

PLANNING COMMISSION MINUTES
Newberg Public Safety Building - Newberg, Oregon
THURSDAY, NOVEMBER 13, 2003 AT 7 P.M.

Subject to Approval at the January 22, 2004 Planning Commission Meeting

I. PLANNING COMMISSION ROLL CALL

Planning Commission Members Present:

Matson Haug
Philip Smith

Louis Larson
Nick Tri, Chair

Dennis Schmitz
Richard Van Noord, Vice-Chair

Absent: Dwayne Brittell

Staff Present:

Barton Brierley, City Planner
Barbara Mingay, Planning Technician
Peggy Hall, Recording Secretary

II. OPEN MEETING

Chair Tri opened the meeting at 7:00 p.m. He announced the procedure of testimony. Citizens must fill out a public comment registration form to speak at the meeting.

III. CONSENT CALENDAR

1. Approval of the July 10, 2003 and the September 11, 2003, Planning Commission Meeting Minutes.

Motion #1:	Haug/Van Noord moved to approve the consent calendar items, approving the minutes of the Planning Commission Meeting.
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Vote on Motion #1:	The Motion carried (6 Yes/1 Absent [Brittell]).
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IV. COMMUNICATIONS FROM THE FLOOR (five minute maximum per person)

None.

V. QUASI-JUDICIAL PUBLIC HEARINGS

1. **APPLICANT:** Granite Motor Sports / Leah and Lukas Shuler
REQUEST: Conditional use approval to allow an off-road and performance vehicle shop (repair garage)
LOCATION: 106 S. Center
TAX LOT: 3220BB-7000,-7100
FILE NO.: CUP-17-03
CRITERIA: NDC § 151.210

RESOLUTION NO.: 2003-170

OPEN FOR PUBLIC HEARING:

Chair Tri entered ORS 197, relating to the Public Hearing process, into the record, and opened the Public

Hearing.

Abstentions/ex-parte contact: Mr. Schmitz said that he has done business with Granite Sports. He does not have an on-going business relationship - he occasionally takes his car there and they do repairs on his cars. Mr. Brierley indicated that did not constitute an actual conflict of interest.

Staff Report and Preliminary Staff Recommendation: **Ms. Barbara Mingay** presented the staff report and that staff recommended adoption of Resolution 2003-170, approving the request with conditions.

Ms. Mingay provided the staff report and permit criteria.. One conditional use criteria is that the location, design and site planing will provide a living shopping and commercial area consistent with the code. They have gone through the information submitted by the applicant. They are applying for a repair garage in the C-3 zone, where a conditional use permit (CUP) is required. The site currently contains a parking lot with parked cars, and a building for the repair shop. The applicants will not be required to do additional transportation surveys.

The site is located between 2nd and Center. The applicants submitted a site plan for the property. Parking is in the front facing Hwy 99W (First Street) and the side street, Center Street. They are proposing 8 parking spaces with landscaping around the property. Under Exhibit B of the packet, staff has addressed the applicable criteria to approve the application.

It was brought to City staff's attention that the business had already begun activities at the site. The applicants have applied for building permits for work already started. The staff would recommend approval with a specific list of conditions identified in the staff report.

Mat Haug discussed the redesign of C-3 codes a few years ago to restrict automobile related businesses downtown. He does not have a recall if automobile related businesses became a specific use in the City Code and were prohibited downtown.

Mr. Brierley said automobile related uses were divided into separate categories. Some were prohibited downtown; other are allowed only under a conditional use permit. Auto sales went from being permitted to NOT permitted. Drive-up service windows went from being permitted, to being not permitted, then to conditional. Auto repair garages went from being permitted to being conditional uses.

