

CITY OF MILWAUKIE
MINUTES OF PLANNING COMMISSION
REGULAR MEETING
January 27, 1981

Members Present:

Leo Bauman
Bob Gudge
Bob Kennedy
Jim Lotz
Don Trotter
Tom Bond
George Cathey

Also Present:

Greg Eades, City Attorney
Steve Hall, Public Works Director
Topaz Faulkner, City Planner
Jon Stein, Associate Planner
Pat Bullock Secretary

1. CALL TO ORDER

The regular meeting was called to order by Don Trotter, President at 7:17 p.m. The meeting was held at the Milwaukie Senior High School because of the anticipated large attendance expected for the meeting. Mr. Trotter explained to the audience the procedure the Commission follows prior to acting on applications.

2. PUBLIC HEARINGS

- 2.1 A-80-7 Assembly of God Church and City of Milwaukie.
Request to consider petition from the Assembly of God Church and the City of Milwaukie for annexation of the property located south of Highway 224, east and south of Mt. Scott Creek, north of Kellogg Creek Drive, north and west of Rusk Road (Tax Lots 100, 600, 700, 900, 901, 1000 and Tract A) to the City of Milwaukie. The Church wishes to annex Tax Lots 600, 700, 900 and 901 to obtain city services and the City of Milwaukie would like to annex the city-owned North Clackamas Park (Tax Lots 100, 1000 and Tract A) for administrative reasons.

At 7:17 p.m. Don Trotter opened the Public Hearing.

Topaz Faulkner presented the staff report. She explained that the absence of mutually adopted land use designations for the area in the annexation request had led to concern on the part of county residents living near the site. After meeting with representatives of both the Church and neighborhood group, it was decided that, in the interests of efficiency and good planning, a 60-day continuance would be requested. During this period, a committee of representatives from all the groups involved could recommend designations to the City Planning Commission, who would, in turn, recommend the Comprehensive Plan Amendment to City Council for its action.

Trotter: It is the request of staff that we grant a continuance for 60 days. Upon the completion of the continuance, if we grant it, we will have a comprehensive plan that would be amended to include agreed upon designations in the area of this property as well as other properties in the dual interest area. This annexation would then come back before this body for further consideration.

Jim Lotz: Is there a proposed program worked out in which the city and the county would get together or would we hear the hearings or what is the mechanism?

Topaz: The mechanism would be hearings with representatives. The representative from the County that has been suggested is a senior planner who has been working on this annexation, there is a representative from Metro, and representatives from each of the interested groups, that is, the church people and the neighborhood organizations. I believe that it is an opportunity to take positive action.

Lotz: After this hearing, we would have the opportunity to make the same decision? Topaz: Yes.

Topaz: What we are saying is that the City and County would have clearly understood and agreed upon designations for the area.

Trotter: There is a difference between designations and zones. Plan designations are high, medium, moderate and low, with various zones within each one. We would not be establishing zone for that particular area, but the general density.

Lotz: We would have some say as to the zone change. The proposed plan would be for the City and the County to get together to have meetings to come up with a recommendation. I assume it would come back to the Milwaukie Planning Commission to decide on a change in the Comprehensive Plan and then go to the City Council. And then it would come back to the Planning Commission. There are about five steps.

Topaz: First of all, there is the joint meeting with all of the representatives. The recommendation then goes to the Planning Commission for public hearing, and then to the City Council for public hearing. Only the City Council can adopt a Comprehensive Plan amendment because it requires an ordinance. Then an annexation request would come back to the Planning Commission and you would go through another public hearing, make a recommendation to the City Council, the City Council would hold a public hearing and then it goes to the Boundary Commission. In our location, the Metropolitan Boundary Commission has the final say on annexations. A 60-day continuance means that the group would have to be established immediately. It will take a great deal of work to complete the project in the sixty days.

Speaking: Jon Henricksen, attorney representing the Assembly of God

Mr. Henricksen explained the case that was just heard on a Beaverton area annexation that was similar to this one. He said that all of the work, public hearings, etc., would be useless without the mutually agreed upon designations,

and it would be money down the drain. He stated that the Church was in favor of the extension. He stated that he did not want any cloud or doubt concerning the decisions of the Planning Commission:

Speaking: Steve Hall, Representing the City of Milwaukie

After spending a very frantic couple of days and many hours discussing the items, we have agreed that the best thing for all concerned is to allow for extending the time period, if necessary. Therefore, the City recommends a 60-day extension.

Speaking: Bob Ewald

It was his feeling that the recommendation for a continuance was an excellent one. His question was: Where is our Comprehensive Plan now? Does that mean that the Milwaukie Comprehensive Plan comes back to the City, goes back through all of this and back through Metro and back to Salem again? It was his opinion that it could never be completed in 60 days.

