

PLANNING COMMISSION MINUTES

REGULAR MEETING

JUNE 26, 1984

MEMBERS PRESENT

JOHN LITTLEHALES
BOB BROWN
AL LIANE
DON TROTTER
BETTY ROHOLT

STAFF PRESENT

GREG EADES, CITY ATTORNEY
TOPAZ FAULKNER, PLANNING DIRECTOR
LORI MASTRANTONIO - MEUSER, ASSOC. PLNR.
STEVE HALL, PUBLIC WORKS DIRECTOR
DEANNA ROBINSON, STENOGRAPHER

1.0 Mr. Littlehales called the meeting to order at 6:30 PM.

3.0 PUBLIC HEARINGS

3.1 APPLICANT: Byron L. Root
LOCATION: Southwest corner of Lake Rd. & Where Else Lane.
PROPOSAL: The Applicant is requesting Preliminary Plat approval of a 17-lot subdivision (S-84-4)

Mr. Littlehales explained that this item had come before the Planning Commission on two previous occasions, the most recent being August 24, 1982. At that time Mr. Littlehales was new to the committee and had stepped down declaring a conflict of interest because he lived near the applicant. However, Mr. Littlehales felt he need not step down at this time as he has no other connection with the Applicant.

Lori passed out an Addendum Report and the correspondence received to the Commissioners and presented the Staff Report.

Mr. Liane asked Staff why the Final Plat approval granted on December 14, 1978 was never recorded. Steve Hall explained that state statutes require that prior to the recording of a plat, either the improvements be completed or there be a security for the amount of those improvements in the form of a loan, cash, or otherwise. The security was never provided; the plat has been kept in City Hall but has not been recorded.

APPLICANT'S RESPONSE

SPEAKING: GORDON JUDD, 6400 SW Corbett Avenue, Portland, Building Designer representing Byron Root

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Mr. Judd indicated that he worked on the original plat that was approved. The preliminary plat being requested is basically the same with some minor changes, such as reduction in asphalt paving to reduce the traffic hazard on Lake Road. Because the economy for subdivisions and home building has not been good for the past few years, those improvements were never made.

Mr. Judd pointed out that a portion of the property was sold since the original plat approval.

The Applicant has no disagreement with Staff's recommendations.

Mr. Littlehales asked if these portions of the property were intended to be a part of this development. The Applicant responded they had included it because at the time it was required of the preliminary plat.

Mr. Liane asked who the other property owners involved in the application were. The Applicant responded Fred Jarrard and Mr. Marriman.

SPEAKING: MAX WAGENKNECHT, 4216 SE Lake Road

Mr. Wagenknecht addressed the drainage problem and noted that the land was originally laid out from Lake Road to the creek in five-acre plots, which are almost all owned by single property owners. He indicated that the original drainage system started from Kuehn Road to a particular plot, and showed on the map where the majority of the drainage flows. Mr. Wagenknecht indicated that there is a 10-inch tile that runs through his property which is floating full most of the year and is never completely dry. He also indicated that a subdivision had been put in, which caused even more of a drainage problem.

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Mr. Wagenknecht then addressed the way the streets are laid out, and could not understand how the streets could be laid out in the area without interfering with homes.

SPEAKING: DEE DEE JUHALA, 12845 SE Where Else Lane

Ms. Juhala expressed concern for the residents south of the proposed development. The residents are concerned that the development be done exactly right to prevent storm water damage to their homes and property and to minimize other potential problems, such as traffic flow. The drainage currently in use is not adequate to handle the heavy runoff that often occurs, and the drainage at Where Else and Else Where backs up onto Where Else Lane. She feels it is imperative that the current drainage system be fixed before any more water is diverted through it.

Ms. Juhala also expressed a desire for a test to be done on the area below the development to determine its capacity at Else Where Lane as well as the area to the west. She indicated that according to pool installers, in-ground swimming pools cannot be put in the area without a popoff valve.

Ms. Juhala addressed the issue of two entrances instead of the three that were proposed earlier as another concern of the residents of the area. She commented that there are already eight entrances to Lake Road within a distance of about 300 yards from 43rd Street to Freeman Road, and there is no left turn from Lake Road onto Freeman Way. She envisioned this as a problem because there are 17 houses, which means a minimum of 17 cars and possibly 34 or more having only one exit onto Lake Road. This exit exists on Where Else Lane and Lake Road and Where Else Lane is already congested. She suggested a better alternative as being the earlier proposed road of Creek Way.

