

MILWAUKIE PLANNING COMMISSION
MINUTES
TUESDAY, FEBRUARY 28, 1995

COMMISSIONERS PRESENT

Carolyn Tomei, Chair
Bill Johnson
Gordon Jones
Debi Linn
Calvin Walter

STAFF PRESENT

Maggie Collins,
Community Dev. Dir.
Jim Crumley,
Associate Planner
Shirley Richardson
Hearings Recorder

COMMISSIONERS ABSENT

Michael Smith

1.0 CALL TO ORDER

Chair Tomei called the meeting to order at 6:30 p.m.

2.0 PROCEDURAL QUESTIONS -- None.

3.0 CONSENT AGENDA

3.1 PLANNING COMMISSION MINUTES -- January 24, 1995

Bill Johnson moved to approve the minutes of January 24, 1995, as corrected. **Debi Linn** seconded. MOTION CARRIED 4-0 with two abstentions. Gordon Jones and Calvin Walter were not at that meeting.

4.0 PUBLIC COMMENT -- None.

5.0 OTHER BUSINESS

Chair Lent explained that Carolyn Fitchett, a representative from Metro, was present tonight to speak on the upcoming Open Spaces Bond Measure.

Ms. Fitchett stated that she was here to talk about Ballot Measure 26-26. It is ballot measure that will be on the May ballot. It was put on the ballot by Metro. This measure is to protect open spaces, parks, and streams. The vision of this measure is to enjoy the quality of life that we have today. This vision includes open spaces, clean air, good water quality, and nice public recreational availability for the citizens. Because of efforts made in 1950, Oregon has a public coastline on the West Coast. It runs from the Columbia Gorge to the

California state line. Two very valuable pieces of property in downtown Portland that have been dedicated for public recreation; the Tom McCall Waterfront Park and the Park Blocks.

The tri-county region includes Washington County, Clackamas County, and Multnomah County. We can expect at least 500,000 people to move here in the next two decades. As this region grows, we lose valuable open spaces and natural areas that are needed to maintain our water quality, fish and wildlife habitats, and our air quality. We would like for our children's children to enjoy our same quality of life. Approximately 2,500 acres of natural open spaces are lost every year. We need to set aside open spaces now so that we can maintain the quality of life we enjoy today.

There are 111 sites that this bond measure will save. **Ms. Fitchett** presented a map that showed the entire Metro region and the 111 sites. Many of these acres are along the Willamette River Greenway, and will help preserve our water quality. Mill Creek Canyon is one of the only tributaries left in the Metro area. This will be reserved and protected for wildlife, fish-spawning beds, and many other areas as well as local sites. This \$25 million bond measure will also send funds to local jurisdictions. In Milwaukie, there are eight areas: wetlands, Portland Traction Company Line, etc. A natural trail is proposed from Milwaukie/Gladstone and to hook up with the Springwater Corridor trails. Bikes can be ridden from Gladstone out to Boring or into downtown Portland.

There are 5,100 acres of stream fronts and river corridors: Clackamas River, Tualatin River, Willamette River, The Scenic River Gorge, and the Columbia Slough. The price is \$135.6 million spread throughout the Tri-county region. In five years you will not have 111 sites on a map; maybe only half that amount. They will not be the same sites you enjoy today; many of those will be gone.

She asked that the audience support Measure 26-26. If this measure passes everyone will be within ten minutes of a natural resource or wetland. This campaign is to inform the public about the measure so that residents can make a educated vote in May.

She asked that each person take three hours talking to your neighbors about this issue. Oregon has a great quality of life. The Milwaukie statement includes that, they too are interested in the quality of life. She then passed around a sign up sheet for those who are interested in helping with the campaign. If this doesn't pass, you won't see it again for five years. There will not be as many sites available at that time.

6.0 PUBLIC HEARINGS

- 6.1 Applicant: Carsten Royland
Property Owner: Carsten Royland
Location: 43rd Avenue, South of Howe Street
Proposal: To construct a four-plex on a 12,541 square foot parcel in the R-3 Zone (CU-94-03) with a Transportation Planning Review (TPR-94-04).

Chair Tomei explained the public hearing format. She then opened the public hearing to construct a four-plex on a 12,541 square foot parcel in the R-3 Zone. She asked if there were any conflicts of interest or ex-parte contacts to declare. There were none. She asked if there were any Commissioners who visited the site; four hands were raised. No one in the audience challenged the impartiality of any Commission member or the jurisdiction of the Planning Commission to hear this matter.

Jim Crumley explained that this Application was for a conditional use permit to construct multi-family housing in the R-3 Zone. The R-3 Zone is the City's transition zone between the single-family R-7 and R-5 Zones and the high density, multi-family zones. A conditional use permit is required because of this transition area.

This application is a good example of what transitional housing should be. The Applicant is proposing a single-story four plex, L-shaped design, that is adjacent to other multi-family housing. Another option would require development in a shoe-box shape, two story, two units down and two units up. This would not be appropriate this close to residential housing. This design is well suited for the site and the neighborhood.

The criteria is spelled out in the Staff Report. Density and setbacks are the main areas of concern. The R-3 Zone requires that each dwelling unit have a 3,000 square feet of building area for each dwelling unit. There is a total of 12,500 square feet; it meets the criteria.

A second criteria that is important is the setbacks in these transition-type developments between single-family and multi-family units. In this case, the transition requirement is that the development maintain an equivalent of a front-yard setback from the property line on any adjacent residential zone. Exhibit II shows the easterly property line. In this case where the R-3 Zone normally has a 15-foot rear-yard setback, because this is a transitional-type development, and because of the conditional use permit, the City is requiring a 20-foot setback between the property of the development and the property line. There is an additional 30 feet between that property line and a single-family house. There is at least 50 feet of separation between this multi-family unit and the adjacent single-family residence.

This Application is also accompanied by a Transportation Planning Rule Review, TPR-94-04. These transportation reviews are required in all commercial, industrial, and multi-family applications. The Transportation Review is included in the Staff Report. This project conforms to the new Transportation Planning Rule. It does require bicycle parking for the units and the Applicant has agreed to provide that.

The findings and criteria are met by this project. There are concerns about the two large deciduous trees and the Applicant must preserve one of the trees. He has agreed to do that.

