

MINUTES OF THE WORK SESSION  
OF THE PLANNING COMMISSION  
May 13, 1980  
7:00 p.m.  
City Council Chambers

Members in Attendance

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

Absent: Tom Bond

Also present:

Steve Hall, Public Works Director  
Topaz Faulkner, Assistant Planning Dir.  
Jon Stein, Assistant Planner  
Greg Eades, City Attorney  
Joy Burgess, Council Member  
Robert Ewald, Council Member  
Ann Nickel, Council Member  
Mel Paulson, Council Member  
Francie Baker, Secretary

The meeting began at 7:08 p.m.

1. FINDING OF FACTS

Don Trotter passed out the document, "Finding of Facts: Fact or Fantasy?", observing the distinction of "findings" as compared to "record" of the hearing. Topaz Faulkner stressed that the minutes were to be considered the source or record rather than the tape recordings of meetings.

The issue of stating on the record verbatim reasons given in staff reports was discussed, with agreement that the staff report would be the most complete consensus although members are not duty bound to adhere to the staff report. Greg Eades said the main purpose of the hearings is to elicit sufficient facts to allow us to make conclusions about the criteria discussed; the only purpose of the testimony being to develop those facts, regardless of how many residents are opposed to the issue. Steve Hall said the law must be upheld on behalf of the total city, not just a particular group, and looking at the overall goal of the city within the Comprehensive Plan.\* Don Trotter also said the Comprehensive Plan is the rule and the zoning ordinances are the implementation of those rules, so if there is any conflict, the Comprehensive Plan has priority over the zoning ordinances, which must be changed in conjunction with the Comprehensive Plan.

Discussion was held of how detailed the reasons for recommendation should be. Greg Eades and Ann Nickel mentioned that relevant testimony may be brought out in hearings which may not be in the staff reports. Topaz said that state law addresses finding of facts as follows: 1. Criteria and Standards. 2. Facts. 3. Justification--the application of those facts to those standards and criteria. Delaying decisions by tabling them until the next meeting was brought up and Greg Eades said the problem is in some cases delaying the decision any longer than necessary is not desirable if the applicant is under some time restraint; also leaving more time for ex-parte contact. More error can be introduced into the situation by dragging it over two meetings. Bob Kennedy said it has always been the Commission policy to keep unnecessary delays to a minimum, and if they cannot give the right answer at that time, the people are told then.

Councilwoman Nickel asked if in the appeals process can we not require people who are appealing to write their findings based upon the same criteria that the members must apply, so that as Council members they could make decision that night if they do their homework.

Leo Bauman said he would like Commissioners to visit application sites. Don Trotter said one problem was the opposition not knowing the criteria they were trying to utilize as part of their argument, although it may not have changed anything; they do not have the same list of criteria that we have. The Public Hearing notices should list criteria for public criteria information and understanding. Topaz said that would be re-phrased in layman's language. Ann Nickel said she would like to see an information sheet included on the end of notices to let citizens know they have the chance during the yearly review process to change the Comprehensive Plan, and Don said we are thinking in terms of a standardized format sheet. Topaz said the citizens can be better informed by showing them the criteria.

Councilwoman Burgess requested that the variance criteria be available to the Council with appeal applications. Findings of fact must be properly worded to be defensible in court.

There was concern that the variance criteria was inadequate. The Commission felt that considerable effort was given to improving the criteria prior to adoption of the Zoning Ordinance. There was discussion on the need for the City Attorney to attend Planning Commission meetings. Don Trotter proposed that the City Attorney get together with Planning Staff and review the formatting of staff reports which are presented to the Planning Commission. It was the consensus that the attorney attend the next couple of public hearings to insure that staff and the Planning Commission are following proper procedures, developing correct finding of facts, and for general legal counsel. Bob Kennedy said that for years we had a City Attorney present at meetings who provided legal input and interpretation. Steve Hall said that request for attorney attendance would have to be approved by the City Manager. Don said he would write a letter to the City Manager requesting the City Attorney's presence at Planning Commission meetings for a time. Steve felt that because new staff and commissioners are not totally familiar with all the procedures the recommended changes will take time so established members should be patient.

## 2. NORTHRIDGE CONDOMINIUMS

Mr. John Freeman gave reasons for deleting the sidewalks on the east side of S.E. 43rd between Lake Road and the condominium project. They are willing to install a 5 ft. sidewalk on the west side of 43rd but want deletion or delaying of 5 ft. wide sidewalk on the east side until the adjoining Salazar property is developed. To put the sidewalk in might inhibit development on the Salazar property where the hill on Salazar property might have to be cut back, trees may be removed, and a retaining wall might have to be built east of the sidewalk. Don Trotter said that input from the citizenry regarding pedestrian right of way was received at the time the final development plan was approved, and asked commissioners if they wanted to make a decision based on Mr. Freeman's request. Jon said it was an amendment to the final plan, which may require a Public Hearing.

The commissioners felt that the sidewalk construction might be deferred until some future date or curb and sidewalk could be redesigned without an ordinance amendment. As an alternative the sidewalk could be reduced to 4 ft.

Don Trotter said he would like staff to prepare a staff report for the next regular Planning Commission meeting, where the commission would make a decision on whether to go to a public hearing or make a decision based on the staff report and alternatives. At his discretion Mr. Freeman could apply formally at the public hearing. Mr. Freeman stated that his main interest was in saving the trees and coming out with a long-term workable solution. The staff is to give Mr. Freeman a copy of their proposal before the next meeting.

### 3. DOWNTOWN TRANSIT STATION UPDATE

The City Council had a work session on the transit station at their May 12 meeting. Steve Hall said that alternatives such as a multi-story, park and ride facilities with shopping and restaurant were discussed at that meeting. Tri-Met will be improving transit service by adding a line in June which will serve Lloyd Center, east side and Swan Island from here. There is about 5 million dollars left out of Mt. Hood transfer funds to be obligated by Metro next month. Transit improvements in Milwaukie and a designation as a southern transit hub is being studied by Metro. Metro is also looking at acquisition of the old Interurban Right of Way to a light rail corridor and the feasibility of upgrading McLoughlin Boulevard from 224 north so light rail might be incorporated.

### 4. PUBLIC NOTIFICATION

There was discussion on how to notify apartment dwellers within the required 500 ft. for public hearings. Putting the variance criteria on the notice would improve understanding by public of hearing procedure.

Steve Hall said that hand-delivering to each door or mailbox is too time-consuming. Jon Stein said that apartment notification will be improved. Greg Eades felt better notification could be given without amending the ordinance. It was the consensus of the Planning Commission that staff should amend notification procedures to include occupants of apartments within the required hearing notice area. A policy on notification will be submitted for review and comment at the regular May meeting.

### 5. PLANNING DEPARTMENT PROCEDURES AND MEMBER EDUCATION

Don said since several of us are new, when members have questions or concerns, they should work with Topaz.

On preparation of agenda for regular meetings, most items are determined by staff so commissioners should call staff if there are any additions to the agenda. Meeting packets are available to the Planning Commission now on Friday prior to the regular meeting but the commission felt that this was not an adequate lead time to become familiar with all materials in the packet. It was the consensus to have the Planning Commission packets available one week prior to the meeting. Don said this would

give opportunity to come up with questions for staff in time or if something is missing from packets it would give time to come up with the information.

Staff will be available at the lunch hour and after work for site inspections of requests related to the agenda. Slides of agenda items will be shown at Planning Commission meetings to better inform the Planning Commission and audience.

The meeting adjourned at 9:43.

  
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Don Trotter, President

ATTEST:

  
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Francie Baker, Secretary