Another concern of Ms. Juhala is the building up of the road at the intersection of Lake Road and Where Else Lane because of the 20 to 30 children who wait for a school bus at that intersection. Ms. Juhala then raised the issues of how four lots could have already been sold without an approved plan; what kind of a container is going to hold the storm runoff, if it will be concrete or metal; what kind of a release mechanism it will have; how much water will be released into the drain that's already there in Where Else and how

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often; and why the owner of the four lots that were sold has not signed the consent form which was referred to by Mr. Eades in his letter.

Ms. Juhala indicated that several residents south of this development plan to contact an attorney and have him notify the City and the developer that if any of the existing homes or properties incur any water problems due to inadequate or improper drainage facilities because of this development, the developer and the City will be held liable and appropriate action will be taken.

SPEAKING: MILTON PALM, 4182 SE Lake Road, Milwaukie, Oregon

Mr. Palm spoke to the problem of drainage from the applicant's property onto his, the need to carefully engineer storm drainage, and he suggested having a chemical dye test done on the pond. He submitted a letter earlier to Staff. (Exhibit #7) Copies were distributed to the Commission members.

SPEAKING: VIRGINIA AMATO, 12600 SE Vernie

Ms. Amato explained that she has a drainage problem at her residence also, but noted that the City had recently put a drain in the area which has helped. Her concern is that this drain be kept open.

SPEAKING: BILL SCHEIDERICH, Attorney for Mr. Merriman, Office located at 610 SW Alder, Portland

Mr. Scheiderich explained that Mr. Merriman is purchasing on contract Lots 2, 3, 4, and 5. He indicated that the Merrimans are opposed to the application, even with the conditions of Staff. They did buy the property on representation that the access to Lake Road was going to be accessible by what was once called Creek Way Lane, which is the street now proposed to terminate 20 feet north of Lot 3 with no access of Lot 3 on Lake Road. This would make the Merriman's property less saleable and they would not be getting what they paid for. Mr. Scheiderich pointed out that Mr. Merriman bought the lot on representation of what had already been approved.

Mr. Liane inquired as to when Lots 2, 3, 4, and 5 were purchased. Mr. Merriman responded from the audience that he had purchased the lots two years ago on August 20, 1982.

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SPEAKING: FRED JARRARD

Mr. Jarrard indicated he is the owner of a home and lot in the area being discussed, and he originally owned the entire area. He sold the property to Mr. Root retaining his house and approximately 10,000 square feet of property. He indicated he had owned the property for several years and had never seen water run between the house and the barn nor north of the house as had been indicated in earlier testimony. He did acknowledge that there is water at the bottom of the area but there is an agricultural drainage system which does occasionally get plugged up.

Mr. Jarrard addressed a few items which concerned him. On the east side of Lot 7, Block 1 are trees which may be in the sidewalk area. He hoped to see some method of retaining those trees.

Another issue raised by Mr. Jarrard relates to the 20-foot easement. He is particularly concerned with deeding the easement to Lot 3, because he will probably need that easement to enter the west side of the property.

SPEAKING: GORDON JUDD, Building Designer representing Byron Root

Mr. Judd replied that the drainage problems had been addressed in extensive engineering drawings which were made in the original application. According to engineering standards and according to the City, they were approved as being adequate for the drainage of the area. Mr. Judd added that they do plan to do everything on the original plan, and are complying with all the ordinances of the City.

Mr. Trotter asked Mr. Judd if he had been involved in the earlier approved 15-lot plat. Mr. Judd indicated that he was. Mr. Trotter asked if the reason they had changed earlier was because of the reduction of asphalt. Mr. Judd said it was and also to restrict the amount of entrances onto Lake Road as they would be about 100 feet from each other and could be hazardous. Mr. Trotter then inquired if this was a request of Staff or the applicant's own interpretation. Mr. Judd stated that when the property was sold, there was no longer any need for the road; it served only the one lot which is now shown as four lots.

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Mr. Trotter asked if all of the lots on the 15-lot plat met the R-10 standards. Mr. Judd indicated they did.

