

MINUTES OF THE REGULAR MEETING
OF THE
MILWAUKIE PLANNING COMMISSION
August 28, 1979

MEMBERS IN ATTENDANCE

Tom Foeller, Vice President
Jim Lotz
Louie Monetti
Bob Gudge
Robert Kennedy

STAFF IN ATTENDANCE

Cy Nims, Planning Director
Jon Stein, Assistant Planner
Myer Avedovech, City Attorney
Steve Hall, Public Works Director
Tim Holder, Consultant
Carolyn Troychak, Secretary

MEMBERS ABSENT

Tom Bond

1. CALL TO ORDER

The August 28, 1979 regular meeting of the Planning Commission was called to order by Vice President, Tom Foeller at 7:03 p.m. The pledge of allegiance was recited.

2. CONSENT AGENDA

- 2.1 Approval of Minutes of July 24, 1979 Regular Meeting
- 2.2 Approval of Minutes of August 14, 1979 Work Session
- 2.3 Approval of Minutes of August 21, 1979 Work Session
- 2.4 August 6 and 7, 1979, City Council Minutes
- 2.5 LoPiparo CB Antenna
- 2.6 Planning Commission Powers and Duties

It was the consensus to remove 2.5, LoPiparo CB Antenna, from the Consent Agenda for discussion later, as it would require a consensus of the Planning Commission. Jim Lotz MOVED, Louie Monetti SECONDED the approval of the Consent Agenda, with the exception of 2.5 which would be discussed later on in the Meeting. MOTION PASSED unanimously with Kennedy ABSTAINING from voting on July 24 and August 21 Meetings because of his absence from these meetings.

2.5 Phillip LoPiparo at 9886 S.E. 33rd Avenue operates a CB radio and has erected an antenna. Staff determined that it required a conditional use as covered under Section 3.020.2.h. of the Zoning Ordinance which states the following conditional use is permitted: "commercial or amateur radio or television studio, transmitter or antenna." Staff interprets a CB Radio Antenna as a use similar to those listed in Section 3.020.2.h. The Planning Commission concurred with staff interpretation at the August 21st meeting. Discussion followed in regard to adopting a policy to cover situations such as this. Planning Commission members agreed they were not prepared at this time to render a decision on policy. It was the consensus to have staff do further research, come up with a policy and report back to the Planning Commission at a future time.

3. AUDIENCE PARTICIPATION

The following item arrived too late for the Agenda.

Speaking: Fred Rice, 12146 S.E. Sequoia, Milwaukie

Mr. Rice explained that in applying for a building permit to remove one wall and extend his house over an existing patio with roof, the foundation would extend within 9' 2" from the property line rather than the 10' required under present R-7 zoning. (House was constructed 12 or 13 years ago when sideyard requirement was 5'.) Front side facing Sequoia setback is 7' 1" and other side 11' 2". Question is whether he needs to go through a variance procedure. Staff stated that new building construction would require the 10' and 5' sideyard setbacks, but since this structure had already been built, (the patio with roof extending over the patio,) the actual building line would not be changed and therefore would not require a variance. It was the consensus of the Planning Commission that a variance was not required in this type of situation.

4. PUBLIC HEARINGS

- 4.1 VR-79-11 Marlen Staples, property owner, 11466 S.E. Linwood Avenue.
M-79-26 Request to allow three-lot minor land partition with two flag lots in depth from a public street. Application to minor partition 80,150 sq. ft. property into three lots: (1) 7,700 sq. ft.; (2) about 16,000 sq. ft.; (3) about 30,000 sq. ft. A 30 ft. wide common access strip and 3,000 sq. ft. turnaround would be provided. The site plan indicates a 50 ft. right of way dedication for future 63rd Avenue extension through the center of the property, and a 25 ft. right of way dedication for future 64th Avenue extension along the east property line.

The Public Hearing opened at 7:45 p.m. Jon Stein presented the staff report. On June 27, 1978 the Planning Commission approved a similar request to allow a three lot minor land partition with two flag lots: VR-78-9 and M-78-23, at the same address, 11466 S.E. Linwood with conditions. The application is identical to what the Planning Commission approved in 1978. Public Works Dept. and the Fire Dept. favorably reviewed the application. Staff recommended approval with conditions as listed in the Staff Report, with the deletion of the words "and turnaround" from the second condition and the addition of a third condition which would provide for the dedication of a right of way for 63rd and 64th Avenues.

Speaking: Robert Garbarino, representing Marlen Staples

Mr. Garbarino stated he would be happy to answer any questions that might arise.

