



## PLANNING COMMISSION MINUTES

APRIL 15, 2004

7 p.m. Special Meeting

Newberg Public Safety Building

401 E. Third Street

### I. ROLL CALL

Dwayne Brittell  
Dennis Schmitz  
Nick Tri

Matson Haug  
Phillip Smith

Louis Larson  
Richard Van Noord

### II. OPEN MEETING

Chair Van Noord called the meeting to order at 7:00 p.m.

### III. COMMUNICATIONS FROM THE FLOOR

None.

### IV. QUASI-JUDICIAL PUBLIC HEARINGS (complete registration form to give testimony - 5 minute maximum per person, unless otherwise set by majority motion of the Planning Commission). No new public hearings after 10 p.m. except by majority vote of the Planning Commissioners.

Chair Van Noord called for abstentions, bias, ex parte contact.

Commissioner Larson said when he ran for Council, the applicant wrote a letter to the paper and let him put up signs in his business. Anyone that shows objections, should so state. None received.

Chair Van Noord said that a lot of people know Mr. Mehler, owner of Coffee Cottage. He is also a member of his church.

Chair Van Noord read the statements required by ORS 197.763 into the record.

1. APPLICANT:	The Coffee Cottage	
REQUEST:	Conditional Use Permit - Drive Up Service Window for Coffee Service and Bakery	
LOCATION:	808 E. Hancock Street	
TAX LOT:	3219AA-06700	
FILE NO.:	CUP-20-04	RESOLUTION NO.: 2004-182
CRITERIA:	NDC §151.210	

Mr. Steve Olson, Planning Technician, presented the staff report. Property is at 814 E. Hancock Street, at the eastern end of the C-3 zone and at the corner of the George Fox University property intersection. The existing Coffee Cottage owner owns the property on both sides. Applicant is asking for a conditional use permit, with confirmed design review to streamline the process. The uses will include the drive-up window for coffee, a bakery, a roastery, office space and meeting room.

The staff report found that the project complied with the following criteria for a conditional use in C-3:

- Accessory to other uses. Ord. 2003-2580 added drive-up windows as a conditional use in C-3 if accessory to an existing business on the site with walk-in customer service. The applicant is proposing an accessory use to the new meeting room and existing business.
- Reasonable compatibility to the surrounding neighborhood. The structure was built as a single family home. Very few exterior changes are proposed. The drive-up window will be on the south side, not visible from Hancock St. A new roof and siding will match the existing Coffee Cottage. At some time in the future, a storage building will be located in the inner corner of the property, and would not present much visual impact.
- Parking and on-site circulation. Business will employ from 5 to 6 employees and operate from 5 am to 3 or 5 pm. No evening operation is planned. Due to early hours, traffic generation should not impede traffic.
- Convenient, functional, attractive. Project will provide a convenient service for the downtown core, with minimal impact on surrounding uses. The meeting room use adds convenience for the community. Facility will be more attractive than current building. No problems with functional use were identified.

Design Review - type 1 design review:

- No off-street parking is required because it is in C-3.

- Building meets front setbacks in C3, and nothing is changing. There are no interior lot line setbacks in C-3.
- Landscaping is a minor issue. A 5-ft buffer is required along the interior property lines, and there is not enough room for both a driveway and the buffer. Since the proponent owns both properties, however, several options are possible to avoid the need for a buffer: request an adjustment, consolidate the lots into one lot, or commit to keep the two lots as one development site. Street trees are required along Hancock and Meridian Streets
- Signage is not an issue. Applicant must apply for a sign permit at time of development

Conditions of approval include 1) a revised landscape plan, 2) tying use of the drive-through to the Coffee Cottage use on the adjacent site, 3) a revised site plan better defining property lines, curbing and landscaping detail, 4) applying for a sign permit, and 5) building plans showing these conditions.

**Mr. Olson** was asked if rush hour traffic had been analyzed, and stated that a traffic study had not been required. **Mr. Brierley** said that Hancock carries about 21,000 cars per day (that is why ODOT widened it to 3 lanes). The applicant has met with ODOT to review the site; Planning has not heard anything directly from ODOT.

**Commissioner Larson** wondered if the proponent might later be able sell the two lots separately if he had a commitment to keep the two lots as one development site. Discussion ensued. Staff said that they would have to retain the site plan and the drive-through window would remain if they had a commitment. **Commissioner Larson** asked if they could sell off one part in an attempt to eliminate the requirement for a 5 foot buffer. **Mr. Brierley** said they have indicated that they could do that.

**Commissioner Brittell** asked Mr. Brierley whether the Planning Commission is asked for recommendations about the design review or whether it is to confine itself to addressing the criteria. **Mr. Brierley** said that both are under the Planning Commission's review. In response to a question, he also clarified that the roastery is permitted as an accessory use to the retail Coffee Cottage.

**Commissioner Schmitz** said the last time the Planning Commission looked at this, they looked at the coffee kiosks as a permitted use, but the construction would be a conditional use. If he asks for a window, it would be a conditional use?

**Mr. Brierley** said that the Planning Commission's recommendation had been to not allow long term temporary merchants that have drive-throughs. The City Council initiated the process to amend the ordinance and it is ready to be reviewed by the Planning Commission. The ordinance would no longer allow temporary merchants in the downtown area to have drive-up windows.

