

Agenda

City of Brookings
Common Council Meeting
Brookings City Hall Council Chamber
898 Elk Drive, Brookings Oregon
March 22, 2006 7:00 p.m.
Special Meeting

I. Call to Order

II. Pledge of Allegiance

III. Roll Call

IV. Public Hearing

- A. Continuation of file No. ANX-3-05, a request to annex 607 acres of land consisting of 14 tax lots in seven different ownerships located on the side and top of the area known as *Harbor Hills*, including 3.4± miles of Highway 101 right-of-way extending from the Brookings city limit line on the Chetco River Bridge, south to the southerly property line of the subject property abutting the highway; identified as Assessor's Maps 41-13-10, Tax lot 300; 41-13-14, Tax lots 200, 201, 203, 300, 307, 308, 310, 312; 40-13-15A, Tax lot 100; 40-13-15B, Tax lots 5200, 5300, and 40-13-15DA, Tax lots 100, and 101; HW3, applicant. Criteria used to decide this application can be found in Section 148-Annexation, of the Brookings Land Development Code. The Planning Commission made a recommendation of approval of this application on December 6, 2005.

V. Adjournment



Agenda

City of Brookings
Common Council Meeting
Brookings City Hall Council Chamber
898 Elk Drive, Brookings Oregon
March 27, 2006 7:00 p.m.

I. Call to Order

II. Pledge of Allegiance

III. Roll Call

IV. Ceremonies/Appointments/Announcements

A. Ceremonies

1. Alcohol Awareness Month Proclamation [page 5]

B. Announcements

1. Introduction of Mary Sharp who will be providing building maintenance services to the City

V. Public Hearing

- A. In the matter of a claim, File No. M37-1-06, regarding the location of a recreation vehicle garage under the provision of Ballot Measure 37 on the property zoned R-1-6, (6,000 square foot minimum lot size), located at 1105 Byrtus Place and identified as Assessor's Map 41-13-06CD, tax lot 102. Criteria used to decide this case can be found in Ordinance 04-O-566; Kenneth Byrtus, claimant. [page 7]
- B. In the matter of File No. **CPZ-1-05**, a Comprehensive Plan change from a Residential designation to a Open-Space designation and a zone change from R-1-6 (Single-family Residential, 6,000 square foot minimum lot size) to PO/S (Public Open Space) for the purpose of allowing the placement of a new water tank; located on a private street named East Harris Heights Road on the east side of Seacrest Lane; Assessor's Map 40-14-36AD, Tax Lot 1900; City initiated. Criteria used to decide this application can be found in Section 144-Amendments, of the Brookings Land Development Code. [page 31]
 1. Final Order in the matter of Planning Commission File No. CPZ-1-05; application for a Zone Change; City of Brookings, applicant. [page 37]
 2. Ordinance No. 05-O-570, An Ordinance amending the Comprehensive Plan designation on a parcel of land located on East Harris Heights Road from Residential to Open Space and the zoning from R-1-6 (Single Family Residential, 6,000 sq. ft. minimum lot size) to PO/S (Public Open Space) [page 39]

VI. Oral Requests and Communications from the Au

- A. Committee and Liaison reports**
 - 1. Chamber of Commerce
 - 2. Council Liaisons
- B. Unscheduled**



VII. Consent Calendar

- A. Approval of Council Meeting Minutes**
 - 1. Meeting of March 13, 2006 [page 43]
- B. Acceptance of Planning Commission Minutes**
 - 1. Meeting of January 10, 2006 [page 47]
 - 2. Meeting of March, 7, 2006 [page 53]

End Consent Calendar

VIII. Remarks from Mayor and Councilors

- A. Council**
- B. Mayor**

IX. Adjournment

Events Calendar

March 2006

March 2006							April 2006						
S	M	T	W	T	F	S	S	M	T	W	T	F	S
5	6	7	1	2	3	4	2	3	4	5	6	7	1
12	13	14	15	16	17	18	9	10	11	12	13	14	15
19	20	21	22	23	24	25	16	17	18	19	20	21	22
26	27	28	29	30	31		23	24	25	26	27	28	29

