

**PERRY CITY PLANNING COMMISSION MEETING
THURSDAY, OCTOBER 29, 2009 7:00 P.M.
PERRY CITY OFFICE BUILDING—CITY COUNCIL ROOM
3005 S. 1200 W. PERRY, UTAH**

PLANNING COMMISSIONERS PRESENT: Steve Pettingill (Chair), Karen Cronin (Vice-Chair), David Curtis

OTHERS PRESENT: Rachel Tribe (City Planner), Angela Erwin (Minutes Clerk), Tom Peterson (City Council), Duane Nilson, Alice Nilson, Lani Braithwaite, Jason Shierts, Mike Lindenfelser, Ken Reese, Kellie Reese, Les Bracken, Gene Curtis

I. CALL TO ORDER AND OPENING CEREMONIES:

Meeting delayed for lack of quorum. Comm. Pettingill called the meeting to order at approximately 7:24 p.m.

A. PLEDGE ALLEGIANCE TO THE U.S. FLAG

Conducted by Comm. Pettingill.

B. DECLARE CONFLICTS OF INTEREST, IF ANY

Questions initiated by Comm. Pettingill. None existed.

C. REVIEW AND ADOPTION OF THE AGENDA

Comm. Pettingill would like to discuss item V-A before item IV-A.

Motion: Comm. Cronin moved to change item V-A for item IV-A and accept the rest of the agenda, as outlined, for October 29, 2009. The motion was seconded by Comm. Curtis. No discussion. All in favor.

D. APPROVE MINUTES FOR OCTOBER 15, 2009

No changes.

Motion: Comm. Curtis moved to accept the minutes for October 15, 2009, as written. The motion was seconded by Comm. Cronin. No discussion. All in favor.

II. PUBLIC HEARINGS AND PUBLIC COMMENTS

A. PUBLIC COMMENTS

No public comments.

B. PUBLIC HEARING

1. **CONDITIONAL USE PERMIT FOR RALLY READY, LOCATED BEHIND SKYWAY DINER (APPROX. 2645 SOUTH HIGHWAY 89) FOR A BUSINESS TO BUILD RALLY CARS**

Jason Shierts, owner of Rally Ready, has worked with several rally car teams. He wants to retrofit street cars for rally racing, including welding safety cages, safety harnesses, and stripping the interiors. He will not perform engine work, but will do general maintenance to ensure the cars are safe and ready. His business is basically rally car building, preparation, and support. Mr. Shierts said his business will also go on-site to make sure the cars are running properly at the races.

Comm. Cronin asked how many cars there would be at one time. Mr. Shierts said one, because it takes a lot of hours to prep a car for a stage rally. The car would be in a shop with the doors closed. Comm. Pettingill asked Mr. Shierts if there would be more than one car at his business at one time, even though he would only be working on one car. Mr. Shierts said no, but it will depend on his customer base. He added that he plans on dealing and providing a full service, but no engine work. Comm. Pettingill asked Mr. Shierts if he was envisioning any parts outside the building. Mr. Shierts said the person he leases from told him he could park a car outside if he needed a donor car. The extra car would not be out for more than a week. There would be no junk parts outside. Comm. Curtis asked Mr. Shierts what he would be doing with the stripped interior parts. Mr. Shierts said they would be sold or junked at his father-in-law's business. Mr. Shierts added that he would like to repaint the front of the building and have a sign. Comm. Cronin asked how many bays there were and Mr. Shierts responded one. Comm. Pettingill again asked how many cars would be worked on at one time. Mr. Shierts said probably two or three and that there is room for one or two cars inside the building. He would like to try to keep only one car at a time so he can focus on that car. Comm. Pettingill recommended that Mr. Shierts cut himself some slack, in terms of how many cars he plans on having at one time, and make sure he envisions what can be done to make the business functional.

Mike Lindenfelser, an employee of Rally Ready, commented that there could be five cars at one time. Mr. Shierts does not foresee five cars at one time, but three to four cars tops. He said his personal race car has continuous maintenance and will be parked at the business.

Comm. Cronin commented that the hours of operation listed in the city ordinance is 6:00 a.m. to 9:00 p.m. Mr. Shierts said he may work beyond those hours because sometimes he has to go three

days without sleep while working on the cars. Comm. Pettingill said he does not have a problem with going beyond the hours in an enclosed building. Mr. Shierts said he has a family and will not be working late all the time, but there are times he may be working at midnight or 1:00 a.m. Comm. Curtis said he suspected the cars would be loud. Mr. Shierts said the cars must be street legal to leave his business and there are decibel rules he must follow. Also, the cars will be leaving on a trailer. The building is insulated and the doors will be shut. He has asked the people at the diner if the noise was bothersome and they said "no." As far as outdoor work, he does have a gas powered sprayer and will be washing cars outside.