**Mr. Dave Mehler, 402 N. School, Newberg, owner of Coffee Cottage**

**Commissioner Haug** said the drawing suggests that cars backing up on the street would interfere with the flow of traffic. **Mr. Mehler** said the drawing shows a 6-car stack. One of the limitations on the building is the one-sided access. He has never seen an espresso driveway having more than 5 cars stacked. If there are six cars backed up, the driver will either pass on or park. **Commissioner Haug** suggested allowing unrestricted hours of operation provided that there is no interference with the flow of traffic. **Mr. Mehler** said that he does not anticipate an issue, but he would prefer to not restrict the hours; also, it would be difficult to determine the cause of traffic impediment. **Commissioner Haug** said it could be upon the discretion of the Planning Commission. **Mr. Mehler** said he would prefer at some point to amend the design and open later, if there would be no restriction unless there were violations. **Commissioner Haig** said he would prefer to have no restrictions.

Additional points of discussion included the need to keep traffic moving through downtown; the positive effect of the light on Meridian Street; the positive effects on traffic flow and safety of the drive-through itself by reducing the need for in-and-out parking; pedestrian safety at the driveway crossing; and possible elimination of the parking space on Hancock Street immediately east of the driveway to improve both safety and stacking. **Mr. Mehler** said he had not discussed elimination of the parking space with City staff.

**Commissioner Haug** said he would prefer to have no restrictions. **Mr. Mehler** said he was concerned about pedestrians walking across the driveway and possible automobile hazards.

**Commissioner Smith** said one of the benefits of putting in the drive-through was that it would eliminate some of the existing parking and traffic issues. **Mr. Mehler** said he agreed, although he tends to think that there will not be a problem with back-up of cars.

**Commissioner Schmitz** said a possible solution would be an alarm to tell cars to move up to be served, to fit more cars in the area. What Commissioner Haug said is important: they are trying to keep the traffic moving through town, want the downtown area to flourish, want them to be economically sound, want the customers to make an adjustment and come back and make it work. **Mr. Mehler** said the light on Meridian Street is an advantage, and that they have the ability to coordinate the flow of traffic.

**Commissioner Brittell** asked Mr. Mehler if he had discussed getting rid of the parking space next to the driveway. He was concerned with the angles in the driveway, especially with larger cars. Widening the angles would make movement smoother and allow more cars. The Commission discussed removal of an existing parking space. The city would need to put in a no parking sign so that the space could be an extra buffer in the drive-up system and would add space for 2 or more cars in the loop around the building. **Mr. Mehler** said he had not talked with the staff about it.

**Commissioner Haug** asked **Mr. Brierley** if there was a way to add a condition to not restrict hours unless congestion occurs on a routine basis. **Mr. Brierley** said he would not know how to word it. It would read something like "subject to staff review for operating characteristics and if issues or problems arise, it is subject to other mitigation steps to address the issues." He thought that we would need some sort of agreed upon way to resolve the problems, if they occur.

**Mr. Olson** summarized the staff's recommendation subject to the conditions mentioned and other issues addressed.

**Chair Van Noord** closed the public hearing.

**Commissioner Larson:**

1. Street trees criteria. Currently, the city tree programs requiring review for diameter; what in this proposal would be forthcoming? He was concerned that the City has not always required adherence to applicants' assurances regarding street trees. **Mr. Brierley** said that before occupancy permits are issued, the applicant will be required to adhere to the tree code. **Commissioner Larson** said he would like to require from April 15<sup>th</sup> forward that they meet code. **Mr. Brierley** said they do not go and measure the caliper of the tree every time they do it.

2. The coffee roastery is an incidental use. Does it limit their ability to roast coffee and distribute it other than for internal purposes?. **Mr. Brierley** said did not envision that they would be limited to do that. The owner could sell off the site, or they could run a wholesale distribution as well. In this case, the Planning Commission could consider acceptability.

3. It appears that on the landscape buffer, the applicant is to escape the code by making two properties one development. **Mr. Brierley** said that they are not requiring the property owner to do the 5 foot buffer because half the driveway would not be allowed. The Planning Commission could require the applicant to consolidate the properties or deny the use.

**Commissioner Brittell** said that on page 4.1.28, the rectangular portion on the map shows asphalt - but what do the lines indicate? **Mr. Brierley** said that is why they proposed a condition to ask the applicant to determine landscaping and curbing. **Commissioner Brittell** said that the area to the east has landscaping. Staff is required to review development on all four sides. This drawing does not show that, and there is an issue of property lines. His recollection is there is a fence along the west. **Mr. Olson** said there is an arborvitae hedge. If this is being reviewed as one business going from incidental use to a business -0, should there not be a pedestrian path to the street? **Mr. Brierley** asked what incidental means – that the new project and the Coffee Cottage be tied together. Discussion was held concerning a new roof - they are looking at new roofing materials.