His second question: Do you have one county planner that is going to be on this board? How many of you gentlemen (meaning the Planning Commission) are going to be on? What is the authority of your current plan? Do you have authority to make any decisions, or are you going to waste your time? If your decision has to be back to the City Council and then come back here, you will never get it done in 60 days.

Topaz: On Thursday of this week I will be going down to Salem to meet with the LCDC in hopes of achieving acknowledgement of our Comprehensive Plan. I think that we have an excellent chance because we have met every request of the Commission in terms of changes to our plan.

With regard to the second question, I only know of one County representative. I would be perfectly willing to have more than one county representative, but I would like to keep the group workable -- less than 12 people -- and no members of the Planning Commission.

Trotter inquired of Greg Eades if it was necessary to present a time frame.

Greg replied that the Zoning Ordinance required setting a date.

Speaking: Darrell Hyde, 13803 S.E. Rusk Road

He was talking about the "sphere of influence" that was referred to by Henricksen. He felt that he was not represented by the Planning Commission.

Topaz stated that what they are talking about tonight is the dual interest area only. She pointed out on the map the property this involves.

Speaking: Ralph Clifford, 13480 S.E. Rusk Lane

He did not want to prolong this motion before the Commission. He felt an obligation to the Oatfield Ridge Community Organization to clarify tonight's proposed action. He attended the meetings for the Comprehensive Plan when it was exposed to the public. The public was to have citizen input into this plan. He has minutes of those meetings where they (City) were repeatedly asked if this area was dual interest, and it was denied.

Speaking: William F. Inger, 7887 Eldorado Court, Milwaukie

He stated he lives outside the city limits. He is president of the North Clackamas Citizens Planning Association, which is located to the east of I-205, west of Kellogg Creek, south of the expressway and to the north of Gladstone City limits. They are pretty concerned regarding this proposal. He asked if they would be permitted to attend the hearings when the Comprehensive Plan was revised. Staff said, "Yes".

Speaking: Nancy Thornton, 14114 Elderberry Lane, Milwaukie

She is the Chairman of the Oatfield Ridge Community Planning Organization. Is this one example of things to come regarding this property? No one seems to know what is going on. Is this an example of what we have coming? I received no public notice.

Don Trotter: If you live within 1,000 feet of the property in question, there was a notice delivered. The property itself was posted and there were notices in the newspaper. By ordinance, we are required to send notices 500 feet to those adjacent to the property, but, in this instance, we delivered within 1,000 feet.

Steve Hall: If you did not receive a notice, contact City Hall and we will see that you receive one.

Speaking: Gary Clifford, 13398 S.E. Rusk Lane

Mr. Clifford was ruled out of order by Mr. Trotter in that his testimony did not relate to the issue, which was whether or not the Planning Commission should grant a continuance.

Speaking: Reverend Mark Cade, 5017 Alder Crest Road, Milwaukie

It was his concern that, in a democracy, he should have a right to speak his opinion. He asked if this issue would come to a public vote.

Trotter answered, "No, but there will be public testimony."

Topaz read portions of a letter from Ed Sullivan, an attorney representing Oatfield Ridge Community Planning Organization:

"We concur with the request of the applicants that this matter be deferred pending a study by City staff, the applicants, Clackamas County, the Oatfield Ridge Community Organization and other interested persons to come up with an agreed-upon plan for the areas within the dual interest area of the City, pursuant to its agreement with Clackamas County, dated December 9, 1979. We believe that such a plan will protect all parties and will rationalize annexation and public services and facilities provision to the unincorporated areas subject to the aforesaid agreement."

Jim Lotz stated that the Planning Commission is appointed by the City Council, who, in turn, is elected by the people. Before we take any action, we will listen to anyone in the area who is at all interested for any input. You will have a voice to sway our opinion.

Speaking: Gloria Koch, 6030 S.E. Erik Street

Is the purpose of the extension so that the City of Milwaukie can redo the Comprehensive Plan to make the annexation?

Trotter: If we grant a continuance this evening, there will be no annexation until the time we have set for to come back before this body. During the interim time, the City will institute proceedings to amend the Comprehensive Plan to include designations for the area immediately adjacent to the City in accordance with our Comprehensive Plan procedures, which includes public hearings, and recommendations by the Planning Commission and motion by the City Council. After that is done, we will come back to this request about the property in question and we will then proceed with the processes for annexation.

Mrs. Koch: My understanding is that the way the City plan is set up now, you do not have the right to consider the annexation. Therefore, you want the continuation so that you can re-establish the city plan which will give you the right to consider an annexation and, therefore, increase your sphere of influence.

Greg Eades: We will not have any more authorization than we already have. It is for the designation of the property.

Mrs. Koch: If the purpose of the continuation is to allow you to make it legal to accept the proposal for annexation, she did not want to become a part of the sphere of the City of Milwaukie.