Staff recommends approval based on the findings and recommendations as outlined in the Staff Report.

There have been two contacts with staff and two telephone calls requesting information. No opposition was expressed. There has been no additional information from the applicant or adjoining property owners since the publishing of the staff report.

QUESTIONS OF STAFF -- None

APPLICANT PRESENTATION

Speaking: Carsten Royland, 2250 SE 114th, Portland 97223

Mr. Royland stated that he has read the Staff Report and concurs with Staff's recommendation.

TESTIMONY IN FAVOR OF THE APPLICATION -- None.

QUESTIONS OR COMMENTS ON THE APPLICATION -- None.

Speaking: Richard Heckman, 9749 SE 44th Avenue

Mr. Heckman stated that he resides directly behind this establishment in the 7800 Block. He asked if this is going to be a single-story dwelling. **Jim Crumley** stated that the proposed dwelling will be a one-story structure.

Speaking: Dan Leonard, 4344 SE Powell

Mr. Leonard stated that he resides just north of the proposed site. He still has all his information from 1993 when this Application was presented previously. Originally the

structure was going to be a duplex, now it is a four-plex. What will keep it from being a two-story structure or a six-plex. **Jim Crumley** stated there was a previous proposal to divide this property. A minor land partition was proposed. The configuration of that partition was for the purposes of building a duplex on two of these parcels. These two parcels are now merged under this Application. The reason it was done at that time was because the City's Zoning Ordinance required that duplexes each be on separate, individual lots. The Ordinance has since been amended and now it allows a duplex to be on one lot and have a single ownership and two units on a single lot. Since that amendment, the Applicant is now building this to the maximum extent allowed. He cannot build more because only a four-plex is allowed. The density does not permit any more than four units and this application is being considered by the Planning Commission for a single-story four-plex. Altering this would require coming back before the Planning Commission again for review.

TESTIMONY IN OPPOSITION TO THE APPLICATION

Speaking: Dan Leonard, 4344 SE Powell

Each dwelling unit is allowed two/three cars. His concern is how the Applicant is going to make spaces for eight cars and still have room for a bicycle parking spot. What is going to keep families from having three cars?

Speaking: Anna Sergo, 9716 SE 43rd Avenue, Milwaukie 97222

Ms. Sergo stated that she purchased her home in 1994. They were told that the lot beside and behind them would be a duplex and the owner would live in half of the duplex. She was surprised and upset when she heard of this Application for a four-plex. This is a small area; too small for a four-plex. There are small children around that play outside. If she had known a four-plex was going in she would not have purchased her residence.

APPLICANT'S REBUTTAL

Speaking: Carsten Royland, 2250 SE 114th, Portland 97223

Mr. Royland stated that there will be a buffer zone between the two properties with a fence and a hedge; so they can be as discreet as possible from adjacent neighbors. This will alleviate some of the privacy problems expressed.

Chair Tomei closed the testimony portion of the public hearing and opened it to discussion between the Commissioners.

Scott McClure stated that he feels the Applicant has met the criteria for the Application.

Debi Linn stated that she agrees that it has met all the criteria.

Bill Johnson stated that he, too, is in favor of approving the Application.

Gordon Jones stated that he is in favor of the Application. He feels that the Commission will see more of these types of applications as density increases in the Milwaukie area.

Bill Johnson moved to approve Conditional Use, CU 94-03 and Transportation Planning Review, TPR-9404 with the findings and conditions as found in the Staff Report. seconded. MOTION CARRIED 6-0.

- 6.2 Applicant: Stephen Blazo
Property Owner: Daniel Snow and Diane Dimon
Location: 9900 SE Cambridge Lane
Proposal: To develop a 5-lot Subdivision (S-94-03) with an access Variance (for one lot) onto Cambridge Lane (VR-94-14), and a Transportation Planning Review (TPR-94-03).

Chair Tomei opened the public hearing for a preliminary plat for a 5-lot subdivision with a variance to allow access to Lot 5 via Cambridge Lane and a Transportation Planning Review. She asked if there were any conflicts of interest or ex-parte contacts to declare. **Chair Tomei** stated that she had talked to Mike Smith, who lives in the area, but they did not talk about this application. There were no other conflicts of interest or ex-parte-contacts declared. She asked if there were any Commissioners who visited the site; four hands were raised. No one in the audience challenged the impartiality of any Commission member or the jurisdiction of the Planning Commission to hear this matter.

Jim Crumley explained that this Application is proposing to subdivide a 2.88 acre parcel into 5 lots in the R-10 Zone. A variance has been requested to allow access to lot 5 via a private road easement (Cambridge Lane). All subdivision plats must be reviewed for conformance with the State Transportation Planning Rule.

The site is located in a heavily wooded area between S.E. Cambridge Lane and SE 17th Avenue. There are 50 trees with a trunk diameter in excess of 20 inches that have been identified. Exhibit #2 shows the larger trees on the site and the impact of developing a public street on the site.

Two letters have been received since the preparation of the Staff Report. One from John Holloway Jr. and one from Leroy Stafer. Mr. Stafer's letter included a note asking why his letter was not included in the February 14th Staff Report. This letter was faxed to the City on February 16, not in time for the Staff Report. Both letters were in opposition to the Application. A fax was also received in opposition to the Application.

The subdivision meets all design criteria with the exception of the one lot that is being proposed for Cambridge Lane. This lot is the one that has resulted in all of the opposition from the community.

A Planning Commission policy was adopted in 1979 (Exhibit #7). This was done after a six-lot subdivision was proposed and denied by the Planning Commission at that time at the south end of Cambridge Lane. This policy was developed prior to the adoption of the Comprehensive Plan which included specific actions and policies for maximizing infill potentials and developing properties to their fullest potential.

From the time that this policy was approved, there have not been any appreciable improvements to Cambridge Lane; the road has not been widened. The site distance is worse. There is at least one new house developed in this area since the policy was adopted. There is minimal difference in the amount of traffic.

Staff recommends approval of the subdivision for the 4 lots that front on 17th Avenue. On the 5th lot, a variance cannot be granted because of the three statutory findings as stated in Page 4 and 5 of the Staff Report. There are other alternatives to Parcel 5 other than Cambridge Lane. The cul-de-sac could be extended; lots 3 & 4 could be adjusted to allow access to Lot 5, and Parcel 5 could be divided to provide for a total of five lots. Staff recommends denial of application as submitted.