**Tape 1 - Side 2:**

**Commissioner Brittell** as whether the proposed new storage would be an accessory building to a residential piece of property. If not, it would not meet building code requirements. There is an S occupancy and there are a lot of issues yet to be resolved. **Mr. Brierley** said it would be an accessory building to the business. The applicant provided limited information on the building. **Commissioner Brittell** said if it is an incidental use to the business, that is a problem as it relates to site design review.

**Commissioner Brittell** said there are two unfunctional buildings, and when he tried to drive through the proposed driveway, he barely made it through there. While he would recommend that this is a great project, he could only approve it if they would tear the house down in relationship to the code. **Commissioner Brittell** addressed the required footage. Discussion was held concerning the City's development requirements which require 20 foot interior drives for accessibility for the emergency vehicles. The one he is referring to the uniform building code setbacks. A storage building must be 10 feet from the property line. There are violations.

**Commissioner Haug** said it is a proposed new building. **Mr. Brierley** said the conditions would allow construction of a storage building at that location. It would have to undergo a building plan review and this is not a building code plan review tonight. It is a matter of construction methods and may require a number of things. The owner may decide not to do the buildings. **Mr. Brierley** said there are building methods that would allow the construction.

**Commissioner Brittell** addressed the width of the pathway and difficult turning radius for his vehicle and other similar 4 wheel drives on a 12 foot right of way which is right up to the building. There will be a problem. The Development Code requires 20 foot width.

**Commissioner Schmitz** said they are going to have a lot of problems with the plan review. **Commissioner Brittell** said it is not ready for the Planning Commission's review.

**Commissioner Haug** said he would phrase the condition that addresses the concern about traffic and restricting hours of operation in the following manner: If staff identifies that there is a traffic problem, and it would be a type 1 administrative decision to resolve the problem. With the anticipated pedestrian traffic from the meeting room and Coffee Cottage, **Commissioner Haug** wondered whether we need to require a safely marked walkway from the meeting room to the existing coffee house (safety area). Discussion was held concerning other similar issues with the plan review.

**Commissioner Haug** proposed adding a condition that if the drive-through causes traffic to back up, staff would have the flexibility to administratively remove the first parking stall so cars can pull in and get around. **Commissioner Schmitz** asked for parking stalls. Mr. Brierley said it is a state highway, constructed by the state. Since it is a state highway, he is not sure whether the state or city has ultimate authority to regulate parking on Hancock Street. Typically, on First Street, they have signed and designated areas for parking/no parking which is different than Hancock Street. Jurisdiction is complicated. He imagines that if there were a desire to eliminate the parking, it probably could be done. The type one process required by the city is appealable to the Planning Commission. **Commissioner Haug** said the staff would deal with it administratively.

**Commissioner Brittell** would approve conditional use for the project, but could not vote yes because he knows the conditional use application and felt that it is incomplete - landscaping, amount of impervious surface, drainage issues. They are adding the tax lot and is almost 100% impervious, and they are changing use from residential to commercial. There are violations in codes and other areas. He could not approve it. Applicant has not met submittal requirements (e.g., drainage plan) for changes in use. Most of the concerns except for the driveway and landscaping are under the Building Code.

**Commissioner Tri** said the building had been a commercial enterprise and not a residential. It was an environmental laboratory and the operator lived there as well. Now there is a computer coding group.

**Commissioner Haug** said the landscaping and drainage plan could be dealt with by requiring that the applicant come in within a month with a plan, or have a condition to require him to do so. Discussion was held concerning staff's review of Type 1 applications. **Commissioner Haug** said that once we decided what would work, we could say that the application falls short in these regards and give them 30 days to complete the application; the applicant could waive 120 day rule.

**Mr. Brierley** suggested that the Commission could approve the conditional use permit to allow the drive-up service window and not the design review and have the applicant go through the design review process separately, giving staff the requirement to deal with this. Type 1 design review is processed with the building permit application by staff. **Commissioner Brittell** said it is also under commercial site review requirements and they have to be met. He had concerns that it would be setting a precedent and was concerned with not requiring so much more.

**Commissioner Haug** favored having the applicant waive the 120 day rule and come back next month to let the Commission review the landscaping etc. **Mr. Brierley** suggested granting the conditional use and letting staff do the administrative design review. **Commissioner Brittell** said he was in favor of letting the applicant get started. **Mr. Brierley** said the Code defines Type 1 design review for small additions and changes of use, while Type 2 is for larger additions/remodels. **Mr. Brierley** said there is a change of use with the development code versus the building code. The prior use was a home/office business. Asked whether it was a legal home occupation and whether it had come through the Planning Commission, Mr. Brierley said he was not sure of the history. It is not a commercial building and is a residence. There are issues with the Development Code.

**Commissioner Schmitz** said there are a lot of points getting hung up in the plan review. We want the people to develop it, but there are stumbling blocks. It would be a good idea to stop and give an extension to resolve the issues.

**Commissioner Larson** liked the idea of the applicant coming back with a complete plan for the Commission to review.

**Commissioner Smith** said that he is not familiar with design review and did not feel it is the Commission's job. He likes the idea of the project. He would like to stipulate a plan for safe pedestrian access from the coffee cottage to the auxiliary building. The Commission's approval is a minor step and the design review is a major step and will involve problems with the house, thereby joining the properties. He could approve it as a conditional permit but could also deny the design review. Discussion was held concerning asking for a continuation.

