

MINUTES

City of Brookings
Special Council Meeting
898 Elk Drive, Brookings, OR
December 19, 2006

CALL to ORDER

Mayor Sherman called the meeting to order at 7:00 p.m. in the Council Chambers at Brookings City Hall on the above date with the following Council members and staff in attendance:

Council Present: Mayor Pat Sherman, Council President Larry Anderson, Councilors Jan Willms, Craig Mickelson and Dave Gordon; a quorum present.

Staff Present: Planning Director Morris, Public Works Director Cowan, Richard Nored, City Engineer, HE., Jim Spickerman, legal council for the City of Brookings, Donna Colby-Hanks, Senior Planner, Cathie Mahon, Planning Secretary

Media: Coastal Pilot reporter Tom Hubba

Other: Approximately 20 participants in the audience

ANNOUNCEMENTS

Mayor Sherman established the procedures of the hearing. The appeals to be considered, APP-5-06 and APP-6-06, address the same application, *Pacific Terrace PUD*, File No. **PUD-1-04/MC-2-06**. Procedures were outlined: City staff will have approximately 20 minutes for presentation, an hour for the appellants for File No. **APP-5-06**, an hour for appellants and representatives for File No. **APP-6-06**, followed by rebuttal from each group. File No. **APP-5-06** was filed by four of the neighbors. File No. **APP-6-06**, was filed by Bruce Brothers LLC.

Mayor Sherman announced a request written by Mr. Andrew Stamp, Attorney for the Mr. and Mrs. Kent, appellants for **APP-5-06**. The request was to have the record held open *for at least seven (7) days for the submission of new evidence*.

Five councilors declared ex parte due to a site visit. Bruce Brothers Attorney, John Babin, submitted a written request for Councilor Anderson to refrain from participation due to bias. (Note: the letter was part of Addendum B). Councilor Anderson declared he had conducted business with the Bruce Brothers but could hear the case without bias.

There was no challenge from the audience as to the jurisdiction of the Council to hear the request.

THE COUNCIL TOOK THE FOLLOWING ACTION IN THE PUBLIC HEARING

Mayor Sherman opened the Public Hearing at 7:08 p.m.

Planning Director Morris summarized the request. The two appeals, **APP-5-06** and **APP-6-06**, were filed in reference to the application, File No. **PUD-1-04/MC-2-06**, which requested approval of a Minor Change and replat to the approved Planned Unit Development (approved in 2004) referenced as *Pacific Terrace PUD*, to change the emergency exit from Izaiha Drive to Pacific Terrace Drive, and to remove the existing water tank, or obtain approval of the water tank as presently located by allowing variations from height and setback requirements, and to plat Sage Lane, a 175 foot private road. *Pacific Terrace PUD*, is located on the east side of Old County Road and Marina Heights Road. The subject property is identified as Tax Lots 1501 through

1530, on Map 40-13-32C, and is zoned Suburban Residential (SR). Gary and Meta Kent, Ellen and Michael Winger, Harry and Sherry Gallaty, and Eric and Mollie Eastaff, are the appellants who filed **APP-5-06**. File No. **APP-6-06** was filed by Noah Bruce, for the Bruce Brothers, LLC.

Planner Morris referenced a letter from Richard Nored of HGE, dated October 30, 2006, (Attachment A-page 9 in the packet) supporting the water tank in order to serve the Pacific Terrace PUD water needs. Morris also summarized the staff report. The City believes the water tank is a necessary component to the PUD, and additionally would require Condition #43 be upheld. Condition #43 requires that a landscape architect is used to ensure the visual mitigation is accomplished for screening the tank. The recommendation is to deny the appeals, APP-5-06 and APP-06-06, and uphold the Planning Commission's decision to approve the minor change as proposed in PUD-1-04/MC-2-06.

