



PLANNING COMMISSION MINUTES

May 13, 2004

7 p.m. Regular 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. CONSENT CALENDAR (items are considered routine and are not discussed unless requested by the commissioners)

1. Approval of April 8, 2004 Planning Commission Meeting Minutes.
2. Approval of April 15, 2004 Planning Commission Meeting Minutes.

MOTION: Tri/Haug To approve April 8, 2004 and April 15, 2004 minutes. (Unanimous). Motion carried.

Commissioner Brittell noted corrections to page 3.2-5 of the April 15, 2004 minutes. Section to be modified should read "MOTION TO AMEND: Brittell/Tri to add that the applicant shall submit continuance statements referring to conformance to all development code standards, not requirements". (Larson No/6 Yes)." The changes were duly noted by Recording Secretary Peggy Hall.

MOTION: Tri/Smith to approve April 15, 2004 minutes as amended. (Unanimous). Motion carried.

IV. COMMUNICATIONS FROM THE FLOOR (5 minute maximum per person)

None.

V. 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.

1. **APPLICANT:** The Coffee Cottage
REQUEST: Conditional use Permit - Drive Up Service Window
LOCATION: 808 E. Hancock Street
TAX LOT: 3219AA-06700
FILE NO.: CUP-20-04
CRITERIA: NDC § 151.210

RESOLUTION NO.: 2004-182

Mr. Steve Olson presented the updated status report. The property is located in the C-3 zone. The applicant is seeking a conditional use permit (with concurrent design review.) The CUP criteria: compatible with neighborhood; convenient, functional, attractive for uses of its kind and consistent with development code. The Type 1 design review criteria relates to parking (which is not required in C-3 zone), set backs and general requirements (height and lot coverage) - landscaping and signage. Is proposed use allowed in C-3 zone? Yes.

Transportation Issues:

1. Traffic issues were discussed with the engineers, and highway standards (type P design vehicles - Ford F150 truck was capable of making the turn (25 feet is required and 28 feet is the radius). With the drive-thru lane - the skinniest point is 12.5 feet. It only requires 12 feet. This exceeds the standards. They also looked at other standards from other cities. They looked at the McDonald's drive-thru. The subject property complies. The height restriction standard is not an issue. The applicant is considering underground electrical services. The auto line stacking capacity shows 6 cars, with possible stopping on Hancock. The applicant does not predict a problem. Staff suggested that there be a

monitoring period, where if problems arose, then the City and applicant could come up with potential solutions (such as adding signs, like "Do not block driveway"), or limiting parking on Hancock. Limiting operational hours may be another mitigation measure. The driveway exit is slightly offset from the drive-thru lane. The applicant will stripe it so that the cars are directed to exit here. As for pedestrian connection to the Coffee Cottage from the drive-thru, the safest would be the existing sidewalk on Hancock Street. Both buildings have direct access to the sidewalk.

Building Code Issues:

The application has been reviewed by planning, engineering and the building divisions. The building official has found no issues. The building's south and west walls will be required to have fire walls and the building setbacks are consistent with the development code. If in the future the applicant decides to add a storage building, he will apply for a building permit. If the storage building is close to the property lines, then they would have to construct one-hour fire walls.

Development Code Issues:

Proposed change of use will trigger some ADA requirements, such as accessible routes with ramps and possibly a restroom. The roaster section of the plans have been approved, including the installation of fire walls. The C-3 zone has no minimal front yard setback. There are no interior yard setbacks in C-3 zones either. The applicant is not proposing any curbing for the drive-thru lanes, but they are proposing striping. Signs are not proposed at this time. Since the three lots are under single ownership, the site is being considered as a single development site for plan review purposes. The applicant is not being required to consolidate the lots. The CUP is conditional on the continued existence of the walk-in coffee service in the western building. The drive-thru can only exist as long as the house is in the same ownership and that the Coffee Cottage remains in business. As for landscaping, since the project is considered one development site, the City is not requiring a 5 foot landscape strip between the southern building and the drive-thru lane. The eastern end of the drive-thru will have a drainage catch basin for storm water. The previously proposed storage building has been removed from the plan and is no longer an issue. Type 1 vs. Type 2 design review issue: Things that would bump them into Type 2 category would include a building over 2000 square feet, remodel costs exceeding 25% of the assessed valuation. Neither apply in this case. Architectural styles of the buildings are not the same. Applicant is putting on new siding and roofing to match the Coffee Cottage. Staff is not recommending further modifications. During hours of operation when traffic is heaviest on Hancock, hour restrictions may be needed in the future, but are not required at this time.