Nancy Thornton expressed her concern (because the consolidation vote is coming up) and she questions whether or not this is premature. Are these two issues related? Doesn't this have overtones of something else?

Speaking: Cathy Clifford, 13398 S.E. West Cliff

I think you are talking in too big of words for most of us to understand what you are proposing to do. It is my understanding that, as of now, a lot of the designations of Milwaukie do not coincide with what Clackamas County has planned for that area. What you should do is get together with Clackamas County and agree on what that land should be used for so that people who are living in Clackamas County now, should know what zoning would apply when land is annexed to the City.

Topaz: The City does not have a detailed agreement with the County regarding the plan for the area. I am not talking about zoning, I am talking about the Plan. You have to plan an area before you can zone it. Generally, what happens is that the City and County get together during the Comprehensive Plan development and agree on planning for the area immediately around the City. This does not mean that this area is being annexed immediately. What it does mean is that the City can provide services to that area over the next 20 years. That did not happen in the case of Milwaukie and Clackamas County, so for whatever reason, we do not have an agreed upon Plan for the City and the County. That is what we need to do now.

Nancy Thornton: What access will the public have as to the meeting between the City and the County? Will it be public meetings held at a time when the public can observe the public testimony?

Topaz: As I stated earlier, we will be establishing a group that will be making the recommendation. It will not be limited as to the amount of people who can come and observe. We welcome them. What I want is a representative from your organization, and a representative from all of the groups that have an interest in this, to be there. We will work out a recommendation and then have at least two public hearings, one before the Planning Commission and one before the City Council.

The public hearing was closed at 8:16 p.m.

Tom Bond: As far as a continuation, it seems pretty clear that there is a need. I know everyone is concerned about the expenditure of tax dollars and everyone can agree that it is in the public interest. There are many steps and many hoops to jump through under this proposed procedure. When we talk about a designation, as I understand it, it is a designation under the Plan. A Comprehensive Plan is a very important document, more important than the ordinances that implement it.

Jim Lotz: If I vote for a continuance, I want everyone notified. It is my personal opinion that we should set up a dual interest agreement.

IT WAS MOVED BY DON TROTTER, SECONDED BY BAUMAN that we continue the public hearing on Annexation A-80-7 until our regularly scheduled meeting on April 14, 1981, at 7:00 p.m. The time frame for that will be seventy-seven (77) days.

Bob Gudge1 stated that it was his thought that we should respect people's interests and only notify them when there is going to be public testimony taken.

The motion passed unanimously.

2.2 P-81-1 Mr. and Mrs. Frank Kidd, Applicants and Property Owners.
Alteration of non-conforming structure at 12222 S.E. 39th
Avenue, Milwaukie.

Jon Stein presented the staff report.

At 8:40 p.m. the public hearing was opened.

There was no one speaking for or against the applicant. Mr. Trotter closed the public hearing at 8:45 p.m.

Bob Gudge1 asked the applicant if she realized that what was being recommended here was that the roadway be paved all the way out to Lake Road.

Speaking: Mrs. Joyce Kidd, 1222 S.E. 39th, Milwaukie.

The road was better maintained before they put the sewer in. She doesn't own the property between Lake Road. They have a perpetual easement.

Steve Hall: It was the request of the Fire Department. See memo dated January 15, 1981, from Richard S. Ryan, Fire Inspector.

Greg Eades: It will place a hardship on the property owner.

Tom Bond: It does not call for increase in density or further services.

IT WAS MOVED BY BOB KENNEDY, SECONDED BY TOM BOND that we move for approval of the request for an expansion of the structure at 12222 S.E. 39th Avenue based on and subject to the revised conditions.

CONDITIONS:

1. Provide developers' agreement for future dedication and street improvements of 39th Avenue.
2. Utilities, drainage and roadway improvements to be approved by Public Works and Fire Departments within developers' agreement.
3. No additional dwellings can be built that would have access to 39th Avenue until it is dedicated as a public street and improved to City standards.

It was approved by a unanimous vote of the Planning Commission.

6.2 Minutes of Planning Commission of January 13, 1981, were approved as written.

7.1 Development Policy for M-L Zone.

The Planning Commission approved placement of buildings at 4740 Johnson Creek Blvd. (VR-80-37) on November 25, 1980 and at 5004 S.E. Johnson Creek Blvd. (VR-80-25) on September 9, 1980. Variances of 35' for lack of public street frontage were granted for each application. The Planning Commission requested that staff develop an access policy for properties south of Johnson Creek Blvd. and Portland Traction Railroad right-of-way that do not abut a public street, rather than review each application on an ad hoc basis.

George Cathey questioned Policy No. 1 - "There will be no additional access easements from Johnson Creek Blvd. to properties south of Portland Traction Company Railroad right-of-way." Do we have assurance that we have adequate access across that now existing Portland Traction Company right-of-way?