The Public Hearing was closed at 7:50 PM.

Steve Hall addressed the natural drainage courses explaining that within the storm drainage facility in 1978, it was indicated to intercept the line flowing from Lake Road toward the south and onto the property into the storm drainage system. The drain that comes from Kuehn Road essentially flows from east to west and would cross approximately where Creek Way Lane and Where Else Lane met. The earlier plans indicated intercepting that line and going into the new storm drainage system.

Steve Hall also addressed the currently existing 18-inch storm line which begins at a catch basin at the intersection of Else Where and Where Else Lane, which runs down the private road of Else Where Lane and runs into a natural drainage pattern. He asked Mr. Palm if this also goes into his pond or if it goes in a different direction. Mr. Palm indicated that it does go into the pond.

Steve Hall then explained that the storm system that was approved by City Staff included a large underground pipe. When a storm came across the property and the concentrated rain came, it would enter into this large culvert and act like a pond. It has a small outlet which restricts how fast the water can come out, which collects the water as a reservoir and meters the water out.

Steve Hall further explained that the storm requirement was included in the original subdivision to connect that system fully down Where Else Lane to Else Where Lane and to intercept the existing 18-inch culvert. The capacity of the 18-inch culvert at the time was deemed adequate based on the design.

Steve Hall then responded that the container is made of metal pipe, proposed and approved 16-inch diameter, 5 gage corrugated galvanized steel pipe with an asphalt coating, and is 170 lineal feet long. It was designed to let out no more than the land originally would have produced.

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Steve Hall commented that the request for continuance of the agricultural drain is a reasonable request and could be designed and placed in an easement on the west property line of the subdivision and connect those two pipes. Running dye through the pipes to see if it is running properly is not out of the ordinary. As to the recorded drain easement, it could be included in the plat as an easement and could have a covenant with it stating that the property owners have right of access to maintain and operate that natural drainage.

Steve Hall then noted that the City has put in a drywell which has alleviated some of the problems of water on Vernie. The access to Lot 3 as proposed would be by a pipe stem or flag lot by an easement and a paved road into Lot 3 from Hedgestone Lane. Staff had previously indicated they would allow direct access from Lot 2 only from Lake Road.

The access to Lot 3 would be a private driveway and would be maintained by whoever constructed the home or lived there. As to the trees discussed, it would be possible to save some of the trees by putting in a sidewalk that meandered, if Mr. Jarrard would grant an easement for that sidewalk. An attachment could be made on the 20-foot easement for the subdivision to allow Mr. Jarrard use of the easement, if it was approved. Lot 3 and Lot 7 would each have right of access. Lori added that if two lots were to use the accessway, then a 30-foot easement is required by the ordinance, with 24 feet of pavement, and a 3,000 square foot turnaround. Thus, the plat would be changed significantly resulting in several variances.

Mr. Littlehales asked Staff if the outlets on Hedgestone and Julieans were cut through, would it take out other houses on the other side of the property, and at what point does consideration need to be given as to where the streets go. Steve Hall showed the Commissioners the overall plan indicating how the road system could go through the area in the future.

Mr. Trotter indicated he felt if the Commission approved the parcel, they would be creating a flag lot and pieces of property which would have to have variances granted to them for size of lots because of the flag lot.

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Mr. Trotter made a Motion to continue the Public Hearing until the second meeting in July, at which time the alternative of safer access to Lake Road, the elimination of flag lot access to lots on the parcel, the elimination of variances on individual lots be proposed, and that a drainage plan be incorporated. Ms. Roholt seconded the Motion.

Mr. Littlehales expressed concern with the fact that the applicant is not the property owner in the area and significant changes would need to be made to accommodate the owner of a large portion of the property without the concurrence of the minority applicant. He then expressed concern about the drainage, and he wants to be sure that the existing, as well as the new drainage problems be fully addressed.

Mr. Liane addressed the legality of the selling of the property. He suggested that it was beyond the jurisdiction of the Planning Commission to correct this problem of ownership. Mr. Liane indicated he is opposed to any further continuation of the action until it has been cleared up through the legal process.

Greg Eades addressed Mr. Liane's concerns. Mr. Eades stated that he does not think the City has any control over the creation of this kind of situation, and apparently does not have the ability to correct it once it has happened as the City is not a party to the sales transaction. The statutes do provide remedies between the buyer and the seller, but the owners need to work out their differences. The only authority the City has is in withholding or granting development approval.

