

**CITY OF NEWBERG PLANNING COMMISSION MINUTES  
THURSDAY, JANUARY 9, 2014  
7:00 PM REGULAR MEETING  
NEWBERG PUBLIC SAFETY BUILDING (401 E. THIRD STREET)**

**I. CALL MEETING TO ORDER**

Vice Chair Art Smith called the meeting to order at 7:00 PM.

**II. OATHS & AFFIRMATION OF OFFICE FOR NEW COMMISSIONERS**

Mayor Bob Andrews administered the Oaths and Affirmation of Office for Commissioners Art Smith, Allyn Edwards and Matthew Fortner to serve on the planning commission.

**III. ROLL CALL**

Members Present:	Cathy Stuhr, Chair Allyn Edwards Philip Smith	Art Smith, Vice-Chair Matt Fortner	Jason Dale Gary Bliss
Members Absent:	Sulamita Barbiyeru, student commissioner	Mayor Bob Andrews, ex-officio	
Staff Present:	Barton Brierley, Planning & Building Director DawnKaren Bevill, Minutes Recorder	Steve Olson, Associate Planner Jessica Pelz, Associate Planner	
Others Present:	John Bridges, Curtis Goodwin, Jerry Dale, Gerald Logan, Craig Smith, Mike Jackson and David Brittell.		

**IV. ELECTION OF CHAIR AND VICE-CHAIR:**

**MOTION:** Smith/Edwards nominated Commissioner Art Smith as Chair and Commissioner Gary Bliss as Vice Chair. Motion carried (7 Yes/0 No).

**V. PUBLIC COMMENTS**

Chair Stuhr opened and closed the public comments as no one chose to comment.

**VI. CONSENT CALENDAR**

Approval of the planning commission meeting minutes for December 12, 2013.

**MOTION:** Stuhr/Bliss to approve the Consent Calendar including the planning commission minutes for December 12, 2013. Motion carried (7Yes/0 No).

## VII. QUASI-JUDICIAL HEARINGS

1. **APPLICANT:** EAA Holdings LLC  
**REQUEST:** Conditional use permit for a daycare in the M-2 zone  
**LOCATION:** 141 N. Elliott Road  
**TAX LOT:** 3220AD-1100  
**FILE NO.:** CUP-13-004 **ORDER NO.:** 2014-15  
**CRITERIA:** 15.225.060, 15.220.050

Chair Smith opened the quasi-judicial hearing; read ORS 197.763; and called for abstentions, bias, ex-parte contact, or objections to jurisdiction. Commissioner Cathy Stuhr stated her veterinarian is in the immediate area and she is familiar with the location. She has observed the narrow driveway leading into the location. Commissioner Jason Dale recused himself due to conflict of interest with his place of employment. Commissioner Matthew Fortner stated he is familiar with Mr. Robert Townsend, an opponent to the application, who is a member of his church. Commissioner Edwards stated Mr. John Bridges serves as his personal attorney. Chair Smith sees Mr. Bridges on a weekly basis as they are both rotary members and friends. Chair Smith and Commissioners Stuhr, Fortner, Edwards stated they would be able to make an impartial decision regarding the application.

Ms. Jessica Pelz, associate planner, presented the staff report accompanied by a PowerPoint presentation (see official meeting packet for full report). Staff recommended adoption of Order No. 2014-15, with the findings shown in Exhibit "A" and the conditions of approval shown in Exhibit "B". The conditions of approval include the following condition: *"Conduct a noise study by measuring the indoor decibel level of the building when a plane is flying overhead. If the indoor decibel level exceeds 55 decibels, upgrade building materials and replace windows on necessary to meet the 55 decibel threshold."*

Chair Smith opened the public testimony beginning with proponents at 7:25 PM.

Mr. John Bridges, attorney with Brown, Tarlow, Bridges & Palmer, represented the applicant. Mr. Bridges stated the criteria are straight-forward and have been addressed, as well as the surrounding uses. He believes there will be no impact on the surrounding area and the permitted uses in the zone will see limited impact. The impact on the daycare from surrounding uses was also analyzed and has no negative impact. Mr. Bridges addressed the opposition from the airport stating there are many homes closer to the airport than where the daycare will be located. The Oregon Department of Aviation identified nine accidents associated with the airport; seven on site from 1960 to present, showing limited risk to the area surrounding the airport. He noted the incompatibility is about noise, and he understands the airport would like to avoid complaints regarding noise. The building is modern with many improvements, double pane windows included, and the applicant would accept a condition to hold- harmless and to not complain about the airport noise, instead of the condition to have another noise study done.