Had it not been for this variance criterion finding, access could be on Cambridge Lane. There are only one or two driveways that access Cambridge Lane between this proposed access and Waverley Drive. The additional traffic on Cambridge Lane would pose a hardship, danger, or traffic hazard. Deed restrictions and covenants are applied to Cambridge Lane. If there is a finding that there isn't a feasible alternative, i.e., extending the street to lot 5 is not feasible, it will not cause a hardship, hazard or danger to take access from Cambridge Lane.

The Applicant has submitted a two-lot option. It was received this afternoon and Staff has not had time to discuss this option with the Applicant.

Scott McClure asked if Clackamas County was involved in reviewing traffic impacts or just Staff? **Jim Crumley** explained that in this case, Oregon Department of Transportation (ODOT) reviewed this because of 17th Avenue. Tri-met reviewed it because of the bus route. As a normal process, Clackamas County does not review these applications.

Bill Johnson asked if lots 100, 200, 300, 400, and 500 all developed. **Jim Crumley** stated that all lots except lot 100 are developed. **Crumley** also pointed out that lot 1000 is not part of this subdivision and has a house on it at this time.

APPLICANT'S PRESENTATION

Speaking: Stephen Blazo, 3710 SE Rural Street, Portland

Mr. Blazo stated that he has never developed real estate, but he has been involved with development. He would like to maintain the neighborhood quality. The first and original proposal is more in keeping with Metro plans for efficient utilization of existing property and in keeping with the neighborhood ambiance. The lower 4 lots are larger to allow for placement of homes and to keep most of the trees. Lot-5 would be a parcel that when developed will be more in keeping with the neighborhood. The contour of the lot lends itself to a nice site for a single-family home.

Mr. Blazo stated that he intends to occupy the home. The other four lots are larger than the standard. As far as extending the road, it will eat up about 10,000 square feet of the lot. If it goes over the rise, there may be a question of storm drainage. He is not sure what the impact of storm drainage would be there. Development of this Application causes no negative impact on the rest of the neighborhood.

QUESTIONS FROM THE COMMISSIONERS

Scott McClure asked why the access drive to 17th Avenue would take up more land? **Mr. Blazo** stated that the access would not be a public street, but a driveway. One of the criteria for granting the variance is that the physical nature of the property is kept. The appendage on the lot was created with the intention that the access be from Cambridge Lane for one lot.

Gordon Jones asked if this tax lot pays for the upkeep of Cambridge Lane? **Mr. Blazo** stated that it does. It is recommended in the Staff Report that the owner of lot-5 share in the maintenance of Cambridge Lane. The Fire department has no negative comments of an additional home on Cambridge Lane.

Gordon Jones asked if lot-5 was a separate tax lot. **Mr. Blazo** stated that it was not. There were two tax lots and it was divided. The entire upper part is included in the Snow's house. There was a lot line adjustment to create the other lot.

TESTIMONY IN FAVOR OF THE APPLICATION

Speaking: Charles Dimon, 9900 SE Cambridge Lane

Mr. Dimon stated that this property has been in their family for 75 years. He is very reluctant to sell, but he has to. His daughter, Diane Snow, and her husband now own approximately 8.8 acres that surround the house. This applicant has picked the same spot as an earlier proposal back in 1950. Every step they have taken has been to maintain the natural habitat of the trees. The home was purchased 1921 and it has been maintained by the family. The land will be going on the market. He has asked the neighbors if they wished to purchase the land and keep it in its natural state, but there was little interest.

There are 2.88 acres to be sold. **Mr. Blazo's** Application is the best for maintaining the habitat and ambiance of Waverley Heights. **Mr. Blazo** plans to build one home that he will occupy. This is in keeping with infill development policy. The home will be on a larger piece of property than many homes that exist in Waverley today. The lower lots exceed the minimum R-10 Zone requirement. The result, if this is approved, will be 5 homes on 2.2 acres.

To build to the maximum density would result in too many homes in the heart of this area and would mean the loss of the natural terrain. The 48'x 24' pole barn will be removed on Lot 5 and a home will replace it. The lower 1.8 acres will be accessed from 17th Street and would be fenced from north to south. **Mr. Dimon** stated that he feel this development has the best interest of the neighborhood and focus. This will be a win/win situation for all concerned.

There is presently a home being built off of Cambridge Lane. It may meet the requirements for fronting on the road. The result is the same, people will be driving up Cambridge Lane to get to this house.

Mr. Dimon stated that he does not feel the road maintenance poses a problem. **Mr. Blazo** would be responsible for road maintenance, just like others on the street. A six foot concrete wall was suggested on the lower lots. This is a real dichotomy here; they want to save trees and someone wants to put up a six-foot concrete wall.

The requested variance will have little impact on Cambridge Lane and the neighborhood. All trees and natural habitat will be protected whenever possible. There will be no clear-cutting. The alternative to have a maximum R-10 development for the entire 2.8 acres is not appropriate. Mr. Blazo will be a homeowner that will border on the lower 1.8 acres and will have a concern for the well-being, design and quality of homes in that area. He recommended approval of the variance request and development proposal.

QUESTIONS FROM THE COMMISSIONERS -- None.

QUESTIONS OR COMMENTS ON THE APPLICATION -- None.

TESTIMONY IN OPPOSITION OF THE APPLICATION

Speaking: Charles Lewis, 1600 SE Waverley Drive.

Mr. Lewis stated that he resides on lot #500. There is a one house on lot #200, one house on lot #300, one house on lot #400, one house on lot #500, one house on lot #600, one house on lot #1900 and one house on lot #2100. His family moved into this house when he was in junior high. His parents lived there through his college years before they moved. He has been able to purchase the house from the people his parents sold to and has owned the house for 7 years.

Mr. Lewis stated that he has no comments on the lower four lots. He voiced concern about what will happen to the trees; will as many as possible be protected? The trees are really large and beautiful and make the hilltop special.