Ms. Mingay read the list of conditions that may be required for a conditional use permit. They include the regulation of uses, special yards, spaces, fences and walls, surfacing of parking areas to city specifications, street dedications and improvements, regulation of points of vehicular ingress and egress, regulation of signs, landscaping and maintenance thereof, maintenance of the grounds, regulation of noise, vibrations, odors, and similar nuisances, regulation of time for certain activities, how long the business can be there - restrictions on how many days/hours of the day to place on the business.

Commissioner Haug asked if staff recalled the transition from auto repair garages being permitted to being conditional. Mr. Brierley said the idea was to make downtown a more pedestrian-oriented and less automobile-oriented area, and to increase the bulk of downtown. When walking downtown, you should see a lot of windows. The City did not want to have blocks of used car lots with minimal pedestrian activity. Discussion was held concerning making each use conditional or not permitted at all. For auto repair garages, the City recognized that there were some in the downtown area already. In some instances, they could have an okay relationship with other uses in the downtown area. The City decided we want to make the decision to allow the uses on a case by case basis.

Commissioner Haug asked Mr. Brierley if the property needs any additional landscaping, fences, yards, etc. to fit the design. Does he see any need to make any more conditions - after all, the parking area is on First Street where main pedestrian traffic is.

Commissioner Smith said across First Street is a car lot. Does it not extend across the street. They were existing grandfathered-in car lots. There are car lot businesses that have moved and gone away. They will lose their non-conforming status if they go away.

Ms. Mingay reviewed the proposed conditions:

1. All the required exterior improvements, including removal of existing illegal signage, must be completed within 30 days of the Planning Commission decision.
2. No vehicle parking will be allowed in the landscaped areas of the site.
3. No disassembled vehicles may be parked in the parking lot.
4. Apply for appropriate permits, including a Type 1 design review application and a building permit, for new legal, conforming signs.
5. ADA parking spaces must be appropriately signed.
6. Complete the building permit process for the proposed structural modifications to the site within 30 days of completion of the Planning Commission review process.

Mr. Schmitz addressed the letter from the Hoover-Minthorn society. Staff has concluded that they have addressed in the findings and conditions what are appropriate to take care of the issues. The conditions can be modified.

Commissioner Larson said he asked staff about the usage. He said that he had already in contact with the applicant concerning issues.

Mr. Brierley said that had contact around the middle of May. The application was submitted on or about September 24th. Discussion was held concerning the applicant taking about 4 months to bring this issue up.

Discussion was held concerning any problems with former occupant (Cecil) who had issues raised similar to the ones addressed by the Hoover-Minthorn House Society.

Ms. Mingay said that she does not have any information in that regard.

Public in attendance:

Granite Motor Sports / Leah and Lukas Shuler

Kristin Horn, 610 E. Sheridan Street, Newberg, Oregon,

Lorraine Hall, Curator, Hoover-Minthorn House, 115 S. River Street, Newberg

Proponent: Leah Shuler, (applicant) said that their first contact is about early July with the City. They received notice from the City and the application was completed.

Commissioner Haug reviewed the process for the applicant to speak and rebut.

Opponents: None.

Undecided: Lorraine Hall, Curator, Hoover-Minthorn House, 115 S. River Street, Newberg, reviewed a prepared statement and the earlier letter with issues relating to that location. She said that after

reviewing the landscape plan, they found a lack of landscape materials between the businesses and the Hoover Minthorn House - there was a lack of appropriate buffering. It is just important to maintain the views of the surrounding properties. Mr. Hoover has been recently been the subject of several new books, etc. She also addressed business hours and the on-going work on vehicles that apparently goes on after the hours.

Kristin Horn, 610 E. Sheridan Street, Newberg, Oregon, President of the Downtown Association, she worked on the C-2/C-3 Code review and reviewed the process. She wanted the automobile repair businesses to be non-conforming uses. It is an allowable conditional use at this time. In general, she supports small business. She wants to make sure that all has been reviewed and scrutinized. She said the Hoover-Minthorn House is a national treasure and is an anchor to the downtown as well as the community and region. It is important that their concerns are addressed. She questions how the toxic chemicals are addressed inside the building. Are they painting in the shop and are the proper requirements in place (safeguards?). She is also concerned about the attractive appearance of the business with regards to the broken vehicles in the driveway (works in progress). They need an attractive street face to First Street; does it meet the criteria for Condition B? She also addressed the area being residential; is it consistent with that area? The visitors coming to downtown and the Hoover-Minthorn House are approached with a beautiful environment.