Mr. Jerry Dale, president of the Sportsman Airpark, Inc. and opponent to the application, believes allowing a day care center to be operated on Elliot Street is a land use incompatible with the Sportsman Airpark and will have a detrimental effect on the vitality of the airport. The location is close, approximately 350 feet west of the extended runway centerline, to the approach and departure path of the runway. The altitude of aircraft at that location is 50 to 100 feet above ground. Not all aircraft will stay exactly on the centerline and the occasional aircraft will fly over that site. Having an assembly of young children there is not prudent. Although the chance is small, it is foreseeable an aircraft emergency could result in harm. By statute ORS 836.600 – 836.630 and rule OAR 660-13-0010 – 660-13-160, the state and local governments are required to encourage and support the continued operation and vitality of Oregon's airports. Local governments are required to implement regulations

to ensure compatible land uses around airports. He urged the committee to deny a conditional use permit for a daycare center at this location.

Commissioner Philip Smith referred to the airport overlay map and stated in terms of compatibility there are already far more than 31 children in the zone and more housing on the other side of the airport. Mr. Dale stated the mobile home park is for 55 and over with limited children. Commissioner Smith asked Mr. Dale his opinion regarding the hold-harmless condition Mr. Bridges suggested. Mr. Dale replied he would not turn it down if the daycare is approved.

Chair Smith asked if there was any other written correspondence. Mr. Brierley handed out the letter submitted by Mr. Jerry Dale and Ms. Pelz read a letter received on January 7, 2014, from Roger Anderson, President of Vista Balloon Adventures, Inc.

Chair Smith asked Mr. Bridges to come forward for rebuttal. Mr. Bridges said the city has worked with the airport and the airport has a master plan. He pointed out Calvary Church has a daycare and Sunday school in the area of the airport and so does the Chehalem Park & Recreation District buildings. Also, homes have been developed on Airport Way next to the airport.

Chair Art Smith closed public testimony at 7:55 PM.

Ms. Pelz gave final comments from staff, stating the location can be reasonably compatible with the uses and is consistent with the code.

**MOTION:** Edwards/Bliss moved to adopt Order No. 2014-15, replacing the condition to conduct a noise study with a hold-harmless agreement. Motion carried (6 Yes/0 No).

Chair Smith recessed for five-minutes at 8:05 PM.

<b>2.</b>	<b>APPLICANT:</b>	Gerald Logan (Classic Auto Sales)	
	<b>REQUEST:</b>	Conditional use permit for auto sales in the C-3 zone	
	<b>LOCATION:</b>	301 W. First Street	
	<b>TAX LOT:</b>	3219AB-4500 & 4700	
	<b>FILE NO.:</b>	CUP-13-005	<b>ORDER NO.:</b> 2014-14
	<b>CRITERIA:</b>	15.225.060, 15.220.050	

Chair Smith opened the quasi-judicial hearing; read ORS 197.763; and called for abstentions, bias, ex-parte contact, or objections to jurisdiction; none were heard.

Mr. Steve Olson, associate planner, presented the staff report accompanied by a PowerPoint presentation (see official meeting packet for full report). Staff recommended adoption of Order No. 2014-14.

Chair Art Smith opened public testimony beginning with proponents at 8:29 PM.

Mr. Craig Smith and Mr. Mike Jackson shared they are car collectors who found an avenue for those who collect, buy, sell and trade old cars in a safe manner by starting their own company. They have a successful track record in business and will be in Newberg for a long time as it is a vibrant community.

Chair Smith closed the public testimony at 8:39 PM.

Mr. Olson gave the final recommendation from staff, with one modification to the condition 4-C regarding fencing to insert the following language: "If you install a fence then reuse existing fence post."

**MOTION:** P. Smith/Bliss moved to approve Order No. 2014-14 with the conditions in the staff report and modification. Motion carried (7Yes/ 0 No).

**VIII. ITEMS FROM STAFF**

1. Update on Council items

Mr. Brierley reported the Oregon Department of Land Conservation and Development (DLCD) staff has chosen to refer the south industrial urban growth boundary amendment to the DLCD for a hearing on February 13 or 14, 2014. The Terra Estates subdivision was appealed to the city council and the council affirmed the planning commission's decision. The opponents have appealed and staff expects it will be sent to the Land Use Board of Appeals (LUBA). The zoning use table was also appealed to LUBA.

2. Other reports, letters, or correspondence

No items were brought forward.

3. The next planning commission meeting is scheduled for Thursday, February 13, 2014.

**IX. ITEMS FROM COMMISSIONERS**

No items were brought forward.

**X. ADJOURN**

Chair Smith adjourned the meeting at 8:47 PM.

**Approved by the Planning Commission on this 10<sup>th</sup> day of April, 2014.**

**AYES:**

**NO:**

**ABSENT:**

**ABSTAIN:**

  
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Planning Recording Secretary

  
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Planning Commission Chair