Mr. Lewis stated that he is also concerned that there will be more than one house on the fifth lot. He would like some assurance. He suggested that the driveway, if allowed, would use the driveway that is existing and request an easement on the Dimon's driveway and loop to his property. This would save many trees.

Mr. Lewis requested that the hearing be continued so that the two-lot option can be explored. **Jim Crumley** stated that at this hearing, only one house is proposed. Any change would require additional Planning Commission review. Deed restrictions can be written to condition that only one house will be built on this property.

Jim Crumley explained that in regards to the width of the access strip, it can be as small as 8-feet wide (the same width of the driveway).

QUESTIONS FROM THE COMMISSIONERS

Calvin Walter stated that this time next year, there will be a Tree Ordinance in place that will help protect trees, such as found in this situation.

Speaking: Ms. Frochen, 1515 SE Oxford Lane

Ms. Frochen stated that she has the property that faces where the access lane will run (lot #1900). In 1992, they opposed development by the Wilson's; but it was passed. These people used their driveway as their easement. She agrees with Mr. Lewis, that the existing driveway be used for the access.

Ms. Frochen asked that the Commission consider the value of the trees. This variance should be denied because it does not fit into the 7.021B section of the Ordinance. Even though this area has been rezoned to R-10, most homes in this area are much larger. She voiced concern that there will be more than one home built on this site. This Application must be denied to prevent destruction of this neighborhood.

QUESTION FROM THE COMMISSIONERS -- None.

Speaking: Michael Malone, 10712 SE Cambridge Lane

Mr. Malone stated that he and his wife own lot #600. This was one of the first properties on Cambridge Lane. It is one of the significant historic properties in the area. His property and the Dimon's property have been identified as significant properties on the Historic Register.

Mr. Malone stated that he agrees that the variance for access be denied; it can be accessed off 17th Avenue. He asked that the Commission deny the application. He would like to maintain the nature of the neighborhood. A year from now these trees could be history; he wants to preserve them.

Mr. Malone stated that their property is the gate-house for the street; all Cambridge Lane traffic pass their house. One more car on this street is too much.

APPLICANT'S CLOSING REMARKS

Mr. Blazo stated that there will not be a future subdivision on lot 5; the lot is too narrow. He has no problem with using an easement access instead of a road on the side. It would still leave legal access on Cambridge Lane. This would have to be worked out with the

present owners. The 30 feet is more than enough for a driveway. He will consider the width and try not to take down any of the trees. He could not guarantee, though, that some trees may have to come down.

Mr. Blazo stated that he proposes only to build a single-family home. There will cause very little, if any, impact on the neighborhood.

DELIBERATION AMONG THE COMMISSIONERS

Chair Tomei closed the testimony portion of the hearing and opened discussion among the Commissioners.

Gordon Jones stated that lot 5's configuration was designed for access from Cambridge Lane. Staff is recommending denial because the Applicant has not demonstrated that there are no alternatives. **Jim Crumley** stated that the burden of proof is on the Applicant to prove there are no alternatives. It is not up to Staff to determine what is feasible/not feasible; it is up to the Applicant to provide that information. There are a number of things that could make this not feasible. This was discussed with Mr. Blazo.

Gordon Jones asked Staff about the history of Cambridge Lane. **Jim Crumley** explained the original plat was for five parcels. On Exhibit #1 it shows that all of the property between the subdivision south of the access strip (Dimon's) and the area east of the proposed subdivision were all one lot (approximately five acres). There have been several lots granted access on Cambridge Lane through the years. Not all of the lots that extend from Cambridge to 17th were granted access onto Cambridge. The only alternative they had was to go onto Cambridge. Cambridge Lane is not a public street, it is a private street.

Calvin Walter asked for more information on the historic lots. **Jim Crumley** explained that the Historic Register is for architecture features rather than neighborhood/community features. Even though this area is heavily wooded, the surrounding environment has not been considered in the determination on whether or not these particular properties are placed on the Historic Inventory.

Bill Johnson asked if the properties facing Waverley are heavily wooded? **Jim Crumley** stated that in this area, trees have been cut to build.

Scott McClure stated that he feels the Applicant has not met the variance criteria. This type of variance is only granted when there are no other alternatives. This is not the case for this Application.

Calvin Walter stated that extending the cul-de-sac to incorporate lot 5 will take out trees and have more natural damage than an access road off of Cambridge.

Scott McClure stated that some possible issues for an alternative could be under C, Adverse Effects. Having access onto Cambridge would be less of an impact than accessing on to 17th. There would be less impact on the neighborhood. He is in favor of continuing the Application. He would like to see the Applicant show that economically it is infeasible to do the road. This would include discussion on storm drainage issues, natural terrain, and erosion caused by the road.

Debi Linn stated that she too is in favor of a continuance. There are feasible alternatives.

Gordon Jones moved to continue the hearing to give the Applicant the opportunity to study the feasibility of coming off 17th all the way up to Lot #5. Debi Linn seconded.

The Applicant was asked if he would like the hearing voted on tonight or have it continued?

Mr. Blazo stated that he would like some guidance on what to do. The road will be fairly expensive to build from 17th. The following suggestions were made:

- Analysis of road options
- Analysis from naturalist about how much terrain will be removed for both options
- Stormwater issues in both scenarios. Concern about added traffic on Cambridge Lane
- Information from City regarding this traffic impact on Cambridge Lane.

The Applicant was asked to sign a waiver to extend the 120 day requirement in accordance with this application. **Mr. Blazo** stated that he is willing to sign the 120 day waiver.

Gordon Jones moved to continue the hearing to April 11th to give the Applicant the opportunity to study the feasibility of coming off 17th Avenue all the way up to Lot #5. **Debi Linn** seconded. MOTION CARRIED 6-0.

Scott McClure complimented the audience on addressing the criteria of the Application.

Recess was taken at 8:32 p.m. and the meeting reconvened at 8:45 p.m.

7.0 WORKSESSIONS

7.1 Willamette River Greenway Coordination Plan and Ordinance (ZA-94-08)

Jim Crumley reported on the draft Willamette River Greenway Coordination Plan and Ordinance. This Plan documents issues about the River. There is a need to preserve the Willamette Riverway as a natural resource; streamside vegetation and habitat. The Advisory Committee that drafted this Plan compiled problems and suggested solutions. This Plan contains a sample Ordinance that is being requested for incorporation into the City's Zoning Ordinance to unify and protect resources on properties adjacent to the Willamette River.