Mr. Eades suggested one alternative to the problem is to have the owners settle their differences before the City will even consider approval. Another alternative was to consider the property already divided, but try to do the best that can be done for the whole site when considering any development application. He recommended not approving the plat until the two owners agree.

The Motion carried 4-1, Mr. Liane opposing.

The Commission requested that the information be submitted to Staff at least ten days prior to the hearing date.

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A recess was taken at 8:35 PM.

- 3.2 APPLICANT: Dieringer Properties, Inc.
LOCATION: Between Llewellyn St. & Harrison St. approximately
100 ft. east of 44th St.
PROPOSAL: The applicant is requesting approval of a zone change
from R-3 Residential to R-1 Residential and a
Comprehensive Plan Amendment from Medium Density
to High Density. (CPA-84-1) (ZC-84-1)

Lori presented the Staff Report.

APPLICANT'S RESPONSE

SPEAKING: BOB DIERINGER, President of DIERINGER PROPERTIES, INC.,
4303 SE Henderson, Portland

Mr. Dieringer introduced himself as the owner of the proposed development as well as the owner of the new townhouses which he built on 44th and Llewellyn. Mr. Dieringer presented Mr. Bluestone as the manager of all Dieringer's rental apartments and houses. Mr. Bluestone has been in business for a number of years as a realtor.

SPEAKING: SIDNEY BLUESTONE, 4445 SW Barbur Boulevard

Mr. Bluestone presented Staff with a copy of his testimony, which is attached. (Exhibit #9.)

SPEAKING: EVELYN HUFF-ALEXANDER, 4507 SE Harrison, Owner of the duplex at 4507 and 4509 SE Harrison

Ms. Alexander is in favor of the development and described the property as a nuisance which is overgrown with weeds and has an abandoned shack. She raised the issues that the streets need improvements as they are very heavily traveled, and there is a need for proper drainage.

SPEAKING: GERTRUDE ANDERSON, 4501 SE Harrison

Ms. Anderson raised the issues of widening the streets and supplying adequate drainage.

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SPEAKING: GLADYS DANNENMANN, Lives on the corner of 44th and Llewellyn

Ms. Dannenmann raised the issue of the heavy traffic on Llewellyn Street.

SPEAKING: ROBERT STRAUSER, 10527 SE 44th

Mr. Strauser expressed concern about the traffic on the street, the chuck holes, the trucks, and would like to see street improvements.

SPEAKING: JEAN SMITH, 4502 SE Llewellyn

Ms. Smith was concerned about the additional traffic that may occur if the townhouses were built. She was also concerned about the property taxes being raised.

SPEAKING: ED BROCK, 4503 SE Llewellyn

Mr. Brock raised the issues of the water runoff. He indicated if apartments were to be put in the area, they should be limited in number.

SPEAKING: DOUG STANKEWITSCH, 44th and Harrison, property owner

Mr. Stankewitsch owns an existing 4-plex in the area. He expressed concern about the streets being in need of repair, and the storm drains draining into his parking lot.

SPEAKING: KEN ALEXANDER, 4507 SE Harrison

Mr. Alexander would like to see the townhouses built because the people don't take care of their garbage, and he feels they use that lot to dump garbage in. He also addressed the drainage problem.

SPEAKING: LYNN BROCK, 4503 SE Llewellyn

Ms. Brock asked what the impact of the new development would be on their taxes. Staff did not feel qualified to respond to that question.

SPEAKING: BOB DIERINGER, DIERINGER PROPERTIES, INC.

Mr. Dieringer indicated that he did not believe the taxes would be increased because the company is adding the improvements and will be paying more taxes. He stated that his company has been doing business in Milwaukie since 1957. Mr. Dieringer expressed a wish to further upgrade the City by putting 8 new townhouses on the proposed development. He didn't feel the traffic would be much of a problem since they would have only 8 units, 4 on Harrison and 4 on Llewellyn. He stated there is a real need for rental units in the City of Milwaukie.

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Mr. Trotter asked why applicant felt the need for this particular piece of property to have a zone change as this particular area is not high density and explained that in order to make a zone change, the Commission needs to ascertain that there is a need for additional R-1 property.