Conditions of Approval -

1. Permit requires primary walk-in coffee service in the western building. Conditions tied to same, continuing use and cannot be transferred. One year review period to monitor traffic problems. Staff approves as noted.

Commissioner Haug asked about the roof being flat and how were they going to address rain storm drainage off the roof. Mr. Olson said that it would be addressed at the building plan review stage.

Commssioner Brittell talked about issues that are not covered sufficiently in the staff report:

1. Staff report as it relates to 5 foot landscape requirements: Under the proposed plan, the applicant requests the landscape along southern border be eliminated. What in the ordinance or code allows us to shut our eyes to that requirement?

Mr. Olsen said there was sufficient flexibility in the Code to determine it as a single development site, so the landscape border does not apply.

Commissioner Brittell asked where this issue is addressed in the Development Code. Discussion was held that it was to be considered one single development because it was owned by the same person and in conjunction with the existing business. Commissioner Brittell also said that he didn't feel that the site does not support the use. The southerly house is not part of the application. If that house creates a problem meeting the Code, then the house should come down. Commissioner Brittell disagreed with Mr. Brierley's assertion that this project is a single development.

2. Landscaping Code 151.580. Commissioner Brittell said that the driveway curbing and landscaping should be appropriate.

Mr. Olson said landscaping could be required. There are two triangular portions on the lot near the driveway. In the northwest corner where there is a sidewalk, it seems logical for landscaping. In the south side where the circular portion is along the border Mr. Olson said it could be another option to require it there too. Mr. Olson said that the applicant intended to put a storage unit there in the future. However, the Commission could place a condition to require landscaping there as well.

Commissioner Britell noted the one sidewalk in the front of the building was only 2 feet and the code requires it to be 4 feet along the side of the building. Also, section 151.197 of the Code has additional requirements for developments in the C3 zone.

Mr. Olson said that Mr. Brierley said that this section of the Code did not apply in this case.

Mr. Beam stated that under the Code definitions, only new additions or redevelopments above 25% of the value of the structure are required to do Type 2 review. Under this definition, the proposed project is only a Type 1 development.

Commissioner Haug said the proposed project is not a redevelopment.

Commissioner Smith said that the requirements of section 151.197 does not apply with this development.

Commissioner Larson said the height clearance of the drive-thru is about 12 feet. There may be some issues with a passage by big trucks and campers. Mr. Mehler said a semi truck is 13'6" and telephone lines are 14 feet in the alley. Oregon Credit Union has a roof with a 9 foot high drive-thru lane. Maybe the applicant can put in clearance warning signage like other drive-thrus. As for the electrical utility lines, if it proves to be prohibitive for under ground utilities, they can again put up signs.

Commissioner Larson then addressed the drive-thru turning radius.

Mr. Olson said that the plans would still need to go through building review with full construction plans. The drawings does not indicate the radius. Discussion was held concerning ADA requirements for a possible restroom.

Commissioner Larson said it should be mandated that an ADA accessible restroom should be installed.

Mr. Olson said that ADA is a building code issue and that compliance would be determined later in the plan review process. Compliance needs depend upon the valuation of the remodel.

Commissioner Larson said he would still like to see ADA bathrooms be mandated. Under conditions for approval, the drive-thru ends when the Coffee Cottage closes, etc. What is the mechanism for enforcement?

Mr. Olson said it would have to be a part of the conditions.

Commissioner Larson said that after a number of years, enforcement can be an issue and would be difficult. Then, Mr. Larson addressed the landscaping of the 5 foot buffer. At the last meeting, it appeared to him that by taking the two separate lots and considering them as a single lot, we were eliminating a requirement from the code. That may be fine in the near future, but he is raising the issue. How is the public interest being served by the elimination of the landscaping?

Commissioner Haug said that if two lots are treated as one, what is the process in which the two lots become one and the landscaping issue would become moot?

Mr Olson said it would be a lot consolidation and it is not a very expensive process. It is an administrative process to do a lot consolidation.

Commissioner Haug said it could be a condition to have the lot consolidation.