Luke Shuler, 207 NE Broadway, Portland, he agrees that aesthetics are important, the alley way is their back door - they would agree to conform to landscaping, fencing, etc.

Tape 1- Side 2:

Commissioner Phil Smith thanked the applicant for their supporting comments. He asked Kristen Horn about problems with the prior auto repair businesses and the Hoover-Minthorn House,

Ms. Horn said it has been about 12 years that it was an antique and lighting business. The auto repair uses were before that.

Discussion was held concerning a visual barrier and other accommodation, what would be the best situation for the Hoover-Minthorn House, and what would she like.

Ms. Hall said that landscaping is nice - but a nice looking fence is the best solution. The Hoover-Minthorn House can also do some landscaping in their property as well. Discussion was held concerning the parking of vehicles due to the alleyway - and possible storage. Recent improvements to the Hoover-Minthorn House have helped the situation.

Commissioner Haug asked about the landscaping - the applicant has agreed to help screen the area. Ms. Hall said that if the Hoover-Minthorn House also does the same - they can mitigate most of that.

Ms. Hall addressed when the museum was open and when there are large numbers of guests. They do tours and larger groups visiting the Hoover-Minthorn House. There are residents in the area - noise issues may pose a problem. Ms. Hall addressed noise issues. People drive cars through the alley and go around and squeal the brakes. These may be test drives from the repair shop; they are not appropriate.

Commissioner Smith addressed the spoken concerns to Leah and Lucas Shuler regarding hours of operation and noise.

Ms. Shuler said their hours are 8 a.m. to 6 p.m.; employees work on their own vehicles after hours; this can be stopped, and they could consider not allowing them to do so. Discussion was held concerning traffic/noise.

Mr. Shuler said that in relation to the squealing, it is a traction device and not a safety issue. He said that

customer rigs going through are fairly low: 3-4 a day. Discussion was held concerning painting and other chemicals. Mr Shuler said that they are disposed of safely. They are not a general automotive shop. The only chemical is brake fluid which readily evaporates.

Ms. Hall addressed vehicles that are stockpiled to be worked on - what are the state of the batteries, gasoline, oil and other chemicals leaking out onto the property? Discussion was held concerning storage of vehicles. Ms. Hall addressed drainage concerns with the lower slope where the Hoover-Minthorn House was located. She said they could smell what they thought were paint fumes.

Mr. Shuler said it is a fabrication room. They do welding and there may be some smoke. The vehicles they work on do not have gas or batteries on them - they are basically a frame.

Ms. Shuler said it was their policy NOT to keep things out on the parking area that are not running - they are placed on property outside of town.

Ms. Hall said the vehicles are making the noise. There are certain vehicles that seem to be making the noise (possibly employees).

Ms. Shuler said that will be taken care of.

Ms. Horn said she did not have a chance to look at the landscaping plan.

Commissioner Haug said it was the intent to minimize automobile businesses in the downtown area. He had concerns about the need for additional landscaping on the front that Ms. Horn thought would be needed to help soften the front of the business along the highway.

Ms. Horn said it looks adequate and it will be a big improvement. She is concerned about the front: it is so visible that she is concerned about the appearance of broken rigs out front. Landscaping will soften it - but you cannot do a lot of screening along the highway.

Ms. Shuler said that the "broken trucks" are modified trucks; that is what they are doing in their business. They can see in person the level of quality. They are concerned about losing the ability to park a rig on the rocks. They have received many positive comments on her end.

