

CITY OF MILWAUKIE
MINUTES OF PLANNING COMMISSION
REGULAR MEETING
SEPTEMBER 8, 1981

MEMBERS PRESENT:

DON TROTTER
TOM BOND
JIM LOTZ
REBECCA SWEETLAND
PATRICIA JAMTGAARD

ALSO PRESENT:

TOPAZ FAULKNER, PLANNING DIR.
JON STEIN, ASSOCIATE PLANNER
CAROL LEE, SECRETARY
STEVE HALL, PUBLIC WORKS DIR.

MEMBERS ABSENT:

GEORGE CATHEY
BOB GUDGEL

Mr. Trotter opened the meeting at 7:05 p.m.; explaining the procedure of the public hearings.

2.1 C-80-6, VR-81-13 OREGON DEPARTMENT OF TRANSPORTATION TRAIN STATION

Variance and Conditional Use to be reviewed by Planning Commission one year after passenger service begins, since project has been refunded for continued service.

Jon Stein presented the Staff Report. He mentioned several complaints regarding traffic hazards and crossarms blocking traffic at the Amtrak Station in Milwaukie.

SPEAKING: ED IMMEL, Manager, Willamette Valley Rail Project
Room 129, Transportation Building, Salem, Oregon 97310

Mr. Immel said he was not the representative who initially coordinated the Willamette Rail Project. He mentioned that Condition #12 stipulated at the June 24, 1980 meeting, has already been met since the parking lot was surfaced with asphalt at the beginning of construction. Mr. Immel mentioned that the legislature has funded the project only until the end of 1981, and will probably be discontinued at that time.

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Mr. Immel explained the operation of the automatically controlled grade-crossing. If funding is still available after the first of the year this equipment will probably be installed.

Mr. Trotter asked if there was anyone present who wished to testify in favor or opposition to the request. There was no response from the audience.

Mr. Bond suggested that the Planning Commission review the request again in one year.

Ms. Jamtgaard made a MOTION TO APPROVE THE PUBLIC RIGHT-OF-WAY FOR THE WILLAMETTE RAIL PASSENGER SERVICE, C-80-6; VR-81-13, AND THE REQUEST SHALL BE REVIEWED AFTER THE BEGINNING OF 1982. THE MOTION PASSED UNANIMOUSLY.

2.2 C-81-11 K.N.P.D. GRAFF, LTD. - PIPER'S PUB
10282 S.E. Main Street, Milwaukie, Oregon 97222

Conditional Use request to establish a restaurant/tavern in a building that formerly housed the Spaghetti Place restaurant from May 1979 until September 1980. Drinking establishments require a Conditional Use in the commercial zones.

Jon Stein presented the Staff Report.

SPEAKING: DAVID GRAFF, 12636 S.E. 39th Court, Milwaukie, Oregon

Mr. Graff said the intent was to make the establishment a family oriented restaurant with a tavern. He explained his willingness to cooperate with Staff on landscaping requirements and requested one year to complete the landscaping.

Mr. Trotter asked Mr. Graff what measures had he provided for public access to the building from the parking lot if it was his intent to landscape sections of the parking lot.

Mr. Graff said the landscaping would not be located where it would disrupt public access to the building.

Mr. Trotter asked if there was anyone present who wished to testify in favor or opposition. There was no response.

THE PUBLIC HEARING CLOSED AT 7:30 P.M.

Mr. Trotter said his main concerns were landscaping, which would be approved by Staff, and pedestrian access to the building.

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Mr. Lotz expressed his concern of the high brush that could provide a concealed location for vandals to lurk about the premises.

Mr. Graff stated that it was his intent to have the vines and bushes trimmed so as not to allow hiding places, and to do general cleanup of the parking lot.

Steve Hall explained that legally it is the property owner's responsibility to maintain overgrown vegetation, but because the City does not have a code enforcement officer or funds. It is the Public Works Department policy to only inform the property owner of the violation and request the property be brought up to code.