**Commissioner Haug** said he agreed that there is things missing. If an extension is not provided, we should deny. He also commented that Mr. Brierley said there are other applications where the application is conditioned with other issues. He has a lot of confidence in the staff and having them detail the changes. He also suggested that they be given administrative decision making on landscaping, etc. A final decision at the city level needs to be made within 120 days and the appeal is through the City Council. This is an important downtown development project.

**Commissioner Tri** said he is in concurrence with Commissioner Haug. His major problem is with the 20 foot ingress and an alley way not being wide enough. It is not congruent to safety. **Commissioner Haug** asked what the strategy would be for him to address that, if at all. **Commissioner Brittell** said that he knows that the Commission could

condition the project but is not sure how to make it fly. He would recommend tearing down the house. Discussion was held concerning giving the applicant another month if he waived the 120 day rule.

**Commissioner Schmitz** said staff will bring back information on several issues about the application: change in occupancy from residential to commercial, buffer zones and set backs.. All the other things fit with the community, it enhances the downtown area, but there are complicated issues.

**Mr. Brierley** said that in type 2 design review there is notice to the neighbors and in type 1 there is not. The conditional use process and the Planning Commission can separate the processes for the benefit of the applicant.

**Commissioner Larson** said he wants it to work, and the downtown to grow; it would be an asset to Newberg. He would support the applicant to come back and request a continuance for staff and the applicant to jointly bring together a resolution to the issues addressed. Can we recommend treating this as a type 2 - notify the neighbors - there are design requirement standards that are not the same.

**MOTION: Larson/Haug** to reopen the public testimony. (Unanimous). Motion carried.

**Mr. Mehler** asked what entails waiving the 120 day rule entails. Mr. Brierley said the City is required to take a final action on an application within 120 days of its completion. That is 4 months and that includes any Planning Commission hearings, the City Council review, modification. Commissioner Haug said it can be waived if the City is working with the applicant and working on the agreement to resolve the issues. Discussion was held concerning the strong consensus to have it brought back. Mehler asked if it could take longer than 120 days to come to a consensus. Commissioner Haug said that it could - but that was not likely.

**Mr Mehler** said he would waive the 120 day rule. He is wondering the purpose of the Planning Commission's decision - for design review or drive-up service? Is the Commission deliberating outside the scope of the Planning Commission? Generally staff manages some of the technical details.

**Commissioner Brittell** said it is important for Mr. Mehler's burden of proof that it meets the code. Unless you are aware of the code - the Commission has to have the criteria and it makes the Commission liable for the decision. Mr. Mehler said it would be up to staff and the City whether it met the Code.

**Commissioner Schmitz** said he is right, the staff has the engineer to review them. The Commission is more concerned about approving the conditional use with plans that will be different once the conditions are met. Staff and the Commission are working on this to help him succeed.

**Mr. Mehler** said that the next Planning Commission meeting is May 13<sup>th</sup>. Discussion was held concerning a minor/major adjustment.

**Commissioner Larson** said they are assuming that staff and Mr. Mehler will resolve the issues, and to bring the application back to the Planning Commission and they can do it. The Commission is faced with all the "I"'s that are not dotted.

**Chair Van Noord** closed the public hearing. Discussion was held concerning not giving a laundry list and referring to the requirements of the development code which will cover it.

**MOTION: Haug/Larson** to approve a continuance based on the issues discussed in deliberation today be addressed and returning to the Commission at the May 13<sup>th</sup> meeting, or at such time the applicant has complied with the requirements of the development code.

**MOTION TO AMEND: Brittell/Tri** to add that the applicant shall submit in the continuance statements referring to conformance to all development code standards, not requirements. (Larson NO / 6 Yes)

**ROLL CALL ON MOTION AS AMENDED: (Unanimous).**

2.	<b>APPLICANT:</b>	Ruth Olsen	
	<b>REQUEST:</b>	Conditional Use Permit - Bed and Breakfast	
	<b>LOCATION:</b>	1713 Villa Road	
	<b>TAX LOT:</b>	3217BC-611	
	<b>FILE NO.:</b>	CUP-19-04	<b>RESOLUTION NO.:</b> 2004-180
	<b>CRITERIA:</b>	NDC §151.210	

**Chair Van Noord** read the statements required by ORS 197.763 into the record, since Ms. Olson was not in attendance at the time Chair Van Noord read them originally at the beginning of the Commission Meeting. He opened the public hearing. He called for abstentions, ex parte contact and objections to jurisdictions.

**Mr. Brierley** presented the staff report. The property is unique in that it actually is in two different zones: the front is R-1 and part of the rear is R-2. The applicant is proposing to use the existing structure as a bed and breakfast. In R-1 it is a conditional use and in R-2 it is a permitted use. The applicant is not proposing any changes in the structure or dwelling. Discussion was held concerning the triple car garage and the driveway. The applicant is proposing a 3 bedroom bed and breakfast within the structure, in addition to the applicant's residence. In reviewing the applicable criteria, there are not a whole lot of issues; they look at parking for guests and sufficient room for that. The development code requires one space for every 2 rented rooms, plus two spaces for the residence, for a total of 3.5 parking spaces, rounded up to 4. There are 3 spaces in the garage and there are 3 spaces in the driveway (6), so they far exceed the total requirements. The section of Villa Road does not have an improved curb, gutter and sidewalk and they can park on the gravel area off Villa Road. Staff's recommendation is that there is adequate parking for the use. In general, just looking at the structure and neighborhood, this is an appropriate use and staff feels it meets the applicable criteria and recommends approval.