Speaking: Fred Johnston, 11424 S.E. Linwood, north of the property in question.

Mr. Johnston said he and the neighbors were in favor of good development. In answer to his questions, it was stated that the driveway, which would be extended to accommodate the two flag lots as well as the front lot, would not take any of the adjacent property; and, secondly, that the driveway would not be improved for future East-West road access. The existing street pattern has already been identified and part of the requirement of the staff recommendation is to provide for the dedication of 63rd and 64th avenues for north-south traffic.

Steve Hall, Public Works Director, stated that Public Works had requested approval with conditions that at the time 63rd is completed, utilities be transferred to the dedicated street and at that time the dedicated easement be deeded back to the property owners. The 3,000 sq. ft. turnaround in 63rd Avenue would be incorporated into the future roadway.

Public Hearing closed at 7:58 p.m.

Kennedy MOVED and Gudge1 SECONDED for approval of VR-79-11 and M-79-26 for reasons given in the staff recommendations and with the conditions applied. MOTION PASSED unanimously.

- 4.2 VR-79-12 Dan Pistorosi, property owner; property is located at the
M-79-27 south end of Cambridge Lane, west of Waverley Greens Apartments. Request to minor partition 2.6 acre tract to create three lots (M-79-27). This application is submitted with VR-79-12, a request for variance to create three lots with no frontage on a public street, but which abut a private road. Lot A will be 26,235 sq. ft., Lot B will be 28,540 sq. ft., and Lot C will be a flag lot shaped parcel, 61,530 sq. ft. in area. The turnaround and driveway will cover about 9,000 sq. ft. leaving an area of about 52,000 sq. ft. The smallest lot is over one-half acre in area and over two and one-half times the size of the regular 10,000 sq. ft. lot.

The Public Hearing opened at 8:00 p.m. Jon Stein gave the staff report. On February 27, 1979 the Planning Commission voted to deny a request for a variance for development without frontage on a public street, but which abuts a private roadway, and a request for preliminary approval of a six-lot subdivision on the same parcel. Reasons for denial of VR-78-19 were that it did not meet necessary variance criteria of Section 7.020, Circumstances for Granting Variances from the Zoning Ordinance, and that it did not meet the policy for development in the Waverly Heights area which was adopted by the Planning Commission on February 27, 1979. The reasons for recommendation, and the supporting public testimony, denial of S-79-9 was based on the same reasons. The Planning Commission action was appealed to the City Council. At its regular meeting on Monday, April 2, 1979, the City Council denied the appeal and upheld the Planning Commission's action.

Staff recommended denial of variance request to allow partitioning of three lots which do not have access to a public street for the following reasons:

1. The Planning Commission's policy for development in Waverly Heights is:

"Within the area shown on the attached map, subdividing and partitioning of property for new residential development will be permitted only for parcels which can be provided with new public street access, rather than access to Cambridge Lane."
2. Access to and along Cambridge Lane for fire protection purposes are extremely poor.
3. Residents have been opposed to new development which would worsen traffic conditions on Cambridge Lane, which is very narrow and has poor sight distances.
4. The request does not meet necessary variance criteria of Section 7.020 of the zoning ordinance.

Steve Hall, Public Works Director, stated that: 1) driveway access to the flag lot should be a minimum of 20' in width because of the curvature of the driveway access, which limits vehicle visibility; 2) the problem of connecting to existing sanitary sewers has not been addressed. It is recommended that all storm drainage for the flag lot and the other two parcels be contained on the site to minimize runoff to

adjoining properties. Soil in this area is not water absorbing. In addition, there is the public access problem: Cambridge Lane varies between 15' and 18' in width which is one-lane road by engineering standards. If approved, Lots A and B must use Cambridge Lane for direct access.

No correspondence received in favor. Two letters received from LeRoy Staver expressing his reservations about this development were given to the Commission.

Speaking in favor: Mr. George Cathey, Surveyor, 6430 S.E. Milwaukie Avenue, Portland, representing the applicant.

Mr. Cathey stated the Pistorosi's are requesting a three-lot minor partition. They want to live on the property and create an additional two parcels of land in order to finance their own home. The applicant is willing to cooperate with the City and residents and will work with the Public Works Department to solve questions raised by the staff report and Public Works memo.

Speaking in favor: J. David Zilka, 1505 S.E. Oxford Lane

Mr Zilka addressed traffic problems with the statement that since the fuel shortage there are fewer cars using the Lane. As regards it being a private road: it has many public usages including water, sewer, gas, telephone and mail which require public usage for travelling over and through for installation and service to private property. He believes it is a reasonable request and thinks other property owners in the vicinity would wish to develop their properties also.