Ms. Sweetland MADE A MOTION TO APPROVE C-81-11 with the Condition for a landscaping plan, as stated in Staff's recommendation.

Mr. Trotter asked to add two Conditions to the Motion, the first: Applicant to submit sign details in conformance with Sign Ordinance to be approved by Staff, and the second: Application to be reviewed in one year to insure compliance with previous conditions. Mr. Lotz Seconded the Motion. MOTION CARRIED UNANIMOUSLY.

FINDINGS:

1. The proposed use complies with the following elements of the Comprehensive Plan:
 - A. OBJECTIVE #9 - Downtown Office Center, Page 39.
2. The proposal complies with the following elements of the Zoning Ordinance:
 - A. Section 5.01.3.3 - Off-Street Parking Requirements
3. Negative impacts on adjacent properties are minimal.
4. The proposed use, site and landscape improvements will be compatible with adjacent land uses.

CONDITIONS:

1. Applicant to submit sign details, in conformance with Sign Ordinance, to be approved by Staff.
2. Applicant to submit landscaping plan, in conformance with Zoning Ordinance to be approved by Staff.
3. Request is subject to review by the Planning Commission in one year.

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2.3 PD-81-1 LEO BAUMAN, Applicant, T.J.P. Development Co.

Request for Preliminary Plan and Program approval to allow a 25-unit single-family detached and attached residential development.

Mr. Trotter explained the procedure for Planned Developments and the stage in which this application was being presented. Jon Stein presented the Staff Report indicating concerns the Planning Commission had at the public hearing on July 14, 1981.

Steve Hall mentioned that Lake Road has sufficient sight distance with the exception of some shrubbery that could be cleared. He stated that based on an International Traffic Institute projection of traffic generation the additional traffic load would be between 118 and 210 vehicle trips per day. Lake Road would be able to carry this additional traffic.

Topaz mentioned a report had been received from the Fire Inspector which calls for fire hydrants at the southwest corner of Lot #7 and #10. The roadway widths are considered acceptable as well as the hammer-head turnarounds shown next to Lot #21. No parking would be allowed on the west side of the private street and signs should be posted indicating such. The use of bark dust is not encouraged due to danger of fire during dry periods.

Mr. Trotter asked for clarification on the statement regarding bark dust.

Topaz mentioned that the Fire Department had requested an amendment to the Comprehensive Plan relating to bark dust because of the increased number of fires starting from dried out bark dust.

SPEAKING: LEO BAUMAN, 6451 S.E. Fernberg St., Milwaukie

Mr. Bauman explained the existing conditions of the property and presented slides of the site. Mr. Bauman then presented slides of a development in Lake Grove which is comparable to the proposed development. Mr. Bauman presented several site plans to the Commission. He mentioned that several parking spaces have been deleted from the development allowing additional space for an activity area on a level portion of the site.

SPEAKING: RAY BARTELL, 2515 S.E. Harrison Street, Milwaukie

Mr. Bartell mentioned the existing trees form a sight and sound barrier from the Expressway. Mr. Bartell explained the percentage of grading and in-fill that would be necessary and the primary concern of preserving the majority of natural vegetation.

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Mr. Bartell stated "that if the property were calculated at the R-7 Density and the irregular topography ignored, a total of 21 single-family residences would be allowed for this piece of property. However, the grading required would destroy all the natural vegetation." The Applicant is requesting a variance of four units to compensate for the irregular topography at the site, which would be a total of 25 units. The buildings will be designed in such a way that a view from any one direction would give the appearance of a single-family home. The units will vary in size of 950 sq.ft. to 1400 sq.ft. with one, two and three bedrooms. Each unit will be deeded fee simple, with its own back yard and a two-hour fire wall as the divider between the units. The Homeowners Association will help maintain the cohesive design, with the By-Laws dictating the restrictions of the development.

Mr. Bond asked for clarification regarding the number of units that would be allowed under an R-10 Zone. Mr. Bartell said, "according to my calculations approximately 22 units would be allowed in an R-10 Zone."