**Commissioner Schmitz** asked about the development code showing one space for each guest room. Staff said it is 0.5 space for each rented room. There is a separate section for bed and breakfasts in the development code: Section 151.630 (page 2 of staff report, Page 159 of the development code).

**Commissioner Larson** said that the conditions included a fire escape, and asked whether they were going to do that after, or what were the negotiations with the fire department. Staff said that the city had met with the applicant, and that it could be an informal escape, not necessarily a structure -- maybe a fold up ladder in the room which is acceptable to the fire marshal (rope ladder or down stairs).

**Commissioner Smith** said the Development Code shall conform to uniform building and fire code. Apparently the plan will have to fit the building and fire code.

**Commissioner Haug** asked about the gravel parking area: Will they be able to go in head first or parallel? It is large enough for the length of big cars.

**Ms. Ruth Olson** added that she has had a number of neighbors that have agreed with her development. She said that a Suburban could park on the gravel road. The Fire Marshall told her that she needed just a fire extinguisher and before she opens, they have to have the fire escape apparatus in the windows and the fire extinguishers.

**Mr. Brierley** said staff said it is an appropriate use and recommends approval of Resolution.

**Chair Van Noord** closed the public hearing.

**MOTION: Smith /Tri to approve Resolution No. 2004-180 authorizing a conditional use permit - bed and breakfast.**

**AMEND MOTION: Brittell/ Van Noord to amend with:**

1. Bed and breakfast residence shall meet all Uniform Building and fire code.
2. Parking on Villa Road frontage be limited to one vehicle.

**Commissioner Brittell** felt that both of these conditions are important. The residence was built when the code required 1-2 family and he would recommend that it be included. There is a big difference between a residence conforming to Uniform Building Code standards and residential standards as it was originally built. Limit to 3 guest rooms and 15 and 30 day periods. There is a problem with traffic, and there is parking adjacent to busy roads. If you look at the plans, the setback is 18 feet from the property line; the landscaping plan shows only 9 feet for parking use. He can see that it would be safe for one vehicle to come in and park parallel if the street was totally developed. She is required to have off-street parking and would recommend one vehicle parking only. It was unsafe when he visited the property. In terms of development code, the Code prohibits any backing in and out on a public road.

Discussion was held concerning parking enforcement.

**Mr. Brierley** said that the parking would be temporary. The street is not to standard because the lack of curb, and sidewalk. It would still meet the criteria even without the no parking out front.

**Commissioner Larson** said he drives Villa Road five round trips per day and is familiar with the house. In all the times driving the Villa Road, he has not seen any problems driving in and out. The head-in parking is inadequate in some instances, but he has not a problem. Occasionally there is a bit of traffic around 5:00 and the safety issue may or may not apply; does not see it in practicality. Bed and breakfasts are mainly within historic buildings but there have been no problems. He does not support the amendment.

**Commissioner Brittell** said the Commission is obliged to go by the development code requirements. **Commissioner Larson** said that staff feels that it does fit.

**Commissioner Smith** said that the City adopted specific codes for bed and breakfasts from long term rentals. The design is for a single family residence. Section (F) said that all bed and breakfasts shall be required to comply with Uniform Building and fire requirements. **Mr. Brierley** said that it has to be built according to the building code. They met with the Building Official and the type of changes that needed to be made to the structure for a bed and breakfast were few, based on the Building Official's review of the Code. The Building Code has a lot of allowances and exceptions. In the example last time, the Code allowed exceptions for historic buildings. Discussion was held concerning not having any substantive changes. He said adding the condition requiring Uniform Building Code compliance is acceptable to staff.

**Commissioner Schmitz** said the single family dwelling has different code requirements, but it is all the Uniform Building Code. **Commissioner Brittell** said that there are two codes in the state of Oregon: the International Residential Codes for single family and duplex and the Uniform Building Code. The code will require it meet standards for a multi-family dwelling. It is important that the Building Official does not miss this. If we do not think that it is not important, he will say that we cannot continue without changing the code to initiate it.

**Commissioner Haug** addressed the amendment:

1. He is against the restriction on parking. He is comfortable with the parking area and when it is curbed, the parking will go away. He is comfortable with them using the gravel in the meantime.
2. He thinks there is established a precedent in the city that a residence with normal family residential use can be used with a bed and breakfast. The Fire Marshall would approve. He is happy with conditions A-F .

**Commissioner Tri** said he also concurs with the decision.

**Commissioner Smith** said that he would agree with Mr. Brittell to initiate an amendment to the planning code.

Discussion was held concerning initiating the change in the code due to inconsistency and not penalizing the applicant, and making sure the Fire Marshall and staff are in agreement.

**Commissioner Brittell** said that it is not a mistake or inconsistency - three bedrooms is bigger than the normal small bed and breakfast. This has to do more with safety than with fire. He agreed that it might be a conflict.