Steve Hall: Assessor's map shows joint easements and all properties have access now, it's a matter of degree and size and quality. Right now, all properties have public access.

Cathey: Does this also have to do with the increased widening of the access? Tom Bond expressed his concern for the cottonwood trees along that area. He had three concerns:

1. Concern with respect to the cottonwood trees along Johnson Creek.
2. The buffer between the two zones, industrial zone and the low density zone south of Johnson Creek. Those trees present a buffer.
3. His other concern was for safety.

Jon: The Charles Grant Corporation was developed under the old Comprehensive Plan. Now we have the open space provision which states very specifically what can be done along that creek.

Don Trotter: The area is covered by the Comprehensive Plan. I think this particular policy as an access policy is addressing it for the last time.

IT WAS MOVED BY BOB GUDGEL, SECONDED BY GEORGE CATHEY, that we accept the Policy as follows, with the modification of No. 4 as follows:

POLICY

The access policy for properties south of Johnson Creek Blvd. and Portland Traction Company Railroad right-of-way is as follows:

1. There will be no additional access easements from Johnson Creek Blvd. to properties south of Portland Traction Company Railroad right-of-way.
2. Existing access easements shall be regraded, improved, widened to City standards and dedicated as a public street when needed.
3. When dedication of the access easement as a public street is necessary, the developer will be responsible for providing whatever safety provisions are required by the Public Utility Commissioner.
4. All properties south of Portland Traction Company Railroad right-of-way shall provide a 25' wide easement for roadway and utilities, parallel with and adjacent to the south property line of the Portland Traction Company Railroad right-of-way.
5. Frontage roads shall be improved and extended where needed if small parcels continue to develop in an ad hoc manner.
6. A developer's agreement shall be submitted for all roadway, street and utility improvements.

The vote was 6 - 1, Bond opposing.

7.2 C-80-18 James Thompson/Linwood Alliance Church

A letter from Donald W. Miner, attorney for Oregon Manufactured Housing Dealers Association was reviewed requesting that the Planning Commission reconsider its denial of the conditional use on January 13, 1981.

Gudgel was opposed to the request as it could start a precedent as to where would the rehearings stop?

Topaz presented the letter. She stated that there is nothing in the ordinances that addresses a reconsideration. However, they are also suggesting an alternative to their original application, so the Planning Commission could see this as a new application made by them, where they are requesting consideration of their application with this new information. It would be a rehearing. We could place this on the February 10, 1981 agenda, the next regular meeting.

IT WAS MOVED BY JIM LOTZ, SECONDED BY BOB GUDGEL that we deny the rehearing in this issue. The vote was 3 - 4, and the motion failed. Voting for: Gudgel, Lotz and Bauman. Voting against: Cathey, Trotter, Bond and Kennedy. Trotter stated that he assumed this vote meant the majority wished to rehear the application. There was a consensus agreement.

IT WAS ALSO MOVED BY TROTTER, SECONDED BY KENNEDY that we recommend that a fee not be charged. The vote was 6 - 1, Gudgel voting no.

- 7.3 Topaz presented a letter from City Council for a meeting on February 5, 1981 to discuss guidelines for the Riverfront consultant. Trotter asked that we have additional copies run of the final report on the conditions made to the City Council so that we can review them ourselves.
- 7.4 George Cathey brought up the fact that he had received complaints regarding Amtrak, that the gates were closed and there was no train.

The meeting was adjourned at 9:40 p.m.



Donald L. Trotter, President

ATTEST:



Pat Bullock Secretary

CITY OF MILWAUKIE PLANNING COMMISSION

AGENDA

January 27, 1981

1. CALL TO ORDER

2. PUBLIC HEARINGS

2.1 A-80-7 Assembly of God Church, City of Milwaukie, Applicants and Property Owners. Request to consider petition from the Assembly of God Church and the City of Milwaukie for annexation of the property located south of Highway 224, east and south of Mt. Scott Creek, north of Kellogg Creek Drive, north and west of Rusk Road (Tax Lots 100, 600, 700, 900, 901, 1000 and Tract A) to the City of Milwaukie. The Church wishes to annex Tax Lots 600, 700, 900 and 901 to obtain city services and the City of Milwaukie would like to annex the city-owned North Clackamas Park (Tax Lots 100, 1000 and Tract A) for administrative reasons.

2.2 P-81-1 Mr. and Mrs. Frank Kidd, Applicants and Property Owners. Alteration of non-conforming structure at 12222 S.E. 39th Avenue, Milwaukie.

3. PUBLIC COMMENT

Limited to items not listed on this agenda

4. CONSIDERATION

5. OLD BUSINESS

6. CONSENT AGENDA

6.1 Minutes of City Council of January 6, 1981

6.2 Minutes of Planning Commission of January 6, 1981

7. OTHER BUSINESS

7.1 Development Policy for M-L Zone