Milwaukie has a number of properties that abut the Willamette River that are going to be impacted by this proposed Ordinance. Included in the packet is the existing Ordinance. Some of the recommendations included in the draft ordinance have been added to the Draft.

A special effort will be made to contact every individual that will be impacted by this Ordinance. **Jim Crumley** asked that the Commissioners make comments, corrections, or considerations of the Draft Plan and Ordinance. The following comments were made:

- Section 320.1, "...the purpose of the Willamette Greenway Zone is to protect, conserve, enhance, and maintain the natural, scenic, historic, economic, and recreational qualities of the lands." Page 323, Under Section 320.6(B), "The following shall be taken into account and consideration of a Conditional Use. (B) Compatibility with the scenic, natural, and recreational character of the river."

What happened to the rest of the purpose statement? Historic and economical areas of the purpose statement is not included.

- Section 320.6(C), "...protection of views..."

Whom is the protection of view referring to? Protection of whose views, where? To what? Too vague of a statement.

- 320.8.B.6, "...the security of the channel will be pointed out. The _____ vegetation buffer shall be established or bonded prior to..."

Prior to what? When will the bonding kick in?

- An easy-to-read brochure should be developed for the residents on the river to help them understand what is going on. Some sort of information for the public.

Maggie Collins stated that Staff will redraft the Plan and Ordinance and bring back a revised draft ordinance at the next meeting. Another worksession will be held on March 14th.

7.2 Light Rail Working Group Update

Maggie Collins reported that each commissioner was mailed a Proposed Oregon Transportation and Finance package. Included was a pamphlet, Facts and Transportation Trivia. Since the City deals with a lot of Transportation Planning Rule issues, this is an excellent update on where the State stands and the City stands in terms of revenue for City plans and projects. Oregon residents pay little towards the true cost of the automobile. The State constitution requires that taxes collected have to be used on road/street repair, maintenance, and improvements. The transportation package that is being created is necessary to make up the gaps between users and unfunded needs.

Maggie Collins passed out a Light-Rail Update to the Commissioners. A special meeting was held last Wednesday evening. People from various parts of the community asked Metro and City Staff for more information on where the line will be placed. There were about 175 people in attendance. Metro showed nine big maps on the wall and discussed nine different options on Light Rail alignment in the Milwaukie area. Smaller replicas of the maps from that hearing were also passed out to the Commissioners.

Maggie Collins reviewed each of the maps with the Commissioners. Each map showed an alternative route. She encourage the Commissioners to come and look at the larger maps at the Clearinghouse Meeting tomorrow night at 6:00 p.m. at the Public Safety Building. One intent of this meeting is to permit additional public view of the maps of these Light Rail options.

8.0 CONSIDERATION ITEMS -- None.

9.0 OLD BUSINESS -- None.

10.0 OTHER BUSINESS -- Continued

10.1 Community Development Report

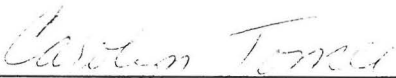
Maggie Collins reminded the Commissioners of the training session on March 22, 1995. She asked that the Commissioners fill out their registration forms as soon as possible.

Chair Tomei suggested that a statement written to Council indicating that there is Commission support for a Light Rail stop in downtown Milwaukie. It was agreed to discuss this issue further at the next meeting.

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- 11.0 NEXT MEETING - March 14, 1995
- 10.1 CD Report

Bill Johnson moved to adjourn the meeting of February 28, 1995. **Gordon Jones** seconded. MOTION PASSED UNANIMOUSLY. The meeting adjourned at 9:55 p.m.



Carolyn Tomei, Chair



Shirley Richardson, Hearings Reporter

R. P. P. P.

AGENDA
MILWAUKIE PLANNING COMMISSION
Milwaukie City Hall, 10722 SE Main Street
Tuesday, February 28, 1995
6:30 p.m.

1.0 Call to Order

2.0 Procedural Questions

3.0 Consent Agenda

- 3.1 Planning Commission Minutes: January 24, 1995
City Council Minutes: January 17, 1995 and February 7, 1995 (upon approval by Council)

4.0 Public Comment

This is an opportunity for the public to comment on any item not on the agenda.

5.0 Other Business

- 5.1 Representative from Metro to speak on the upcoming Open Spaces Bond Measure. (tentative)

6.0 Public Hearings - Rescheduled from February 14, 1995 Meeting

- 6.1 Applicant: Carsten Royland
Property Owner: Carsten Royland
Location: 43rd Avenue, South of Howe Street
Proposal: To construct a four-plex on a 12,541 square foot parcel in the R-3 Zone (CU-94-03) with a Transportation Planning Review (TPR-94-04).

- 6.2 Applicant: Stephen Blazo
Property Owner: Daniel Snow and Diane Dimon
Location: 9900 SE Cambridge Lane
Proposal: To develop a 5-lot Subdivision (S-94-03) with an access Variance (for one lot) onto Cambridge Lane (VR-94-14), and a Transportation Planning Review (TPR-94-03).

7.0 Worksessions

- 7.1 Willamette River Greenway Coordination Plan and Ordinance (ZA-94-08)
7.2 Light Rail Working Group Update (material will be passed out at the meeting)

8.0 Consideration Items - None

9.0 Old Business - None

10.0 Other Business (Continued)

- 10.1 CD Report

11.0 Next Meeting - March 14, 1995

- 11.1 VR-94-12 (Erwet) (JC)
11.2 VR-94-13 (Lanter) (JC)
11.3 VR-95-15 (Heath Signs) (JC)
11.4 Willamette River Greenway Coordination Plan/Ord WS #2 (JC)
11.5 CD Report

The Milwaukie Planning Commission welcomes your interest in these agenda items. Feel free to come and go as you please.

Milwaukie Planning Commission Mission Statement

The Planning Commission serves as an advisory body to, and a resource for, the City Council in land use matters. In this capacity, the mission of the Planning Commission is to articulate the Community's values and commitment to socially and environmentally responsible uses of its resources as reflected in the Comprehensive Plan.