Ms. Horn said they would be prohibited from having the vehicles on the boulders with the landscaping and with the visibility. With the condition - trucks on boulders would not be allowed.

Commissioner Larson addressed the concerns of the Hoover-Minthorn House. The property was formerly used as an antique mall. Now it is being used as a garage. He asked the applicant how does the business add value to downtown area?

Ms. Shuler said it brings more diverse people in the downtown area. We have Cherry Hill, a hotrod place with motorcycles, that adds value to the community. It is important to speak to more than one group of people. If an upscale used car lot across First Street; it would add to downtown.

Commissioner Larson asked if downtown would be best served with a garage or a retail investment with apartments/condos and above average wine shop/restaurant - which would better fit.

Ms. Shuler said that current and ideal Newberg could also be best served with an upscale motorcycle shop. As far as other uses, it is hard to judge, but if the visual and other qualities are acceptable - she said she believes they could be okay.

Richard Van Noord asked if they are owning or leasing

Ms. Shuler said they are leasing.

Commissioner Van Noord asked how long is the lease?

Ms. Shuler said 3 years.

Staff Recommendation: **Ms. Mingay** said that having heard the testimony, they are recommending an additional condition be added:

- Complete the landscaping plan as proposed with the following addition:
Install a six (6) ft. wood fence or arborvitae hedge adjacent along the southern property boundary of the site adjacent to the Hoover Minthorn annex.

In addition, the hours of operation could be more limited.

Chair Tri closed the hearing.

Commission Deliberation:

Motion #2:	Haug/Smith to approve Resolution 2003-170, approving the conditional use permit with the conditions.
Motion #3:	Haug/Smith to amend the motion 1. The 6 foot wooden fence as noted above be adjacent to the Hoover-Minthorn House annex site (southern boundary of the property) subject to staff's approval. 2. Hours of operation be limited to 7:00 a.m. - 8:00 p.m. 3. No vehicles allowed to be displayed for advertising on that site

Commissioner Haug said they are trying to minimize the auto businesses in the downtown area. The purpose of the third condition was to make sure the trucks are not displayed at this location.

Commissioner Schmitz said the first condition seems appropriate with the neighbors and owners agreeing. The owners talked about displaying the cars being critical to their business.

Commissioner Haug said that we recently have outright disallowed some businesses that are non-conforming in an effort to revitalize the downtown area (C-3 area). The purpose was to move them out of the downtown area. Discussion was held concerning the local bicycle shop and the riverfront development. He said he wanted to be consistent with the changes and the original intent of the work done. Discussion was held concerning changing the vision. The intent of the rules is to be successful in compliance with the rule change.

Commissioner Smith discussed respecting the process of planning. The decision to modify the C-3 zone rules was a process with public input resulting in a certain direction. It would be wrong to chip away at the overall policy. The applicant said there could be a mix of uses in the downtown area. He said to try and see if there is a mix of uses to make it work and make it consistent with the rules. Make the business succeed and make it be neighborhood friendly and see if you can make it work. It could be interesting to have a quiet repair shop which blended in to the downtown and was successful.

Commissioner Larson said he does not support the amendments that the discussions lay the foundation for showing the use is not appropriate. The city has demonstrated the lack of ability to force conditions.

The City putting conditions on the property may not necessarily mean that it would happen.

Commissioner Haug said he envisions restricting hours from 7:00 am - 8:00 p.m. would control the noise. As placed, the condition would not allow the employees to work on their cars. He would like to have the landscape condition to require a fence or arborvitae hedge along the rear, as approved by staff. The neighbors are engaged in dialogue to resolve problems.

Commissioner Van Noord said he would comment on the dialogue:

- Noise
- Non-working vehicles

He proposed a 4th and 5th condition:

- No non-working vehicles that may be on the property for a period of time
- Noise must be controlled.