Commissioner Schmitz pointed out section 151.135 (d)(4) of the Code: With the lot consolidation, the owner can reverse it later. This is similar to what the staff is suggesting about the conditional use going with the business.

David Mehler, 402 N. School, Newberg, the applicant, addressed some of the issues:

1. Rain Gutter - the roof has a 6" eave and will have a 5" rain gutter to address water runoff.
2. Regarding the single development site and the landscape buffer - He intends to consolidate the two lots when his financial situation is better. The lots are small in a C-3 zone. He does not feel the single site development issue would be setting a precedent. The lot sizes are currently not up to code, but have been grandfathered in. As to landscaping the asphalt, he plans on putting a storage building in the southwest section of the lot in the future. He addressed ADA ramps. He realizes that he will have to address utilities and signs. He is just in the planning stage at this time.

Tape 1 - Side 2:

Mr. Mehler said that they will be putting in two new trees. He would be adverse to the idea of landscaping the asphalt portions but would work with the Planning Commission. Discussion was held concerning a walkway next to the house and that it is not for commerce. Mr. Mehler said he inherited it with the house. Discussion was held concerning a sidewalk adjacent to the street and the proposed walkway under the building eave.

Mr. Olson said the ADA ramp is an on-site walkway. Commissioner Brittell said that ADA requires the walkway to be 3 feet wide. It probably would not be in conformance. Discussion was held concerning wheelchair accessible bathrooms.

Mr. Mehler said he plans to make the bathrooms ADA accessible, but is concerned about the cost. The remodel will cost about \$13,900 and the value of the house is \$170,000. Therefore, the project is a Type 1 design review.

Mr. Mehler then addressed the drivethru turning radius on the drawing. He said that yes it was missing, but would be on the building plans. Then he addressed the enforcement of the coffee cottage continuing to do business or the drive-thru not doing business. He said that he would adhere to it as long as he owns the business.

Commissioner Haug restated that the conditions require that the walk-in business goes with the drive-thru.

Mr. Mehler said that he intends to consolidate the lots when he is financially able.

Commissioner Haug addressed the house at 111 N. Meridian (residential lot being rented). On the rental property, are windows facing the proposed driveway?

Mr. Mehler said that there are windows on that side. Any prospective tenants would be notified there is a drive-thru and the current occupants are willing to come and testify that they are happy with the changes as proposed.

Commissioner Haug asked about the speed limit sign and the utility easement line. Discussion was held concerning the flow of traffic and the location of the signs. Discussion was held concerning directional signs and striping.

Mr. Olson said that staff recommends approval of the application, subject to the conditions of approval.

Chair Van Noord closed the public hearing.

MOTION: Haug/Tri to approve the application, subject to the proposed conditions To approve the Conditional use Permit - Drive Up Service Window

LOCATION: 808 E. Hancock Street

TAX LOT: 3219AA-06700

FILE NO.: CUP-20-04

CRITERIA: NDC § 151.210

RESOLUTION NO.: 2004-182

(Unanimous). Motion carried.

Commissioner Haug asked if we needed to have requirement for ADA accessible.

Commissioner Schmitz said that issue would be handled through the building/permit review.

Commissioner Haug asked about any on-going issue about the landscaping on the property that is adjacent to the property on either one of the two streets.

Commissioner Smith addressed the landscaping on the streets. The condition waives landscaping on the western and southern borders.

Commissioner Haug asked if the Commission was satisfied with the landscaping on the streets. Discussion was held concerning the landscaping.

Commissioner Smith stated there are issues surround one single development site. The applicant does not want to combine it at this time, but considers it as one development site. He wants to be clear that the land along the streets needs to be landscaped. All street frontage has to be landscaped. As for signs in the future, staff can handle it when that time comes.

Commissioner Haug asked if the downtown has additional requirements for landscaping. Good landscaping attracts business. Discussion was held concerning safety issues and a well-maintained property. Mr. Mehler has been good about his businesses and development. Discussion was held concerning the western property line.

AMENDMENT - MOTION: Haug/Tri to modify Condition #2 so it includes landscaping to be done on the northwest corner of the lot, at the approval for the planning staff and administrative review (landscaping that is done is subject to administrative review).

Commissioner Brittell addressed not requiring the landscaping on the interior lines of the two properties. Discussion was held concerning safety issues in the turning radius of the vehicles. Commissioner Brittell noted asphalted areas.