Public Hearing Procedure

1. Staff Report
2. Correspondence
3. Applicant's presentation
4. Public testimony from others in support of application
5. Comments or questions from interested person who are neither proponents nor opponents
6. Public testimony from those in opposition to the application
7. Questions from the Planning Commission
8. Rebuttal testimony from Applicant
9. Closing of public hearing
10. Commission discussion/action

The Planning Commission's decision on these matters may be subject to further review or may be appealed to the City Council. For further information, contact the Milwaukie Community Development Department office at 786-7650.

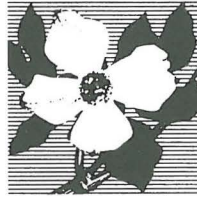
Milwaukie Planning Commissioners

Carolyn Tomei, Chair
Scott McClure, Vice-Chair
Gordon Jones
Bill Johnson
Debi Linn
Michael Smith
Calvin Walter

Community Development Department Staff

Maggie Collins, Community Development Director
Debbie Bischoff, Senior Transportation Planner
Jim Crumley, Associate Planner
Diana Myrvang, Public Involvement Coordinator
Jeanne Garst, Office Assistant
Marcia Hamley, Office Assistant
Shirley Richardson, Recording Secretary

CITY OF MILWAUKIE



COMMUNITY DEVELOPMENT

TELEPHONE: 786-7650

PUBLIC WORKS

TELEPHONE: 786-7600

6101 S.E. JOHNSON CREEK BLVD.
MILWAUKIE, OR 97206

FAX: 786-7699

*****MEMORANDUM*****

COMMUNITY DEVELOPMENT DEPARTMENT

February 28, 1995

TO: MILWAUKIE PLANNING COMMISSION MEMBERS

FROM: Jeanne Garst, CD Office Assistant

RE: Packet Materials

Please bring your staff reports from your February 14, 1995 packet for the Blazo (S-94-03/VR-94-14/TPR-94-03) and Royland (CU-94-03/TPR-94-04) public hearings.

There will be additional copies at the meeting if you no longer have yours. If you have any questions please contact Jim Crumley (786-7654) or myself (786-7655).



*****MEMORANDUM*****

COMMUNITY DEVELOPMENT DEPARTMENT
CITY OF MILWAUKIE

FEBRUARY 28, 1995

TO: PLANNING COMMISSION

FROM: JIM CRUMLEY, ASSOCIATE PLANNER

**SUBJECT: WILLAMETTE RIVER CORRIDOR COORDINATION PLAN
WORKSESSION ZA-94-08**

Action Requested

Review the enclosed Coordination Plan and provide recommendations on how best to incorporate this document into the City's planning and regulatory processes.

Background

Clackamas County Department of Transportation and Development coordinated the formation of a Policy Advisory Committee (PAC) and a Technical Advisory Committee (TAC) to develop the enclosed Plan last year. Rob Kappa, Gary Michael, and Don Trotter represented the City of Milwaukie on the PAC. The Community Development Department reviewed numerous drafts and submitted comments during the formulation of the Plan.

Clackamas County has asked the affected cities to move ahead with the adoption of this Plan by either resolution or ordinance. The Community Development staff has concluded that the Plan brings together valuable information, but lacks the specificity of policy or detail to qualify as an ancillary document to the Milwaukie Comprehensive Plan. Staff has concluded that the proposed Model Greenway Ordinance language can fit into the Milwaukie's Zoning Ordinance. A revision to Section 320 (Willamette Greenway Zone) incorporating the recommendations of this Plan has been attached for review and comment.

ZA-94-08 Amendments to the
Zoning Ordinance
(6 pages)
Redline = Proposed new text
Strikeout = Proposed deleted text

320 WILLAMETTE GREENWAY ZONE WG

In a WG Zone, the following regulations shall apply:

320.1 Purpose

The purpose of the Willamette Greenway Zone is to protect, conserve, enhance and maintain the natural, scenic, historic, economic, and recreational qualities of lands along the Willamette River and major courses flowing into the Willamette River.

320.2 Area defined

The Willamette Greenway Zone is that area within the Willamette Greenway Plan Boundary identified on the Zoning Map. The WG Zone is in combination with the underlying zone.

320.3 Limitations on use

All uses and any change or intensification of use, or development permitted in the underlying zone, are conditional uses, subject to the provisions of Section 600.

Prohibited uses:

- A. Commercial and residential structures and residential accessory structures exceeding 35 feet in height.
- B. Residential floating structures.
- C. New private noncommercial boathouses or storage structures, including temporary structures.
- D. New private noncommercial docks exceeding 400 square feet.
- E. Grading and tree cutting is prohibited in the buffer, except as allowed in subsections 320.8.B.1-5.

320.4 Definitions

- A. Change of use: Making a different use of the land or water which requires construction, alterations of the land, river bed, bank, water, or other areas outside of existing buildings or structures and which substantially alters or affects the land or water.
- B. Develop, Developing: Activities which result in removal of substantial amounts of vegetation or in the alteration of natural site characteristics; e.g., to construct or alter a structure, to conduct a mining operation, to make a physical change in the use or appearance of land, to divide land into parcels, to create or terminate rights of access.
- C. Development: The act, process, or result of developing.
- D. Floodway: The channel of the River and the adjacent land areas that must be reserved to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot (FEMA definition).