Motion: Comm. Cronin moved to open the public hearing for a conditional use permit for Rally Ready, located behind Skyway Diner. The motion was seconded by Comm. Curtis. No discussion. All in favor.

Duane Nilson, Perry resident (2665 S. Hwy 89), lives south of the Skyway Diner. Mr. Nilson said when Bob Howery was using the building as a repair shop he just about "gassed" everyone in the café. He suggested ventilating the shop area. He does not see any problem with working on the cars inside the building. Mr. Nilson was confused about where a garage was going to be built "behind" the café, but his question has been answered.

Alice Nilson, Perry resident (2665 S. Hwy 89), questioned the decibel level, but said it sounded like the levels would not be a problem. She was concerned that people may be racing the cars and making noise. Ms. Nilson was relieved to hear that a building was not going to be built in the back of the Skyway Diner.

Motion: Comm. Curtis moved to close the public hearing for a conditional use permit for Rally Ready, located behind Skyway Diner. The motion was seconded by Comm. Cronin. No discussion. All in favor.

2. AMENDING ORDINANCE FOR BUILDING SETBACK AND AREA REQUIREMENTS

Motion: Comm. Cronin moved to open the public hearing on amending the ordinance for building setback and area requirements. The motion was seconded by Comm. Curtis. No discussion. All in favor.

Rachel Tribe said this amendment is for the building code setbacks to be listed on one page.

No public comments.

Motion: Comm. Cronin moved to close the public hearing for amending the ordinance for building setback and area requirements. The motion was seconded by Comm. Curtis. No discussion. All in favor.

III. DESIGN REVIEW/SITE PLANS AND LIMITED REVIEW PERMITS
(ADMINISTRATIVE APPLICATIONS)

None

*Item V-A discussed next, per agenda adoption change.

V. SPECIAL EXCEPTIONS, CONDITIONAL USE PERMITS, AND MISC.
(QUASI-JUDICIAL APPLICATIONS)

A. **CONDITIONAL USE PERMIT FOR RALLY READY, LOCATED BEHIND SKYWAY DINER (APPROX. 2645 SOUTH HIGHWAY 89) FOR A BUSINESS TO BUILD RALLY CARS**

Comm. Cronin asked if cars would be stored in the back of the building and Mr. Shierts said yes. He is not planning on building any structures beyond what currently exists. The commissioners summarized some concerns: exhaust fumes, hours of operation, and noise levels. Comm. Pettingill asked what type of compressor Mr. Shierts would be using and Mr. Shierts responded a piston compressor. Comm. Cronin suggested adding a time limit to review the noise levels. Comm. Curtis suggested that there could be a review if there is any excess noise beyond the normal operating hours. Comm. Cronin asked what kind of power would be used after 9:00 p.m. and Mr. Shierts said piston air compressors. Comm. Pettingill suggested if the noise level is offensive to the neighbors then the planning commissioners will review the permit.

Mr. Shierts added that there would be a twenty foot enclosed trailer that would enclose race cars. This trailer would be parked behind the building for about a week after a race. Comm. Curtis suggested the trailer could be considered one of the five vehicles.

Comm. Cronin commented that customer parking spaces may need to be addressed and Comm. Curtis said this could be worked out between Rally Ready and Skyway Diner. Comm. Pettingill asked if there would be parking lot lighting and Mr. Shierts responded no. Comm. Pettingill read from the ordinance that the “decibel shall not exceed 85 from 9:00 p.m. to 7:00 a.m., outside the building.” Ms. Tribe will get a copy of this ordinance for Mr. Shierts. Mr. Shierts asked if the

ventilation would include the welding fumes. Comm. Pettingill suggested Mr. Shierts be sensitive about fume emission since he is adjacent to another business. Comm. Pettingill added that Codey Illum, the Building Inspector, will further address the ventilation. Comm. Pettingill said the noise has been addressed, there would be a review in a year or if there is a complaint, and Mr. Illum will look at the ventilation.