Commissioner Smith said they appear to have non-working vehicles in the parking lot, but the applicant indicates this is not so. A condition could be placed that they not keep non-working vehicles on the premise more than a month or so. There is a place to store vehicles off-site and bring them in with a trailer. It should not be a junk yard.

Tape 2 - Side 1:

Discussion was held concerning the perimeter other than the parking lot, such as the exterior to the building and the effect on the value of adjacent properties. Pre-operating vehicles should be in the building or off the area. There should be no outside storage of vehicles unless they are being worked on at the moment. Discussion was held concerning the time frames.

Commissioner Larson said that they are laying the foundation to say the business does not fit in the downtown Newberg. He said that they appear to be unenforceable. All the conditions are leaning toward the idea that the business may not fit.

Commissioner Haug addressed coming up with conditions that would be adhered to. He disagreed with the comments that the conditions are not enforceable. Reasonable common sense would prevail. The applicant needs materials to work. If it becomes eye-sore, then there are ways to resolve them.

Commissioners Smith/Schmitz called for the question.

Vote on Motion #3:	The Motion carried (5 Yes/1 No [1 Larson]/1 Absent [Brittall]).
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Commssioner Larson addressed the following in regards to developing the community as less automotive. To bring in destination businesses is the best. In some extent that has worked. Festivities has now been purchased by investors from California, and they are putting in an above average wine shop and coffee shop/ pastries. He brings that example to the forefront; this is what the vision is. Also, the new civic corridor plan envisions highlighting the corridor section up to the old school, which is being renovated as a community center. We have essentially told the used car lots that are now gone and not previously grandfathered in that they cannot come into downtown. The conditional use decision on this kind of business essentially says that if it does not fit the vision - you have to improve to fit the vision. The downtown area should be similar to the downtown McMinnville. Look at NW 23rd in Portland as an example of what possible revitalization/urban renewal can look at. One can cite other examples. We have a building that was an antique mall and sort of fit into the schematic. It becomes a question of do we follow through with that idea or not. The nature of off-road business leads to a particular culture - people have

bias to off-road. The same as a high speed performance shop. What we are looking at tonight does not fit the vision of what we are trying to establish in downtown Newberg. We are coming up with a list of conditions, not making it fit. He disagrees with the use; we cannot fit a round peg in a square hole. We have the Hoover-Minthorn House, which is one of the gems in Newberg, who are saying we want to cooperate with the new business venture, but it will impact them.

Commissioner Haug said it is not a prohibited use - it was redesigned to allow a conditional use once it satisfied certain criteria. He said we are obligated to allow them to it. Because it is a conditional use and we have come up with some fairly strong conditions to minimize the impact, it is allowed. He said the opponents have not come on strong, but are working with the applicants. The neighbors are working with the applicants. If appealed, the City Council would make a decision.

Commissioner Smith said Commissioner Larson was right with some good reasons, but the way the owners know this - it will be by the way of them not making money. If they want to run the business so that they fit in, it is their business - he will support the motion.

Commissioner Schmitz said the property owners were notified and posted within 500 feet.

Mr. Brierley said he received no other written correspondence, but he has heard second-handed comments like those that were expressed by Ms. Horn.

Commissioner Van Noord commented about conditions being enforced.

Mr. Brierley said they do enforce conditions of approval. Some are easier to enforce than others: installing a fence is fairly clear: it is there or it is not. Other conditions are a little more difficult: if a business owner is open one hour later on one night, it is hard to enforce. The vast majority of applicants comply, sometimes we have to ask more forcefully than for others. Mr. Brierley said that most of the conditions are enforceable, but enforcing the condition of not allowing vehicles to be displayed will be very challenging. Discussion was held concerning the trucks on the rocks.

Chair Tri - said that the truck on the rocks would be on display - which would not be allowed. Conditions can be enforced through complaints coming in.

Chair Larson said in his mind that if a condition cannot be enforced by the City without having to rely upon others to bring it to their attention, then why have the condition in the first place?