- E. Intensification: Any change of use, or action which increases or expands the area or amount of an existing use, or the level of activity, including remodeling the exterior of a structure if the remodeling substantially alters the appearance of the structure.
- F. Large trees: Trees with at least a 6-inch caliper at 5 feet of height.
- G. Native vegetation: Plant species indigenous to the Portland Metropolitan area, consisting of trees, shrubs, and ground cover, as identified in the Portland Plant List.
- H. Nonresidential floating structure: These are river-dependent or river-related structures, usually made of wood or concrete and containing a flotation system of polystyrene or similar materials, that ride on the river surface anchored either by a cable to the river bed, to piling, or to the riverbank for uses including, but not limited to: public walks or river access not associated with marina or moorage; water-ski jumps; swimmer's resting platform; storage of marine-related equipment or boat storage; or boat fueling facility. Sometimes fully enclosed buildings are situated atop the floating structure. Restaurants, snack bars and the like are included in this definition.
- I. Ordinary high water line: The line on the bank or shore to which the water ordinarily rises annually. Ordinary high water shall be established by the Division of State Lands (DSL) with reference to historical data, vegetation, field observations, survey, or other generally accepted methods.
- J. Public access: Facilities that enable the public to safely make physical contact with the River and its environs.
- K. Residential floating structure (houseboat or floating home): Single or multiple family dwellings supported on the River by a flotation system, which may include a system of piles, berths, walkways, and ramps. This is not a river-dependent or river-related use.
- L. Riparian: Related to, living, or located on the bank of a waterway.
- M. River-dependent: A use or activity which can be carried out only on, in, or adjacent to water areas because the use requires access to the water body for waterborne transportation, recreation, energy production, or source of water.
- N. River-related: Uses which are not directly dependent upon access to a water body, but which provide goods or services that are directly associated with water-dependent land or waterway use, and which, if not located adjacent to water, would result in a public loss of quality in the goods or services offered. Except as necessary for river-dependent or river-related uses or facilities, residences, parking lots, spoil and dump sites, roads and highways, restaurants, businesses, factories, and trailer parks are not generally considered dependent on or related to river location needs.

- O. Riverbank: A land feature or constructed structure that serves to contain the waters of the River. It can be distinguished from upland areas by the presence of riparian vegetation in close proximity to flowing water. Usually the riverbank represents the limits of seasonal high water and periodic flood waters.
- P. View window: An area of unobstructed view. The width of a view window shall be measured at the point where vegetation is removed.

320.4

320.5

Procedures

The following procedures shall govern the application of WG Zones:

- A. In the WG Zone all uses and their accessory uses are permitted subject to the provisions of Section 600.
- B. The Oregon Department of Transportation shall be notified according to the provision of subsection 1011.3.D.
- C. The provisions of the WG Zone in Section 320 shall apply until adoption of the Willamette Greenway Design Plan.
- D. A Greenway conditional use is required for all intensification or change of use, or alteration of the vegetation buffer area, or development, as defined in this Ordinance. Approval shall be granted only if the criteria in subsection 320.6 are met.
- E. Submittal requirements: A Vegetation/Buffer Plan must be submitted for each application for a Greenway conditional use permit.
- F. Written notice, including a copy of the application, will be sent upon receipt to the Oregon Parks and Recreation Department by certified mail - return receipt requested. The Oregon Division of State Lands, Oregon Department of Fish and Wildlife, and State Marine Board shall also be notified of each application.
- G. Written notice shall be provided to the Oregon Division of State Lands after the land use action is final for activities affecting wetlands or submerged or submersible lands within the Willamette River Greenway. The notice shall include local government conditions of approval.

320.5

320.6

Criteria

The following shall be taken into account in the consideration of a conditional use:

- A. Whether the land to be developed has been committed to an urban use, as defined under the State Willamette River Greenway Plan.
- B. Compatibility with the scenic, natural and recreational character of the River.
- C. Protection of views.

SECTION 320 - WILLAMETTE GREENWAY ZONE WG

- D. Landscaping, aesthetic enhancement, open space, and vegetation between the activity and the River, to the maximum extent practicable.
- E. Public access to and along the River, to the greatest possible degree, by appropriate legal means.
- F. Emphasis on water-oriented and recreational uses.
- G. Maintain and increase views between the Willamette River and downtown.
- H. Protection of the natural environment according to regulations in the Environmental Protection Ordinance.
- I. Advice and recommendations of the Design Review Committee, as appropriate.
- J. Conformance to applicable Comprehensive Plan policies.
- K. Public access, where necessary, is provided by appropriate legal means to and along the River.
- L. The request is consistent with applicable plans and programs of the Division of State Lands.
- M. A Vegetation Buffer Plan meeting the conditions of subsection 320.8.A-C.

320.6

320.7 Setbacks

- A. All uses that are not river-dependent or river-related, including residential and accessory structures, shall be set back a minimum of 100 feet from the ordinary high water line. This area shall include a buffer strip of native vegetation. An exception to this setback requirement is allowed for:
 - 1. Residential lots of record which do not have enough lot depth to meet this requirement. Structures on these lots shall be sited the maximum practical distance from the ordinary high water line.
- B. On a case-by-case basis, uses that are not water dependent or water-related shall be evaluated according to criteria of subsection 320.56 above so that they are directed away from the River. Existing and proposed uses that are water-dependent and water-oriented may be permitted near or at the water's edge subject to review of criteria in subsection 320.56 above.

320.8 Vegetation buffer requirements

- A. A buffer strip of native vegetation shall be identified along the River, which shall include the land area between the River and a location 50 feet upland from the ordinary high water line, or 50 feet upland from the Floodway of the Willamette River (as identified on FEMA maps), whichever is greater. This area shall be preserved, enhanced, or reestablished, except for development otherwise allowed in this Ordinance, and subject to the requirements of subsection 320.8.B below.

- B. Prior to development (e.g., removal of substantial amounts of vegetation or alteration of natural site characteristics) within the buffer, a Vegetation Buffer Plan for the buffer area shall be submitted for review and approval. The plan shall address the following areas and is subject to the following requirements:
1. Riverbank stabilization. The plan shall identify areas of riverbank erosion, and provide for stabilization. Bioengineering methods for erosion control shall be used when possible. When other forms of bank stabilization are used, pocket plantings or other means shall be used to provide vegetative cover.
 2. Scenic view protection (screening). The plan shall identify the impact of the removal or disturbance of vegetation on scenic views from the River, public parks, public trails, and designed public overlooks.
 3. Retain existing native vegetation and large trees. The plan shall provide for the retention of existing large trees and existing native vegetation, including small trees, ground covers, and shrubs, within the vegetation buffer area. Removal of native vegetation and large trees is allowed pursuant to the following standards:
 - a. Large trees that are diseased, dead, or in danger of falling down may be removed if there is a clear public safety hazard or potential for property damage.
 - b. Grading or tree removal is allowed in conjunction with establishing a permitted use. Only the area necessary to accommodate the permitted use shall be altered.
 - c. Tree and vegetation removal may be allowed to create one view window from the primary residential structure to the River when suitable views cannot be achieved through pruning or other methods. The width of a view window may not exceed 10 feet. The applicant must clearly demonstrate the need for removal of trees and vegetation for this purpose.
 4. Restore native vegetation. The plan shall provide for restoring lands within the buffer area which have been cleared of vegetation during construction with native vegetation.
 5. Enhance vegetation buffer area. The plan may provide for enhancing lands within the buffer area. Regular pruning and maintenance of native vegetation shall be allowed. Vegetation that is not native, except large trees, may be removed. New plant materials in the buffer strip shall be native vegetation.
 6. Security that the plan will be carried out. The approved vegetation buffer shall be established, or bonded, prior to _____ ??
- C. The vegetation buffer requirements shall not preclude ordinary pruning and maintenance of vegetation in the buffer strip.