Mr. Bluestone responded that based on his experience as a realtor, they have many calls for property in Milwaukie that are not available.

The Public Hearing was closed at 9:30 PM.

Mr. Trotter agreed with the applicant that additional rental housing is needed in Milwaukie, but did not feel the existing R-1 spaces already in the City are not adequate. He suggested there may be alternative ways of getting more units on that property without a zone change, and did not feel enough information was supplied to indicate a need for a zone change.

Mr. Brown agreed that the need for additional R-1 zone had not been demonstrated, and he did not feel that placing an R-1 zone in the middle of a less dense area would be the appropriate manner in which to address it.

Mr. Trotter made a Motion to deny the request for zone change ZC-84-1 with the findings that the applicant has not demonstrated the need for additional R-1 property within the City of Milwaukie beyond that already designated in the comprehensive plan; that the proposed project would not maintain a single-family building, bulk, scale, and height with the surrounding property beyond the 4-plex immediately adjacent to it; and that the streets are not in a condition at this point to handle any additional traffic. Mr. Littlehales seconded the Motion.

Topaz clarified that Mr. Dieringer does have the right to build on this land if he wanted to put in 6 units.

The Motion carried 4-1, with Mr. Liane opposing.

Mr. Liane left the meeting at 9:45 PM. The Planning Director became the ex-officio member of the committee to form a quorum.

5.2 Review of Marcelle Gaal Request (VR-84-8)

Topaz presented information provided by the applicant after the last hearing. Ms. Gaal had visited Staff after the June 12 Hearing and provided information which indicated incorrect information had been provided at the Hearing. The Commission agreed that they had not understood the applicant's request at the June 12 Hearing and indicated they would be interested in having another Public Hearing on it. It will be rescheduled.

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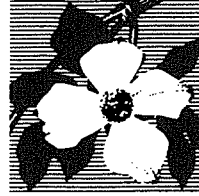
Mr. Dieringer, Mr. Bluestone and the remainder of their party remained at the meeting to give input and discuss density transfers. The Commission indicated that transfers would not apply to his site but that density bonuses may apply if some additional criteria were added to the current draft.

The Commission asked for the Dieringer party's input as to what that criteria should be because very little community participation has been found in developing this part of the ordinance. They indicated they did not have ideas at the present time, but they would get back to the Commission. They then suggested R-2.5 zoning and gave reasons why they felt it was appropriate. Topaz offered to draft an R-2.5 Zone as soon as possible, and asked if Mr. Dieringer would provide input on the draft at a hearing held to review it. He indicated a willingness to do so.

The meeting was adjourned at 11:15 PM.

JOHN LITTLEHALES, CHAIRMAN

DEANNA ROBINSON, STENOGRAPHER



AGENDA

PLANNING COMMISSION MEETING

JUNE 26, 1984

Council Chambers, 10722 SE Main Street, Milwaukie

1.0 CALL TO ORDER AT 6:30 PM

2.0 PROCEDURAL QUESTIONS

3.0 PUBLIC HEARINGS

3.1 APPLICANT: Byron L. Root
PROPERTY OWNER: Same as above
LOCATION: Southwest corner of Lake Rd. & Whereelse Ln.
PROPOSAL: The applicant is requesting Preliminary Plat approval of a 17-lot subdivision. (S-84-4)

3.2 APPLICANT: Dieringer Properties, Inc.
PROPERTY OWNER: Same as above
LOCATION: Between Llewellyn St. & Harrison St. approximately 100 ft. east of 44th St.
PROPOSAL: The applicant is requesting approval of a zone change from R-3 Residential to R-1 Residential and a Comprehensive Plan Amendment from Medium Density to High Density. (CPA-84-1),(ZC-84-1)

4.0 PUBLIC COMMENT

5.0 CONSIDERATION ITEMS

5.1 Review of Density Transfer - Copies were distributed in the June 12th agenda packets. Please bring your copy to the June 26th meeting.

6.0 CONSENT AGENDA

6.1 Planning Commission Minutes: June 12, 1984

6.2 City Council Minutes: June 5, 1984

7.0 OLD BUSINESS

8.0 OTHER BUSINESS

8.1 Scheduling of joint Planning Commission and Sign Committee meeting.