**Commissioner Larson** called for the question on the two amendments.

**Commissioner Smith** said he would like to split the amendment.

**ROLL CALL ON issues:** 1. No Parking. 4 No - 3 Yes (motion failed)

2. Bed and breakfast residence shall meet all Uniform Building and Fire Code. (2 No - Tri/Larson/ 5 Yes.

**AMENDMENT - Haug/ Condition 4:** This bed and breakfast shall conform to requirements on Uniform Building Code as interpreted and approved by the Fire Marshall. He wants an expert to decide. **FAILED FOR LACK OF SECOND.**

**Commissioner Brittell** said there is an important function for the Fire Marshall and Building Official and that is already covered in Condition 1; we are talking about Condition 4 (fire, life and safety) as it relates to the UBC. The Fire Marshall interprets the fire code and the building official interprets the building code.

**Commissioner Smith** said he approved as proposed by staff.

**ROLL CALL ON ORIGINAL MOTION WITH Condition 4 - 2004-180 as amended(Unanimous). Motion carried.**

**Commissioner Smith** said the amendment will not seriously harm the applicant. If there is a problem, staff will investigate staff. He asked staff to investigate whether the code needed changed.

3. **APPLICANT:** J. Holznagel  
**REQUEST:** Addition to Historic Home

**LOCATION:** 800 E. Third  
**TAX LOT:** 3219AD-1400  
**FILE NO.:** H-15-04  
**CRITERIA:** NDC § 151.492

**RESOLUTION NO.:** 2004-181

**Ms. J. Holznagel** was in attendance for the ORS 197 reading. Chair Van Noord asked for abstentions, objections to jurisdiction and ex parte contact. There were none.

**Mr. Brierley** presented the staff report. The particular site contains a residence that was constructed in 1904 - Charles Wilson and early postmasters for Newberg. The building itself is in the Historic Inventory. The site is not the original structure on the site; originally it was a church. There are more contemporary improvements with an addition that is in the "shed" style which is the same as what the proposed addition would be. The addition would be consistent with one roof line to the edge of the addition. It would be a new bedroom for the home and allow additional living space for the home. The applicant is proposing to maintain the same style as nearly as possible so the addition would compliment the existing historic building. In looking at approval criteria, there are challenging criteria in that the addition has to be compatible with the existing residence and new work has to be different. The Commission has discretion on how they feel what the proper balance the two is. After they wrote the staff report, the City received a letter from Sarah Javling of the Oregon Historic Preservation Office. The letter, which is included as the last page of the staff report, says that the Office is pleased with the addition, that it is well done, and they make some comments as referenced in the letter. Discussion was held concerning providing a greater differentiation between the old and the new. Staff said in the roof line there are definite changes from the addition to the existing structure (this is a difference from the old and new).

**Commissioner Brittell** asked why this is before the Planning Commission. **Mr. Brierley** said it is on the local Historic Landmark list, which requires Planning Commission review of this magnitude. Mr. Brierley said there are some judgments to aesthetic values and interpretation. Commissioner Brittell asked if there was a completed elevation on the drawings. Discussion was held on the windows from the diagrams, and whether they are filling in the windows. He asked for recommendations from staff. The addition is illegal because there are no windows in the bedroom and the application does meet the code. There are no windows on the new addition. This is the review based on historic significance and they are changing the existing structure.

**Commissioner Schmitz** asked the same kind of questions. Is it like the old or substantially different. It appears that they are changing the old.

**Commissioner Haug** asked staff to address the issue of windows; there should be windows in the new addition. Discussion was held concerning staff's review of the application not being adequate to make a decision.

**Judy Holzagal, 800 E. Third Street, Newberg**, said the original plan submitted was only what she had at the time. She does have another plan since then. There are no changes to the existing structure - the windows stay the same. There are windows in the existing and a french door in the addition. There will be a window and a french door to the back. Ms. Holzagal showed the Commission where the windows are. Are the window styles differentiated from the existing style? The new windows will be required to be double paned. Ms. Holzagal said that the conditions of approval asked for more detail with the buildings. Discussion was held concerning the location of the windows/french doors.

**Commissioner Brittell** said that we need to have the applicant resubmit or give a continuance rather than a denial.

**Chair Van Noord** asked if the framing was the same around the outside. Discussion was held concerning the bathroom on the first set of plans being different than what was submitted to the Commission. Discussion was held concerning a laundry room/bathroom combination. It is a large room.

**Commissioner Brittell** asked for the square footage. She said it is about 1782 square feet ; the upstairs is smaller and she does not know what it is. The addition will add 320 square feet to 1718. These are the final drawings. Discussion was held concerning the documents submitted for the public hearing. Ms. Holzagal said that she did not get it until after she submitted the original map. She said she thought what she submitted was adequate.

**Chair Van Noord** asked if procedurally we can take the revised drawing. Mr Brierley said that he could. Mr. Brierley said the Commission could look at the issues and make a decision or continue the hearing if needed to review the additional material. Chair closed the public hearing.

**Commissioner Haug** said he liked the design and the original windows are wood and it will stand out as a different addition with the slope and the same shape and geometry and be able to define what is new and what is old. He is going to vote yes with the conditions.