320.9 Private noncommercial docks

Private noncommercial docks are subject to the following requirements:

- A. Only one dock is allowed per riverfront lot of record.
- B. In areas designated as Open Water Areas or Special Management Areas by the Division of State Lands, docks may be restricted or additional requirements may be applied to docks. Restrictions or additional requirements will be identified by DSL in their review of the development application.
- C. Private noncommercial docks shall not exceed 400 square feet (square footage is measured as the width times the length of the outer edge of the structure), with the following exceptions:
 1. Legal nonconforming docks or boathouses.
 2. Nonconforming structures may be altered or replaced _____ (refer to Section 800 standards here)
- D. Docks, pilings, and walkways shall either be dark natural wood colors, or painted dark earthtones (dark brown or green).
- E. Private noncommercial docks shall not:
 1. Restrict boat access to adjacent properties.
 2. Interfere with the commercial navigational use of the River, including transiting, turning, passing, and berthing movements.
 3. Interfere with critical fish and wildlife habitat or fishing use of the River as determined by Oregon Department of Fish and Wildlife.
 4. Significantly add to recreational boating congestion.

320.7

320.10 Greenway Design Plan

The WG Zone is intended to be temporary and will be replaced by the Willamette Greenway Design Plan when it is completed. The Willamette Greenway Design Plan is identified in the Comprehensive Plan of the City.

MEMORANDUM

COMMUNITY DEVELOPMENT DEPARTMENT
CITY OF MILWAUKIE

February 21, 1995

To: Milwaukie Planning Commission
From: *MC* Maggie Collins, Community Development Director
Re: Community Development Department Report - February
28, 1995 Meeting

Action Requested

For your information.

- A. **THE SUBJECT IS TRANSPORTATION.** Attached is information about the proposed Oregon Transportation Finance Package. This proposal is being presented to the 1995 Legislature. It consists of several parts, but mainly tries to bring more "user revenue" to the State and its cities and counties. See chart of "Comparison of Automobile Related Taxes." No Senate or House bill number has yet been assigned to this proposal.
- B. **THE SUBJECT IS AGAIN TRANSPORTATION.** Attached is "Little Facts and Transportation Trivia," from an ODOT Outreach Bulletin.
- C. **PLANNING COMMISSION TRAINING SESSION.** The best time for the largest number of you is on **WEDNESDAY, MARCH 22, 1994 AT 6:30 PM, PLACE TO BE ANNOUNCED.** Please mark your calendars now.

cc: Dan Bartlett
C.D. Staff

Proposed 1995 Oregon Transportation Finance Package

The Oregon Transportation Finance Committee is a group of Oregonians made up of representatives from the Association of Oregon Counties, the League of Oregon Cities, Oregon Department of Transportation, the Oregon Public Ports Association and the Oregon Transit Association.

The Committee has been working since the end of the last legislative session to put together a comprehensive transportation finance package for the 1995 session that has a broad base of public support. It would fund only the State's highest priority needs.

Input from consumers, providers and interest groups across the State has been incorporated into the funding package that follows.

HIGHLIGHTS

- An increase in the State gas tax that will fund critical road and bridge maintenance, safety and capacity projects.
- Fifty-percent of the new gas tax fees would go directly to cities and counties for local road and bridge projects.
- A source of stable funding for public and special transportation.
- An amendment to the Oregon Constitution to allow flexibility in the way fees on the use of the automobile can be used.
- A lottery request to finance aeronautics, freight, rail, light rail and freight mobility projects linked to economic development.

BENEFITS

- 37% of the package for road maintenance, safety and improvements.
- 25% of the package for earthquake retrofit of bridges.
- 25% improvements for public and special transportation for elderly/disabled.
- 13% for improved rail, freight and airport facilities.

COST

- 2-cent gas tax increase in each of two years for roads.
- 2-cent gas tax increase in each of two years to strengthen Oregon bridges against earthquakes.
- \$20 increase in passenger vehicle registration for public transportation.
- The package would cost the average Oregon driver less than \$6 per month.
- 4% increase in weight-mile fees for trucks

Little Facts and Transportation Trivia

- * Oregonians pay the equivalent of 26.4 cents per gallon of auto-related fees. That is only half to one third as much as vehicle owners pay in other Western states. Washingtonians pay the equivalent of 75.7 cents per gallon and Californians pay 73 cents per gallon.
- * The Oregon Department of Transportation (ODOT) has fewer employees today than it had twenty years ago, even though the miles of paved highways to be maintained and the quality of our roads has increased dramatically.
- * Oregon gas taxes and auto-related fees are constitutionally dedicated to road purposes.
- * At an inflation rate of 4%, Oregon will need to raise its gas tax by one cent per year just to stay even.
- * Each one cent increase in the gas tax raises \$15 million per year and an equivalent increase in weight/mile taxes raises about \$9.4 million.
- * The percentage of Oregonians using transit is increasing. In the last ten years, Tri-Met ridership has increased by 16%; Salem transit ridership has increased by 31%; and Lane Transit ridership has increased by 70%.
- * Every one cent increase in the gas tax costs the average driver about \$6 per year.
- * Tri-Met keeps 100,000 cars off the road everyday, the equivalent of a bumper-to-bumper traffic jam from Portland to Eugene and back.
- * There are 232 transit and special transportation providers in Oregon. Every county has a public transportation system or special transportation provider.
- * Today, Oregon's maintenance back log is costing road users about \$832 million per year in lost time, fuel and operating costs.

From: Oregon Transportation Outreach Bulletin, Fall/Winter, 1994-95

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