Mr. Lotz asked if there would be any parking allowed on the private drives.

Mr. Bartell said there would not be and the Fire Inspector has designated these emergency vehicle lanes, which prohibits parking along these drives.

Mr. Lotz asked if there would be sidewalks along one side of the drive.

Mr. Bartell said they do not feel it is necessary to have a sidewalk but would be willing to construct one if requested. Mr. Bartell said there would be four parking spaces provided for each unit by the driveway and garage.

Mr. Trotter asked Staff to explain why there was a zone change request if the density is the same for R-10 and R-7 Residential.

Topaz said they are both Low-Density Designations, and if considered as such there would be no need for a zone change; but if zoning is considered the R-10 Zone has the lesser density. Applicant has requested a zone change in order to clarify the zone of the property.

Mr. Trotter said if the Commission is considering a Zone Change to R-7 then a separate action must proceed the PUD. The PUD is only an overlay of an existing zone to add the Planned Development to the designation of the existing zone. Mr. Trotter said the Zone Change was not necessary to acquire the density the Applicant is requesting.

Topaz said that since this would be the final step in this procedure she would consult with the City Attorney regarding the Zone Change before the next meeting.

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Mr. Trotter asked if there was anyone who wished to testify in favor of the request.

SPEAKING: ORVAL CRULL, 7720 S.E. 30th Avenue, Portland

Mr. Crull said he owns property adjacent to the proposed development. He said the proposal is very well presented and is in favor of the development.

SPEAKING: JOHN LITTLEHAILS, 12435 S.E. 43rd Avenue, Milwaukie

Mr. Littlehails said he is pleased with the type and quality of homes Mr. Bauman has built in the development on 43rd Avenue and Northridge Drive. Mr. Bauman has had all of his homes sold at or prior to completion, indicating the ability to find the housing need; and address that need to the community.

SPEAKING: JOSEPH W. PAI, 4231 S.E. Northridge Court, Milwaukie

Mr. Pai said he was one of the first persons who bought property in Mr. Bauman's development at Northridge Heights. He finds the quality and workmanship of housing there extremely attractive. He expressed his support for Mr. Bauman's application.

SPEAKING: JOHN DAVIS, 12694 S.E. 21st Avenue, Milwaukie

Mr. Davis said that he is currently in the process of purchasing a home from Mr. Bauman. He is pleased with the neighborhood, and quality of construction Mr. Bauman proposes to develop and supports his application.

Mr. Trotter asked if there was anyone who wished to speak in opposition to the request.

SPEAKING: JERRY JACOBS, 12346 S.E. 38th Avenue, Milwaukie

Mr. Jacobs said that the homes that are being proposed are not the same design or quality as those at Northridge Heights. Mr. Jacobs mentioned the problems of inadequate parking, ingress and egress points of 38th Avenue and Lake Road. He expects that 38th Avenue will in the future, become a through street with freeway access. He bought his property with the understanding there would be a cul-de-sac at the end of 38th Avenue, and now that there will be development there he is opposed to the application. MR. Jacobs asked if the Staff, Public Works or Fire Department had made a current study of traffic flow at 38th Avenue and Lake Road.

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Steve Hall mentioned there had been a study done at the corner of 34th Avenue and Oatfield Road, which is the closest intersection to this area. The Public Works Department does not feel there is a need for another traffic count at this time.

SPEAKING: KATHY GARDNER, 12209 S.E. 38th Avenue, Milwaukie

Ms. Gardner said the arborvitae hedge near the intersection had been planted by the property owners to shield themselves from glare and noise, and would most likely be opposed to removing or trimming the hedge. She mentioned the visibility of the cul-de-sac area from the bottom of the hill at the intersection is at a minimum, and poses a potential danger to children who play there. In August she had contacted the Planning Department Staff concerning a statement Mr. Bauman had made regarding an alternative access to the site. Ms. Gardner asked what alternative traffic route had been devised. Ms. Gardner is strongly opposed to increased traffic along 38th Avenue.