**Commissioner Tri** said he concurs and finds the way it is going to be structured will show what is historic and what is new. From the look of the design, it does not seem to change the basic overall view from the street.

**Commissioner Schmitz** said it is before the Planning Commission because it is a historic review because of its artistic review. The reason for that is if that does not happen, what is the end result. Discussion was held concerning the artistic

review of the Commission. It is difficult with historic properties. He would hate to bring misery on a homeowner who has historic property because of the Commission's artistic value; it seems strange.

**Commissioner Haug** said he has been here long enough to have seen rejections because they are not compatible with the historic style.

**Commissioner Brittell** asked staff who reviewed it. Mr. Brierley said it was the contract planner, along with him. He noted that David Beam has been traditionally the historic restoration planner, and asked why David wasn't involved. Mr. Brierley said David does other things. Discussion was held concerning qualifications for historic restoration projects. Mr. Brierley stated that he is not an architect and his expertise is limited; he can read criteria and can look at things and make determinations, such as whether it is compatible; it is a judgment. Discussion was held concerning historic restoration for the City. The addition is an example of compatible historic structure or example of contrast. The architect chose the contrast on the City Hall building and chose not to follow any architectural style or motif on the new addition between his office and the restoration project. The point is that the contrast has to be a contrast - or is it typical of the style of the architecture of the early 1900's? Is it a contrasting one? Mr. Brierley said the vernacular has a sharp sloped roof. The additions are at least 50 years old and should be part of the historical building. Commissioner Brittell said that his problem with approving is that it appears they are trying to copy a style. It is to look like the original style or a contrasting addition. He would disapprove based on that it did not meet the criteria, and the comments from the historic organization are right. It is not the early vernacular style.

**Commissioner Smith** reviewed the requirements for additions to historic buildings. The letter from the State of Oregon Historic letter is correct - shall not destroy the old work and shall be differentiated and shall be compatible to restore the integrity of the project. More needs to be done to differentiate the new and old. He would the applicant to respond to the State's proposals.

**Chair Van Noord** reopened by the public hearing - the Commission unanimously agreed.

**Ms. Holznagel** said the style of siding that is currently on the house that can be purchased now. She said that the majority of the siding will be used, not all of it, and they will have to have something similar but it will not be exact. They are going to comply with what she suggested. Ms. Holznagel said the kitchen was added on after the fact. The big room that is the bathroom and laundry was at one time a wood shed, which was later connected to the kitchen. Originally it was a wood shed and tool shed and they added the kitchen and then it was all connected with hallways. The garage is a part of the historic designation.

**Chair Van Noord** closed the public hearing.

### **Tape 3- -Side 1:**

**Commissioner Haug** said the application satisfies the aesthetics and does not destroy the historic look and feel of the neighborhood. They have done a more than adequate job. He votes for it.

**Commissioner Smith** said he is not a building expert or architect and relies upon the Oregon Historic Preservation Office statement that it is an exemplary example of compatibility, and the only real question is, does it differentiate. The applicant said she will accept one of the proposals by the State. The resolution has condition B - building permit. The applicant shall submit plans, etc. The Commission is called to make a judgment on the historic designation. The materials presented to the staff are not accurate to what the applicant has proposed. It was a deficiency in staff's packet. Are we qualified to judge the issue - mostly resting on the confidence of the expertise of Javling. He says yes.

**Commissioner Brittell** asked for confirmation of review of the code for historic review. Commissioner Smith said he was only familiar with it as in the ordinance. Discussion was held concerning the criteria that was contained in the staff report or was not. 4.3.6 contains the criteria as well as Exhibit A - Findings. Commissioner Haug said the findings have been excellent and that keeps our record clean and if we don't having findings for the criteria. Commissioner Brittell said that the board needs to review all the criteria.

**Commissioner Brittell** referred to Page 126 of the development code for new construction on a landmark site, Type 3 review criteria. See also page 125 (last paragraph) (h) - shall not destroy historic character from the property. On the new construction (B) - new building shall review for Type 3. He read the review criteria, line and site, size, scale, material and character. Contemporary shall be considered. He did not see the criteria in the findings. He would recommend that the application be denied because it does not contribute to the significance of the historic property. There is an old cherry tree that is no longer there. The style of windows had very tall double hung windows and the new addition would destroy the look of the house. In so doing, they will have to do a different kind of roofing. Everything about the addition is trying to make the new look old. Discussion was held concerning the elevation and french doors. He said the historic significance is diminished

**MOTION: Brittell/Larson to deny based on the design criteria.**

**Commissioner Schmitz** said he would make a motion to go along with the statements contained in the Oregon State letter. He concurs with Commissioner Brittell's comments to meet the criteria.

**Commissioner Haug** said he will vote against the motion. He is comfortable and would like to follow the letter from the expert essentially saying that the proposal is good enough, and we may need to have staff insure that the conditions in the letter are satisfied.

**Commissioner Brittell** said he would generally agree if the state of Oregon had reviewed the same thing is what the Commission is being given now.

