners regarding the charging of a nominal fee. The current permit fee processing charge was \$10.00. The opinion was that this fee was very low.

Staff Recommendation: Planning Director Moorhead commented that the existing ordinance had fairly lenient restrictions. He reviewed comments of the group which indicated three general areas of concern: 1) the possibility of regulating several specific locations; 2) initiating some form of appearance criteria; and 3) that the permit fee for vendors should be increased. He stated that the Commission should discuss these three areas in forming their decision regarding any possible changes to the current ordinance.

Hearing Closed.

Commissioner Roberts indicated four areas for possible discussion. They were: 1) To define and examine the categories (i.e. transient, temporary and open-air); 2) to place together those temporary merchants that are diversified but compatible; 3) that a fair or "commons" might be a good thing to establish in Newberg; and 4) to establish a fee to allow for maintenance of the "commons".

Commissioner Erickson asked what the current number of peddlers are, what the number of complaints are and what the number of enforcement problems were. Planning Director Moorhead indicated that approximately 10 peddlers per year obtain permits and almost all have had to be notified that there is a requirement for a permit. He added that no formal written complaints have been received regarding these types of merchants. Commissioner Erickson concluded that the problems then seemed to come more from aesthetic complaints and that the need to regulate by requiring a bond would be unnecessary and cumbersome.

Commissioner Kriz commented that he agreed with the open air merchant category and questioned whether a building was required in a C-2 zone as a criteria to operate a business. Director Moorhead indicated that a single open-air business could operate in a C-2 zone under a peddlers license, two or more such businesses would require a Conditional Use Permit to operate, and other than that businesses were required to be conducted inside a building. He added that Newberg has no business license requirements but that an occupancy permit is required prior to moving into a building. He indicated that the Police Department and

Planning Department review peddlers license applications and other City departments are involved in reviewing occupancy permit applications.

Commissioner Lyda concurred that he would like to see groups of merchants clustered together.

Commissioner Young indicated that he would like to see some clarification of the definitions prior to making any decision. He also felt that the \$10.00 application fee was not sufficient and should be brought more in line with actual cost of processing.

Motion: Young-Roberts to instruct City Staff to arrive at more up-to-date definitions and propose a new ordinance; recommend a proposed fee structure; and continue this hearing to the next regularly scheduled Planning Commission meeting. Motion carried unanimously by those present.

Members of the audience were invited to leave their names with the Recording Secretary for notification of next meeting time and place.

Old Business. None.

New Business. None.

Motion: Young-Englebrecht to adjourn. Motion carried unanimously.