Mr. Trotter asked if there was anyone else present who wished to testify in opposition to the request or if there was anyone who had questions. There was no response.

Mr. Lotz mentioned the purpose of the PUD is not just to permit the same number of housing units on a site with extremely irregular topography that would be allowed on property that has flat terrain.

SPEAKING: LEO BAUMAN

Mr. Bauman said the proposed units will market at about \$64,000 for the smaller units and \$80,000 for the larger units. His intent is to build housing that is within the affordable price range which is tastefully designed and provides adequate living space. Mr. Bauman mentioned traffic will be routed on 49th and 43rd Avenues, as well as 38th Avenue.

Ms. Jamtgaard asked if there could be a traffic sign installed indicating slow traffic speeds.

Steve Hall said Public Works usually installs a sign indicating traffic speed of 15 miles per hour at sharp corners.

PUBLIC HEARING CLOSED AT 9:40 p.m.

Mr. Trotter asked Mr. Bauman what proof of financial security he was prepared to present to the Commission.

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Mr. Bauman said he had been consulting with several banks and had received favorable response concerning a major development loan. He explained the loan would be contracted in such a way as to provide funds at various intervals during the period of construction because construction would not take place on all of the units at one time.

Mr. Trotter asked Mr. Bauman how the yards would be maintained to provide continuity of landscaping within the development. Mr. Bauman said the Homeowner's Association would require specific landscaping materials such as grass and fertilizer to be used in the front yards, but the individual homeowner would be allowed to design his back yard to his liking. Mr. Trotter asked Mr. Bartell why the 20' setback around the periphery of the property had not been met.

Mr. Bartell said he had not considered that requirement because he was not familiar with the entire Ordinance. Mr. Trotter asked Mr. Bartell to address this requirement at the next public hearing.

Mr. Bond mentioned that the walking path would have access from the site at various locations and would not be necessary to direct the ends of the trail into the development, but allow it to continue along the ridge and be connected with proposed adjacent future developments. Mr. Bond said asphalt speed bumpers would keep the traffic speed through the development at a minimum.

Steve Hall mentioned the improvements must be completed before the subdivision can be completely accepted.

Mr. Lotz said he was in favor with the scheme presented for the development. He said he would not approve the concept in principle because he would like to see more information presented which would delineate the size and number of bedrooms for each unit and show the relationship of the development to the adjacent neighborhoods.

Mr. Trotter said he would like to have a report showing proof of financial security for the development.

Mr. Trotter made a MOTION TO CONTINUE THE HEARING OF PD-81-1 to allow the Applicant time to provide the Commission with a written program of financial security, investigate the impacts of the 20' peripheral setback requirement, and allow the Staff time to acquire legal council to determine the necessity of a zone change. The Motion was Seconded by Ms. Jamtgaard. The MOTION CARRIED UNANIMOUSLY.

5.0 CONSENT AGENDA

5.1 CITY COUNCIL MINUTES - AUGUST 18, 1981, Approved.

5.2 PLANNING COMMISSION MINUTES - JULY 30, 1981, Approved.

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6.0 OLD BUSINESS

6.1 COUNTY ACTION ON LAYTON ANNEXATION Z-81-2; ZC-81-2

Topaz presented a letter from Clackamas County regarding the Layton application.

7.0 OTHER BUSINESS

7.1 NEW APPEAL PROCEDURE

Topaz explained the recent consideration by the City Council regarding a new appeals procedure. The City Attorney has presented the Council with a revised procedure for appeals of the Planning Commission review and submit comments regarding amendment to the Zoning Ordinance.

Mr. Bond suggested the deletion of Item #1, in Mr. Eades memorandum, referring to Petition for Reconsideration, because the Applicant should submit all his testimony in his behalf at the first hearing and Staff as well as Council's time will not be consumed by hearing the same testimony the second time.