Motion: Comm. Cronin moved to approve the conditional use permit for Rally Ready with the notations that the building inspector needs to verify that the ventilation is adequate, the hours of operation will be somewhat extended from those listed in Title 60 (6:00 a.m. to 9:00 p.m.). Open hours of operation will be allowed within the building as long as there are no complaints because of noise distractions. There will be only five cars allowed outside at one time, including the trailer. Also, there shall be no further referral to Rally Ready being located “behind the diner.” Instead, Rally Ready is to the north of Skyway Diner. The motion was seconded by Comm. Curtis. **Discussion:** Comm. Pettingill wanted to clarify the commissioner’s decision for the hours of operation. He read from the city ordinance, “recommended business hours are restricted from 6:00 a.m. to 9:00 p.m. if there are adjoining residential properties.” He recognized that Rally Ready was not a commercial business, open for the public. Instead, employees worked privately in the building. This was why the planning commissioners decided to deviate from the ordinance.

Roll call vote: Comm. Cronin–aye, Comm. Curtis–aye, Comm. Pettingill–aye. All in favor (3 to 0).

Mr. Shierts added that he would like to place a sign on the front of the building, but the sign or building cannot be seen because of the size of nearby city trees. Comm. Pettingill said this issue would have to be addressed by the city forester.

*Agenda continued, as follows.

IV. SUBDIVISIONS AND STREETS (ADMINISTRATIVE APPLICATIONS)

A. DISCUSSION REGARDING MONUMENT MARKERS FOR NEW SUBDIVISION (MAPLE HILLS)

Comm. Cronin said the committee met and the comments were updated on the proposal handout. The proposal was made stronger in reference to the city not having any financial obligation. It is clear that there would be no city or tax payer money spent on subdivision markers. The homeowners association would have to take responsibility for materials, placement, and all expenses. The marker cannot be placed in a city right-of-way or in a place it would obstruct traffic. Not included in the handout was some wording from Comm. Hinckley requiring that a

subdivision have five acres or more in order to have a marker. The marker size was increased to thirty-two square feet. Tagging would need to be cleaned up in one week. Damage that would cause injury would need to be fixed within a week, while structural damage would need to be fixed within six months. Comm. Curtis was concerned there may be a way for the marker to be abandoned. Comm. Cronin explained that there is no way to abandon the marker because the marker must be deeded. Comm. Cronin asked Ms. Tribe to provide the commissioners with an updated copy of the proposal. Further review of this item will be on the next agenda.

V. SPECIAL EXCEPTIONS, CONDITIONAL USE PERMITS, AND MISC.
(QUASI-JUDICIAL APPLICATIONS)

B. **CONDITIONAL USE PERMIT FOR A COMMERCIAL BUSINESS
LICENSE NAMED SPECIALIZED MATERIALS AND CHEMICALS (SMC)
LOCATED AT 3080 SOUTH HIGHWAY 89**

Les Bracken, applicant and Perry resident (2435 S. 500 W.), would like to establish a business that specializes in the storage of chemicals. The building would be leased and the west end of the building would be utilized for storage of a 5.1 oxidizing material. The intent is for the facility to act as a wholesale operation where the material would be brought in approved storage containers. The material would not be taken out of those containers, but only shipped to other retail organizations. The hours of operation will abide by the current ordinance. Gene Curtis, an environmental expert with SMC, was available for questions. Comm. Cronin asked for more information on the 5.1 oxidizer. Mr. Bracken said the oxidizer is used for rocket motor and firework manufacturing processes. The retailers serviced by his business use about 20-30,000 pounds of the material per year and the facilities are very sophisticated. One of the requirements is that the fire department inspects to ensure there are sufficient firewalls for the material. As long as nothing is mixed with the material there will not be problem. Comm. Cronin asked if there was any material to be stored that would mix and cause a problem. Mr. Bracken said no.

Comm. Cronin asked how many vehicles would be entering and exiting the business. Mr. Bracken said potentially one semi truck and potentially two smaller truck loads per month. He added it is a low traffic business and there will be no one coming and going except for during the shipment times. Comm. Pettingill pointed out that this building is in the NC3 zone and, being a wholesale business, will have to be identified broadly on the land use chart as applied to this zone. Comm. Pettingill asked where the point of sale would be and Mr. Bracken said Perry.

Mr. Bracken said he has worked at ATK for twenty-five years and Mr. Curtis has been an environmental specialist for twenty years. He said the people he will be

working with and wholesaling to have been in the business for twenty-five or thirty years. Mr. Bracken added that he has not wholesaled before, in this fashion.