Commissioner Schmitz noted section 151.235(D)(1) of the Code. The same owner of both properties have constructed over the property lines, therefore it is essentially one development.

Commissioner Brittell discussed the southern border of the driveway landscaping. As to the southerly property (residential rental), he stated that the 28 foot lot size is non-conforming for residential and neither is the setback. As for the proposed site plan, it is now encroached by asphalt. They have about 1.25 feet encroaching upon the strip of 2.5 foot landscaping strip. It is worsening a non-conforming use by 1.75 and the setback. Discussion was held concerning clarifying the amendment

ROLL CALL ON MOTION TO AMEND (5 Yes / 1 NO - Larson/1 Absent [Schmitz])

MOTION: Brittell noted that the 5 foot standard be modified to 5 feet and if the house has to come down and the house is a hardship to the property. Require the 5 foot buffer. MOTION FAILED FOR LACK OF SECOND.

Commission Haug said that he is comfortable with the proposal. The driveway overlaps the property line which is in compliance with code for a single site development.

Commissioner Brittell addressed the lot line requirement being in the middle of two buildings. Discussion was held concerning amendments and changes to the building. He said that he does not feel that the development is legal. He said that the project is not going to work. He said that there is a similar situation in the alley between the City Hall building and the VFW building, as there is only a 11.5 foot wide drive. The VFW are concerned and may take action soon because of the use of the alley. Parking next to the building is damaging the building. He feels in this situation, a painted curb does not protect a building. A car could hit a building and the applicant should be concerned with protecting his property. Discussion was held concerning the turn from Meridian Street into the driveway. A discussion regarding protection of the house and the building for insurance claims. We are making a non-conforming use a further non-conforming use.

Chair Van Noord addressed the 12 foot driveway radius. In driving through a bank, there are some pillars for safety. He does not believe it is the Commission's job to discuss insurance liability of the subject property. Discussion was held concerning the use of a bollard (post like a steel post that protects from vehicles running into the rental house (house side and the drive-thru building side equally vulnerable).

MOTION: Haug/Brittell to add the following to condition #6: bollards to be used to protect corners of the drive-thru building and the rental house (3 corners: southwest and southeast corners of the drive-thru and the northwest corner of the residential rental house). (Unanimous).

Commissioner Larson said he made a drive through today and there was a pick-up truck parked in the asphalt area of the southwest part of the lot. His concern is that if there is just this is blank asphalt, the possibility of vehicles parking in this area is great. This would block the drive-thru. His own extended cab 4 wheel drive camper encroaches upon the driveway itself. His opinion is parking in this area poses an encroachment problem on the drive-thru.

MOTION: Haug/SMith to add to condition #7: no parking is allowed on asphalt area in the southwest area of the property. An administrative review will be done for some type of barrier in this area to prevent parking.

Commissioner Brittell addressed parking stalls and requirements for the development. There is not enough parking stalls.

Commissioner Schmitz said that we need to leave it up to the owner to find a way to prevent parking in this area.

ROLL CALL ON THE AMENDMENT #7(Unanimous).

ROLL CALL ON MOTION TO APPROVE APPLICATION AS AMENDED. (Unanimous). Motion carried.

2. **APPLICANT:** Mark & Susan McLeod-Harrison
 REQUEST: Annexation of .22 Acres
 LOCATION: 1819 N Main Street
 TAX LOT: 3218AB-2300
 FILE NO.: ANX-31-04
 CRITERIA: NDC § 151.262

RESOLUTION NO.: 2004-183

Chair Van Noord read ORS 197 into the record.

Commissioner Smith said he has had quite a few ex-parte contact with the applicant and he will abstain from voting. He left the table.

Mr. David Beam said it is an application for annexation. The property is located along Main Street, Crestview Drive and Columbia Drive. It is .22 acres and outside the city limits and inside the UGB. It is LDR of Yamhill County and Newberg's comp plan is also LDR. There is one house in the front part of the lot along Main Street. The applicant has no intention of subdividing the property, which would be difficult due to the siting of the house on the lot. The City has plans to improve Main Street in the near future. Main Street is currently very narrow in this area- no sidewalks, curbs or gutters. The City does have plans around 2006 to improve this stretch from Linn Drive all the way down to Illinois Street. Non-remonstrance have been received from most of the property owners in the area along Main Street that will be improved. With annexation, the applicant will provide sufficient right-of-way to do street improvements and provide a waiver of remonstrance. Another condition is that the applicant will have to hook up to city sewer lines. As for water service, he is currently hooked up to the Chehalem Valley Water District system. If his application is approved, he will disconnect from that system and hook up to the the City water system. If approved by the Council, it would go to the voters in November of this year. Staff's recommendation is for the Commission to recommend approval of the application to the City Council with conditions as described.