Mr. Trotter mentioned there would be instances where a reconsideration would be advantageous. If the Applicant were willing to comply with the Commission's conditions that had been set forth in the request then the application could be reconsidered. Mr. Trotter mentioned that the Commission's purpose was to reduce the work load of the City Council. He was not in favor of the City Council having to consider an applicant's appeal at two separate hearings.

Mr. Lotz said it had been typical for applicants to withhold evidence and respondents to wait for an opportunity to testify before the City Council after the Planning Commission has denied a request. This revised procedure would eliminate that type of action.

Mr. Bond said the applicant should have every opportunity to explain his circumstances to the City Council. Mr. Bond does not feel there is a need for a reconsideration procedure. It is the Council's option to limit the scope of review, but it is not necessary for the Planning Commission to lengthen its agenda.

Ms. Sweetland said she is in opposition to the Council's ability to remand the petition on the basis that new evidence is presented. She feels that any person should have the ability to address the Council at the time of appeal with new evidence relating to the request.

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Ms. Sweetland made a Motion to recommend to the City Council to adopt the Planning Commission Appeals Procedure as written. There was not a Second to the Motion; the Motion died for lack of Second.

Mr. Lotz mentioned this was the third attempt to resolve the issue of a new appeals procedure before the Council.

Mr. Trotter said the Commission was requested to make suggestions for the revision of this procedure. Currently the Council does not have the option of hearing the appeal on record, each appeal must be heard as a de novo hearing. The difference of time involved to complete the appeals procedure would amount to an increase of approximately one month.

Mr. Lotz said this procedure would allow the Applicant the opportunity to choose which type of hearing he desired, either a hearing by record or a de novo hearing.

Mr. Bond suggested that the Commission recommend that the Council hear appeals only by a "on record method"; in order to alleviate the burden of the complete appeals procedure.

Mr. Trotter suggested there be a time limitation set for each appeal and the Council hear only one appeal per meeting.

Mr. Bond suggested that a memorandum be sent to the Council stating the opinions of the Commission.

Ms. Jamtgaard said she was in favor of allowing the Council the opportunity to choose which type of public hearing would be best for the appeal.

Mr. Bond mentioned that persons in opposition to the appeal could use this procedure to delay the Council hearing the appeal.

Mr. Trotter said there should be provision made for the Applicant to request reconsideration since the Applicant has the highest vested interest in the request.

Mr. Trotter suggested that Staff ask the City Attorney to attend the next meeting in order to discuss these concerns.

THE MEETING ADJOURNED AT 10:55 P.M.

Donald S Trotter

AGENDA
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1.0 CALL TO ORDER

2.0 PUBLIC HEARINGS:

2.1 C-80-6, VR-81-13 OREGON DEPARTMENT OF TRANSPORTATION
TRAIN STATION

Variance and Conditional Use to be reviewed by Planning Commission one year after passenger service begins, since project has been refunded for continued service.

2.2 C-81-11 K.N.P.D. GRAF, LTD. - PIPER'S PUB
10282 S.E. Main Street, Milwaukie

Conditional Use request to establish a restaurant/tavern in a building that formerly housed the Spaghetti Place restaurant from May 1979 until September 1980. Drinking establishments require a Conditional Use in the commercial zones.

2.3 PD-81-1 LEO BAUMAN, Applicant; T.J.P. DEVELOPMENT CO.
Property Owner.

Request for Preliminary Plan and Program approval to allow a 25-unit single-family detached and attached residential development.

3.0 PUBLIC COMMENT

4.0 CONSIDERATION

5.0 CONSENT AGENDA

5.1 CITY COUNCIL MINUTES - AUGUST 18, 1981

5.2 PLANNING COMMISSION MINUTES - JULY 30, 1981

6.0 OLD BUSINESS

6.1 A-81-2/ZC-81-2 COUNTY ACTION ON LAYTON ANNEXATION

7.0 OTHER BUSINESS

7.1 NEW APPEAL PROCEDURE

7.2 (TIME PERMITTING) REVIEW OF LEGISLATION AFFECTING CITY PLANNING