**Commissioner Haug** called for the question.

**ROLL CALL ON MOTION:** Brittell - 1 Yes/6 No - motion failed.

**Commissioner Larson** said the addition as he sees it does not add any value to the city of Newberg. He thinks the letter from the state of Oregon and recommendations to change as far as differentiating the flat and siding, etc. perhaps changing the roof would be a great benefit. Another great benefit would be a more detailed description of the materials used and a better description of french doors; he does not have enough in front of him to make an informed decision. In the end result, he would hope that the decision enhances the value of the City of Newberg. He is most concerned. A historic building has tremendous value to the City of Newberg. He wants to make sure the enhancements are good.

**Commissioner Schmitz** asked Ms. Holznagel if she would be more comfortable with a continuance or approval in accordance with the State's recommendations. Or come back in a month and present a new proposal. Ms. Holznagel said she needs to keep it moving - she has an elderly mother. Nothing on the outside of the house has changed even though the plans have changed on the inside and not on the outside. She is not sure what is the "bad" part.

**Commissioner Haug** read portions of the letter as noted. Require staff to administer this with their discretion. Ms. Holznagel said the siding is not going to match perfectly. The windows are going to be newer versions. They have differentiation going there. The french door is on the back; it was her understanding that it was the view from the east Third that was of concern, and the one on Edwards is secondary. She is willing to do whatever she needs to do.

**MOTION: Schmitz/Tri** to approve the Resolution with the following exception that the comments in the letter of March 30, 2004 from the State of Oregon Historic Preservation Office comments would be satisfied and staff would use them as a guide and establish that as a condition of approval as design.

**Commissioner Brittell** said that the state lady did not have the same information of what it is now.

**Commissioner Haug** said the content of the letter would be the same whether she saw the building or not. The words are conditions of approval as administered by staff and are satisfied. The content is representative of the historic association. It may not be the best enhancement. Discussion was held concerning sending a copy of the plans and photos to the state to readdress the criteria.

**Commissioner Larson** said he wants to agree with Brittell that we do not have access to the materials. It is important, on the other hand. He is not an expert in this field and given choices of materials, he would have to rely upon others' choices. He is comfortable that we use the letter as a basis to get the project going. He is comfortable that staff will work successfully with the applicant and the State of Oregon and have something of value.

**MOTION: Brittell** add to the list of criteria that is the criteria in the ordinance. The applicant has the burden of proof to indicate and bring evidence to address the criteria of the ordinance; Page 125 (H) (b) items 1 and 2) - **MOTION FAILED FOR LACK OF SECOND.**

**Commissioner Haug** called for the question and then later withdrew the call.

**Commissioner Smith** said he is struggling and would like to hear more clearly that it seems that the Oregon letter made a strong judgment call that the proposed addition preserves the historic features of the building. It is most likely true that judgment was based on less than full information. It would have to be really misleading information for the decision to not be that off base. Is Commissioner Brittell against it because it does not differentiate between old and new or the criteria? Is the objection to the proposal that it does not preserve the historical features of the building or does not differentiate between the old and new?

**Commissioner Brittell** said is based on review criteria in the development code - type 3 review according to the landmark procedures in the Code. These review criteria were not reviewed by staff. Commissioner Brittell said how does it differ from the historic landmark criteria in the code? 151.492 NDC on historic landmark review criteria.

**Mr. Brierley** said the criteria in 1.5 are addressed in the staff report. The criteria on page 126 talk about new construction. His interpretation was the criteria in 1.5 would apply to a landmark site with no structure where someone is putting a new structure on it, NOT when an addition is attached to an existing structure. In this case, the criteria on page 126 do not apply. Discussion was held concerning definition of a "new construction".

**Commissioner Haug** said he disagrees with the comments by Brittell.

**ROLL CALL ON MOTION: Commissioner Larson** called for the question. - 6 Yes, 1 No - Brittell- Motion carried.

**V. ITEMS FROM STAFF**

1. Update on Council items
2. Other reports, letters, or correspondence
3. Next Planning Commission Meeting: May 13, 2004

**Mr. Brierley** said they will hear a request for annexation of a piece of property on North Main and hearing the continuation of the Coffee cottage conditional use permit.

**VI. ITEMS FROM COMMISSIONERS**

**Commissioner Larson** asked about the sign on Granite Motors. Mr Brierley said the sign has been reviewed and they had a permit. Staff reviewed it according to the development code, and it far away meets code. It is challenging to write criteria to define a particular style with certain elements that need to be included. For example, the code requires certain points: that it is non-rectangular, finished metal letters (raised letters) and gives points if a smaller sign. It definitely meets all the point criteria and it is a different style than envisioned. What did it score? Mr Brierley said that he cannot remember. Commissioner Larson that we wanted to create an extension of historic value to the City. He looked at the new sign at the credit union and had a hard time visualizing that it embodies value downtown.

VII. ADJOURN

**MOTION:** To adjourn at 11:00 P.m. (Unanimous). Motion carried.

Approved by the Planning Commission this 13<sup>th</sup> day of May, 2004.

AYES:

7

NO:

0

ABSENT:

(List Name(s)):

ABSTAIN:

(List Name(s)):

Peggy R. Hall

Planning Recording Secretary

Peggy R. Hall

Name

5-13-04

Date