Speaking against: Tom Harrison, 15285 S.E. Bevington Avenue

Speaking for his mother who lives at 1532 S.E. Eton Lane, Mr. Harrison stated that drainage is not to be passed off as insignificant and capable of being technically solved. The rock in that area is between one and three feet down below the topsoil. It is a fairly sizeable problem that has caused problems to the residents for a long time. Also, there is inadequate water pressure for fire protection.

Staff stated that there was a memo from the Fire Department stating what requirements would be needed if development were to take place there.

Also, speaking against: M. Hansen, 10005 S.E. Cambridge Lane
Charles Minott, 9900 S.E. Cambridge Lane
John Foster, 1516 S.E. Eton Lane
Gloria Stone, 10230 S.E. Cambridge Lane
Dr. Laszlo, 10100 S.E. Cambridge Lane
Mr. E. White, 10240 S.E. Cambridge Lane
Carol Corrigan, 10000 S.E. Cambridge Lane

The Public Hearing closed at 9:06 p.m.

Following discussion on alternatives of access other than Cambridge Lane, Kennedy MOVED "for DENIAL of M-79-27 and VR-79-12 for the reasons given in the staff report and the reasons for recommendation." Kennedy commented "that while the Planning Commission's policy is not a hard and fast line, it's based on the hard and fast facts of the ordinance in regard to it." Lotz SECONDED and the MOTION CARRIED unanimously.

4.3 C-79-10 Lary Smith, applicant, Dennis Thompson, property owner. Request for conditional use approval to remove two walls and add a new wall along present building line of existing tavern. A zone change from R-5 to C-L (ZC-69-1) was granted in 1969. Property is located at

11921 S.E. 22nd Avenue.

The Public Hearing opened at 9:15 p.m. Jon Stein gave the staff report, recommending approval with conditions as listed in the report and an added condition that staff be provided with some type of proof of lease agreement for parking on Southern Pacific property on the west side of the building. Photographs of site and property were passed around.

Speaking for: Lary Smith, 17087 S.E. Wiley Road, Milwaukie, applicant

No correspondence received. Discussion followed as to parking facilities and access. There was a consensus that staff work with county road department in regard to marking road for access in and out of the parking area.

Public Hearing closed at 9:46 p.m.

Gudgel MOVED and Lotz SECONDED a MOTION to accept the conditional use, C-79-10, for the reasons stated in the staff report and include the recommendations of staff. MOTION PASSED unanimously. MOTION was AMENDED by Kennedy to include the condition that "applicant is to work with the staff in regard to the question of the configuration of parking on the east side of the structure." (Staff also advised to check this out with the County and the Public Works Department.) Gudgel ACCEPTED THIS CONDITION as part of the original motion. MOTION CARRIED unanimously by those present. Applicant was asked to work with staff on parking, adequate marking and signs for designated parking.

4.4 C-79-11 Betty Nickerson, property owner. Request for conditional use approval to convert an existing two-story building into a counselling office. The property is located at 2535 S.E. Harrison Street. It is zoned A-2, Apartment Residential.

Public Hearing opened at 9:48 p.m. Jon Stein presented the staff report, recommending approval with conditions. Correspondence received from Raymond J. Bartel, Architect, stating his endorsement of the proposed plan. No unfavorable correspondence received. Photographs of existing site were passed.

Speaking for: Nancy Pinel, 700 S. Rosemont Road, West Linn, General Contractors for the applicant

Ms. Pinel addressed the conditions of approval, as follows: The hours of operation would be the normal business hours during the day and perhaps three evenings per week as well; the house to the northwest, Tax Lot 4,300, will continue to be used for residential dwelling and is presently being rented; maintenance of the easement access will be provided by the users; type of counselling will be general counselling including marriage and family, personal adjustment, personal growth including group counselling to be provided by six counsellors. In regard to the access to the property across another piece of property which they also own, Myer Avedovech, City Attorney, stated that this access should be provided as part of the deed and recorded with the County. Staff stated that Conditions 2, 3 and 5 have been answered.

Speaking for: Don Nickerson, 7675 Caisson Lane, Gladstone

Public Hearing closed at 9:59 p.m.

Lotz MOVED to adopt C-79-11 with the conditions recommended by staff and to clarify No. 4 with "access to the property be recorded as part of the conditions." It was SECONDED by Monetti, MOTION PASSED unanimously.