Comm. Cronin would like to further review this item. Comm. Cronin said scheduling a public hearing would be part of the process. She asked city staff to schedule a public hearing for the November 12, 2009 meeting.

VI. LAND USE ORDINANCES, ZONING, DESIGN GUIDELINES, GENERAL PLAN
(LEGISLATIVE ACTION)

A. DISCUSSION REGARDING LAND USE CHART TITLE 45 (NC2 AND NC3
ZONES NEIGHBORHOOD COMMERCIAL)

Comm. Pettingill asked the commissioners what they would like the NC2 and NC3 zones to look like and if they wanted it filled with warehousing.

B. PUBLIC NUISANCES ORDINANCE INCLUDING WEEDS, GARBAGE, AND
UNREGISTERED VEHICLES (AMENDING CHAPTER 54.04)

Ms. Tribe provided a copy of the nuisance ordinance with the underlined change from the last meeting. The committee met on the environmentally sensitive zones and staff was going to get flood, earthquake, fire, and water pressure. Ms. Tribe said Paul Nelson is looking for the flood map. The fire overlay map has previously been provided to the commissioners. Comm. Cronin requested the fire overlay, earthquake, flood, and water pressure maps to determine the environmentally sensitive areas and how to deal with them. Comm. Cronin said the uniform fire code is the state law and she thinks the city should meet the state law. In section 54.04.011, Comm. Cronin preferred to reference the entire state fire code. Comm. Pettingill thinks this may be calling out more than should be called out. He thinks some of the fire code concerns the county. Comm. Cronin said referencing the uniform state fire code does not necessarily mean the whole fire code and she does not think the city needs to be too specific. Comm. Cronin said according to Jim Buchanan, there should be a reference to the state fire code. Comm. Pettingill thinks the uniform fire code is too vague and the penalties need to be called out more specifically, as Brigham City does. Comm. Cronin proposed to modify the Brigham City code. It was discussed whether the city should govern itself or have the fire marshall determine fire hazards. Comm. Cronin suggested both, with the city sending out letters and having the fire marshall address unresolved issues. Comm. Pettingill brought up the cost of including the fire marshall. It was discussed to handover the cost of the fire marshall to the violator.

Comm. Pettingill commented that the properties adjacent to commercial or residential zones need to be closely watched. Comm. Cronin suggested going with the first two or three pages of the uniform fire code and then asking the city council how they would like to proceed. Comm. Pettingill thinks there is ambiguity in the application of this ordinance.

Motion: Comm. Cronin moved to pass the nuisance ordinance to the city council with reference to the state uniform fire code in section 54.04.011. If there appears to be a violation the city would first send out a letter requesting that the violation be in accordance with the state uniform fire code within thirty days. If no action is taken, the city would contact the fire marshall, to make a determination, at the expense of the homeowner. If the fire marshall determines there is no violation, the city will assume the costs. The motion was seconded by Comm. Curtis. No discussion.

Roll call vote: Comm. Cronin–aye, Comm. Curtis–aye, Comm. Pettingill–aye.
All in favor (3 to 0).

Motion: Comm. Curtis moved to approve and send to the city council section 54.04.012, as amended and presented to the commissioners, with relationship to the garbage can removal during snow storms. The motion was seconded by Comm. Cronin. No discussion.

Roll call vote: Comm. Cronin–aye, Comm. Curtis–aye, Comm. Pettingill–aye.
All in favor (3 to 0).

VII. TRAINING AND HANDOUTS

- A. UPDATE ON ISSUES ASSIGNED TO STAFF
Comm. Pettingill requested that the items assigned to staff be listed on the agenda for the commissioners' reference.
- B. CITY COUNCIL REPORT - TOM PETERSON
Tom Peterson said the recommendation on the streetlight samples has been approved by the city council. A study was done on the intersection at 2450 S. and 900 W. (where there is a hole in the road). The manhole can be raised for just over \$1,000 without disturbing drainage.
- C. NEXT TRAINING: NOVEMBER 12, 2009 - EXACTIONS AND CONDITIONS
Training will begin at 6:15 p.m., as the city council will be canvassing votes at 6:00 p.m.

VIII. REVIEW NEXT AGENDA AND ADJOURN

- A. ADD AGENDA ITEMS REQUESTED BY PLANNING COMMISSIONERS
None
- B. MOTION TO ADJOURN

Motion: Comm. Curtis moved to close the meeting. The motion was seconded by Comm. Cronin. No discussion. All in favor.

Meeting adjourned at approximately 9:10 p.m.