Commissioner Haug said that these are enforceable conditions. The applicants are trying to fit in and work with the neighbors. It is different from the vision - but it may fit. Do we have standing to say "no"? It meets the criteria.

Commsisoner Smith called for the question (Haug seconded).

Vote on Motion #2 - Motion as amended:	The motion carried (6 Yes/1 Absent (Brittall)).
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Ms. Mingay stated the procedure for appeals, which would be to the City Council.

Ms. Shuler said that they would fit in with the surrounding businesses. They are surrounded now by businesses that are displaying and using their vehicles within the parking lot. The condition now says you cannot display your vehicles in the front area. They are surrounded by businesses that are doing so on both sides. Should the City really be trying to minimize the automobile look - and go for the vision? Any of their successful vehicles can be parked out front and still follow the rules.

VII. ITEMS FROM STAFF

1. Update on Council items: The Council adopted the Planning Commission's recommend changes to procedures dealing with appeals and modifications of applications. The council will be hearing appointments to Planning Commission on December 2nd. Mr. Larson and Mr. Haug have reapplied. Right now there are two more applicants. He attended the Yamhill County hearing on an amendment to the UGB on Fernwood Road: the County Commissioners approved the UGB amendment. The next step will go to the DLCD. NUAMC approved it.
2. Other reports, letters, or correspondence: none
3. Next Planning Commission Meeting:
November 20 & December 4 - TSP Workshop Meetings;
December 11 - Regularly Scheduled Planning Commission Meeting

The December 11th meeting has no items scheduled. The suggestion is to cancel the meeting or to have a dinner with PC and their spouses/significant others.

Commissioner Haug said we would have a separate hearing on the TSP and time frame after January, etc. He would recommend using the December 11th scheduled date to work out the TSP issues. He may not be able to make it because he is having knee surgery on the 5th. Later in the month in December, they are less likely to be able to have the people here and available for the meeting because of the holiday activities, etc. Discussion was held concerning the proposal to route Hwy 219 along the bypass and northern arterial going out to the College. He was not sure if the idea was being discussed at the Council or bypass representatives. Were these viable ideas or did they ruffle someone's feathers?

Mr. Brierley said a consultant will be doing an analysis of what to do. It could be forwarded to the Council. Something has to be done to improve access to the area, especially along Corral Creek Road. There will be a problem of hearing the matter and conflicting with other events in December.

The Commission decided to have the December 4th TSP meeting and to have the dinner meeting on the 11th. They potentially could have two meetings in January.

Discussion was held concerning the last TSP meeting to educate what is proposed and why. Specifically, it was not a hearing; it allowed the flow of communication. People got information.

Commissioner Schmitz said the consultant led their discussion to the Commission - and not the audience. The maps and aids the consultant had are copies of what we already had. They needed to use more of an educational aid for the public. Discussion was held concerning the Oxberg Estates area - off Springbrook. They do not want Crestview going to Hwy. 99W or the northern arterial.

Mr. Brierley addressed the arrangements for the furniture and the layout. Commissioners agreed it is good - one table per person works. The other change is the microphones; all appeals are done on the record and no oral testimony is allowed on appeal. The microphone amplifies the voices on the tape.

VII. ITEMS FROM COMMISSIONERS

Commissioner Larson said he notes that at 3200 Juniper Drive - an occupancy permit was issued, but trees do not comply with City standard. Commissioner Haug said that he also called Mr. Brierley about a nuisance, an on-going garage sale for about a year, and that he had resolved it.

VIII. ADJOURN

The meeting was adjourned at approximately 9:15 p.m.

Passed by the Planning Commission of the City of Newberg this _____ day of _____, 2003.

AYES: 6

NO: 0

ABSTAIN: 0
(list names)

ABSENT: 1

ATTEST:

Peggy Hall Peggy Hall 2/22/04
Planning Commission Recording Secretary Signature Print Name Date