5. CONSIDERATION

5.1 VR-79-13 Sanh Tho Vuong, property owner. Request for variance to allow construction of carport and deck 3' by 6" from the east property line rather than the required 10'. The property is located at 4952 S.E. Mason Lane. Zoning is R-7, single family residential.

Jon Stein presented the staff report. Staff recommendation is to deny the request for variance to allow east sideyard of 3' 6" rather than the required 10' and to approve plans to finish constructing the carport/deck that conforms to minimum sideyard of 10' as required in an R-7 zone.

Speaking for: Sanh Tho Vuong, applicant

Mr. Vuong explained that since he is himself a refugee and furnishes other refugees with temporary living quarters which includes parking of vehicles and, since the driveway slants down and access requires the driver of the vehicle entering to make a left turn followed by a sharp right turn around a supporting post for the deck, that a larger area is needed than for a regular carport.

Speaking for: Gene Williams, 15125 S. River Road

Mr. Williams stated that it was not the applicant's intent to invade on anyone's privacy, that he can already see into his neighbor's yard without using the deck and also there is an Arborvitae hedge which will grow and screen the neighbor's yard.

Speaking against: Eric Leedy, 4974 S.E. Mason Lane (neighbors to the East)

Mr. Leedy stated that he has no objection to the driveway per se but does object to the deck which offers visibility to 85% of his yard which gives him no privacy at all.

After discussion on alternatives, Gudgeon MOVED and Monetti SECONDED for DENIAL of variance VR-79-13, based on the reasons given in the staff report, and our confirmation of the facts that we discussed the six criteria and found that it does not meet, that we agree with staff, that it does not meet several of the points, that there are alternatives, that this is a self-created difficulty, that there is no gain in off-street parking, that off-street parking is currently there and it's just not covered; also, that the addition of the deck will have an adverse effect on the property to the East. Kennedy expressed a wish to go on record as disagreeing with the last statement in the motion, since the applicant, without a variance, could go ahead with the 7' deck which would have the same effect. Decision was 3-2 in favor of DENIAL, with Kennedy and Foeller against.

Applicant was advised that there is an Appeal Procedure to City Council and if further clarification was needed staff would advise as to alternatives.

6. OTHER BUSINESS

Tim Holder, Consultant, spoke briefly on the proposal to make a recommendation to the City Council in regard to adopting the ordinances in the Revised Draft of the Comprehensive Plan. Decision was made to have a special meeting on Monday, September 10, 1979 at 5:30 p.m. in the Council Chambers for a work session. Consensus was reached.

6.1 Policy Procedure

Consensus was to discuss policy procedure and new policies at the September 10th special meeting.

Also, Jon Stein requested that in cases when only the applicant is present and very little audience participation, that rather than Jon explaining the staff report, that members study it and ask questions. Applicant would be furnished with a copy. There was a consensus on this.

Tom Foeller thanked Myer Avedovech in the name of the Planning Commission for "his seven and one-half years of well-informed and very well-intentioned public service" and stated that he thought Myer has made a name for himself in land use planning and will continue to make a name for himself in DesChutes County and the City of Bend.

Meeting adjourned at 11:05 p.m.


Tom Foeller, Vice President

Carolyn Troychak, Secretary

PLANNING COMMISSION REGULAR MEETING AGENDA
August 28, 1979
City Council Chambers
7:00 p.m.

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2. CONSENT AGENDA
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3. AUDIENCE PARTICIPATION
4. PUBLIC HEARINGS
 - 4.1 VR-79-11 Marlen Staples, property owner. Request to allow three-lot minor land partition with two flag lots in depth from a public street. This is to be considered under the variance procedure as it relates to subdivision Policy PC-1-78. The property is located at 11466 S.E. Linwood Avenue.
M-79-26
 - 4.2 VR-79-12 Dan Pistoressi, property owner. Request for variance and minor land partition of 3 lots on a 2.5 acre parcel that does not abut a public street. The property is located at the south end of Cambridge Lane west of Waverley Greens Apartments.
M-79-27
 - 4.3 C-79-10 Dennis Thompson, property owner. Request for conditional use approval to remove 2 walls and add a new wall along present building line of existing tavern. The property is located at 11921 S.E. 22nd Avenue
 - 4.4 C-79-11 Betty Nickerson, property owner. Request for conditional use approval to convert an existing two-story building into a counselling office. The property is located at 2535 S.E. Harrison Street.
5. CONSIDERATION
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 - 6.1 Policy Procedure