Entered into the record was Exhibit B, four documents from the following:

| | |
|---|------------------|
| Andrew Stamp, appellant's legal council (APP-5-06) 4248 Galewood Street Lake Oswego, OR | 26 page document |
| John Babin, Bruce Brothers legal council (APP-6-06) P. O. Box 1600 Brookings, OR | 1 page letter |
| Tammy Beckley, Beckley & Co. Realty P.O. Box 7949 Brookings, OR | 1 page letter |
| Loretta Baldivid, Blue Pacific Realty 16289 Hwy.10, Brookings, OR | 1 page letter |

The City engineer, Richard Nored, HGE, 375 Park Avenue, Coos Bay, entered into the record Exhibit C, a letter to the Planning Director. In his report was the analysis of water system needs for Pacific Terrace and for the tank. His analysis indicated the tank could be lowered by two rings to bring the height down to approximately 26 feet. If the tank is lowered, it would necessitate installing sprinkler systems in some of the dwellings in Pacific Terrace to provide the needed fire protection.

The following four (4) appellants testified.

| | | |
|--------------------------|---------------------------|-----------|
| Meta Kent | 97673 Marina Heights Loop | Brookings |
| Eric Eastaff | 97679 Marina Heights Loop | Brookings |
| Michael Winger | 97670 Marina Heights Loop | Brookings |
| Sherry and Harry Gallaty | 97671 Marina Heights Loop | Brookings |

The appellants stated the tank should be reduced in height to fourteen (14) feet or removed.

Entered into the record were exhibits from the following appellants:

- Exhibit D letter to Mr. & Mrs. Winger
from Bruce Chambers-Blue Pacific Realty
- Exhibit E letter from Scott Nanni
Brookings Coastal Properties-16367 Lower Harbor Road

A short recess was declared by Mayor Sherman at 8:35 p.m. The meeting reconvened at 8:43

with the same councilors present.

Testimony was taken from the following appellants (**APP-6-06**):

John Babin, attorney, Babin & Keusink
517 Chetco Avenue, Brookings

Noah Bruce, Bruce Brothers LLC
P. O. Box 61, Brookings

Tim Bossard, engineer
133 NW D Street, Grants Pass

Tim Bossard stated the tank was not needed. Noah Bruce stated sprinkling some of the dwellings was an unacceptable expense.

Entered into the record by John Babin and copies distributed to the councilors was:

- Exhibit F John Babin 100-page document

Rebuttal began at 9:37 p.m.

Neighbors Sherry Gallaty, Eric Eastaff, and Meta Kent for **APP-5-06** spoke, followed by John Babin, Noah Bruce and Richard Norad for **APP-6-06**.

Mayor Sherman closed the Public Hearing at 9:50 p.m. for oral testimony and announced the record would be left open for written testimony from any of the appellants. It was brought to the attention by City staff that by leaving the record open and continuing the hearing would run into the problem of going beyond the 120 day period required by statute.

Discussion ensued while the legal representatives, Mr. Spickerman and Mr. Babin, conferred. Mr. Babin consulted with his clients and they agreed to waive the 120 day time limit. Mr. Babin submitted a handwritten waiver to Spickerman.

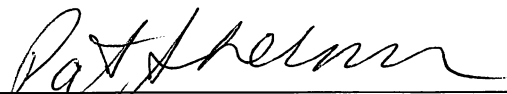
The Mayor outlined the time frame for submitting written material. During a two-week period from December 19, 2006, to January 2, 2007, material can be submitted by any of the stakeholders who testified. January 2nd through January 9th, the stakeholders (neighbors) can submit rebuttals to that material. Bruce Brothers, LLC, will have from January 9th through January 16th to make final written remarks. Planning Director Morris added City Hall doors close at 4:30 p.m. and submittals must in by that time.

Mayor Sherman announced deliberation by City Council will continue on Tuesday, January 30th at 7:00 p.m

ADJOURNMENT:

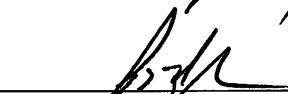
With no further business before the Council, the meeting closed 10:07 p.m.

Respectfully submitted:



Pat Sherman
Mayor

ATTEST by City Recorder
this 26 day of January, 2007:



Paul Hughes
Administrative Services Director/
City Recorder