Commissioner Brittell asked about the 15 foot strip on the north side of the property line (utility easement - portion that is already annexed to the City). (Page 4.2.-24)

Mr. Harrison (applicant) said that the current county description does not have that dotted line. It is not an easement. Discussion was held concerning the lot dimensions. The dotted line was a previous lot line, but has since been erased.

Mr. Harrison said he was available to answer questions. He also owns 1901 N Main which was already annexed and expects it to be developed.

Commissioner Brittell talked about the Chehalem Valley Water District. The water comes from the City and is resold to the residents. Discussion was held concerning the septic system presently on the property.

Ryan Browns, 1801 N Main, owner of property south of the subject property. He just bought his house recently. He is on the Chehalem Valley Water with City sewer. He is not sure about whether or not a waiver of remonstrance came with his house and does not want to be annexed to the City (he has a huge tree in his front yard.) He wanted to know how he could learn more about annexation issues. Chair Van Noord said that Steve Olson, Barton Brierley and David Beam can help with his questions and what is planned for the development.

Mr. Beam said that the city does not normally initiate annexations unless there is an island annexation. Staff stated that they would provide Mr. Browns contact information for the City Planner, Barton Brierley, so that he could learn more about annexation issues. Discussion was held concerning how his tree might be saved..

Chair Van Norod closed the public hearing.

MOTION: Schmitz/Larson	To approve APPLICANT:	Mark & Susan McLeod-Harrison
REQUEST:	Annexation of .22 Acres	
LOCATION:	1819 N Main Street	
TAX LOT:	3218AB-2300	
FILE NO.:	ANX-31-04	RESOLUTION NO.: 2004-183
CRITERIA:	NDC § 151.262	
(6 Yes/1 Abvstain). Motion carried.		

Commissioner Haug said saving that big tree is an important issue. He asked the staff to look into how that tree could be saved. Discussion was held concerning the future street improvement, but being creative to save the tree.

Commission Brittell addressed historical trees and a possible amendment to have something to preserve the trees.

MOTION: Haug/Schmitz to request permission from City Council to let the Planning Commission look into the development of an ordinance to preserve historic trees/Schmitz (Unanimous). Protection for historic trees ordinance.

MOTION: Commisioneer Haug/Smith to request permission from City Council to let the Planning Commission look into improving the City's cell tower Ordinance. City planning staff should review the Eugene cell tower ordinance. To have staff spend a little time to see if we can make some improvements or changes.

Discussion was held concerning appeals being made to LUBA over the recent the cell tower issue. Staff said they were not sure if that applicant appealed to LUBA or not. Discussion was held concerning industrial property up against residential property and cell towers. This city cannot deny the siting of cell towers within the city (federal requirement). The new City of Eugene ordinance is a good cell tower ordinance. The City of Hillsboro recently took a cell tower case to the Court of Appeals and won.

Commissioner Schmitz said we have a citizen coming to us about questions and we need to do homework before discussing it in a public session. He said he would like to know more about annexations, waivers of remonstrance, etc.

Mr. Olson said he would get information to the Commission regarding these issues.

VII. ITEMS FROM STAFF

1. Update on Council items
2. Other reports, letters, or correspondence
3. Next Planning Commission Meeting: June 10, 2004

There will be a couple more annexations and some additions. A future meeting will deal with the bypass ordinance.

Commissioner Haug said he will be out of town for the next meeting.

Commissioner Smith said he will not be available for the June meeting but will be available for the July meeting.

VIII. ITEMS FROM COMMISSIONERS

IX. ADJOURN

MOTION: To adjourn at 9:30 p.m. (Unanimous). Motion carried.

Approved by the Planning Commission this 10th day of June, 2004.

AYES: 6

NO: 0

ABSENT: 1 (Smith)
(List Name(s)):

ABSTAIN: 0
(List Name(s)):

Peggy R. Hall
Planning Recording Secretary

Peggy R. Hall 6-10-04
Name Date