Monday	Tuesday	Wednesday	Thursday	Friday	Sat/Sun
		March 1	2	3	4
		10:00am CC- Site Plan Com Mtg/LauraLee Gray 12:00pm CC Community Agencies mtg 1:30pm CC Land 7:00pm FH-PoliceReserves	8:15am CC-CmtyDevDpt Staff mtg/EWait 9:00am CC-Crm Stoppers 3:00pm FH Health Fair Committee 3:00pm CC SafetyComMtg	10:00am Affordable Housing get together	
6	7	8	9	10	11
9:30am CC- VIPS/Volunteers in Police Service/Marvin Parker 7:00pm FH-FireTng/ChShrp (Fire Hall)	8:30am CC-Investigator/Patrol Information Sharing Meeting-Barbara Palicki-X217 7:00pm CC-Planning Commsn	10:00am CC- Site Plan Com Mtg/LauraLee Gray 1:30pm CC Land Development Code committee	8:15am CC-CmtyDevDpt Staff mtg/EWait 9:00am CC ODOT constitution way 2:00pm CC Urban Renewal 7:00pm Ed. CEP Evergreen		12
13	14	15	16	17	18
7:00pm FH-FireTng/ChShrp (Fire Hall) 7:00pm CC-Council Mtg	10:00am FH-Brookings Rural Fire District-Phil Cox-469-5729	9:00am Wilcox pre bid conferences 10:00am CC- Site Plan Com Mtg/LauraLee Gray 1:30pm CC Land 5:00pm CC-Victims Impact	8:15am CC-CmtyDevDpt Staff mtg/EWait 10:00am CC ODOT Hwy 101 mtg 2:00pm CC CEP Joyce 6:30pm CC SOC-HOP Kathy	9:00am Pre application for Tribble	19
20	21	22	23	24	25
9:30am CC-VIPS/Volunteers in Police Service-BP 6:00pm CC-American Red Cross Mtg/Karen 7:00pm FH-FireTng/ChShrp (Fire Hall)	8:30am CC-Investigator/Patrol Information Sharing Meeting-Barbara Palicki-X217 7:00pm CC Planning Commission meeting	10:00am CC- Site Plan Com Mtg/LauraLee Gray 1:30pm CC Land Development Code 7:00pm CC Council Mtg 7:30pm CC Planning	8:15am CC-CmtyDevDpt Staff mtg/EWait 1:00pm CC-Municipal Court 2:00pm Dianne Snow mtg with buyers 7:00pm CC-Parks & Rec	CC Traffic School with Marvin 225	
27	28	29	30	31	
7:00pm FH-FireTng/ChShrp (Fire Hall) 7:00pm CC-Council Mtg		10:00am CC- Site Plan Com Mtg/LauraLee Gray 1:30pm CC Land Development Code committee	8:15am CC-CmtyDevDpt Staff mtg/EWait 2:00pm Bid Opening for 16" waterline N. Bank to 3:00pm HGE bid opening West Side Interceptor	Carpet being installed	

CC Council Chamber
FH Fire Hall
CM City Manager office

Events Calendar

April 2006

April 2006							May 2006						
S	M	T	W	T	F	S	S	M	T	W	T	F	S
2	3	4	5	6	7	1	7	1	2	3	4	5	6
9	10	11	12	13	14	8	14	8	9	10	11	12	13
16	17	18	19	20	21	15	21	15	16	17	18	19	20
23	24	25	26	27	28	22	28	22	23	24	25	26	27
30						29		29	30	31			

Monday	Tuesday	Wednesday	Thursday	Friday	Sat/Sun
					April 1 Carpet being installed
					2 Carpet being installed
3	4	5	6	7	8
9:30am CC- VIPS/Volunteers in Police Service/Marvin Parker 7:00pm FH-FireTng/ChShrp (Fire Hall)	8:30am CC-Investigator/Patrol Information Sharing 10:30am FH CEP K-School Earthquake prep 7:00pm CC-Planning 7:00pm Ed. CEP Evergreen	10:00am CC- Site Plan Com Mtg/LauraLee Gray 12:00pm CC Connity Agencies mtg 1:30pm CC Land 7:00pm FH-PoliceReserves	8:15am CC-CmtyDevDpt Staff mtg/EWait 9:00am CC-Crm Stoppers 3:00pm CC SafetyComMtg Kathy Dunn	Video and audio systems updated	9
10	11	12	13	14	15
7:00pm FH-FireTng/ChShrp (Fire Hall) 7:00pm CC-Council Mtg	10:00am FH-Brookings Rural Fire District-Phil Cox-469-5729	10:00am CC- Site Plan Com Mtg/LauraLee Gray 1:30pm CC Land Development Code committee	8:15am CC-CmtyDevDpt Staff mtg/EWait 10:00am CC ODOT CARS 1:00pm CC Council Work Session Fee Study 3:00pm FH Urban Renewal		16
17	18	19	20	21	22
9:30am CC-VIPS/Volunteers in Police Service-BP 6:00pm CC-American Red Cross Mtg/Karen 7:00pm FH-FireTng/ChShrp (Fire Hall)	8:30am CC-Investigator/Patrol Information Sharing Meeting-Barbara Palicki-X217 7:00pm CC Planning Commission meeting	10:00am CC- Site Plan Com Mtg/LauraLee Gray 1:30pm CC Land Development Code committee	8:15am CC-CmtyDevDpt Staff mtg/EWait 1:00pm CC-Municipal Court 2:00pm CC-CEP (Citizens for Emergency Preparedness): MARR		23
24	25	26	27	28	29
7:00pm FH-FireTng/ChShrp (Fire Hall) 7:00pm CC-Council Mtg	CC Police Dept. Mike 2242	10:00am CC- Site Plan Com Mtg/LauraLee Gray 1:30pm CC Land Development Code committee	8:15am CC-CmtyDevDpt Staff mtg/EWait 7:00pm CC-Parks & Rec Comm/City Manager		CC Traffic School with Marvin 225 30

CC Council Chamber
FH Fire Hall
CM City Manager office

Proclamation

WHEREAS, the month of April, 2006, has been proclaimed Alcohol Awareness Month:

WHEREAS, alcohol is a factor in the four leading causes of death among persons ages 10-24: motor-vehicle crashes, unintentional injuries, homicide and suicide; and

WHEREAS, approximately 9.7 million current drinkers in the United States are between the ages of 12-20; and

WHEREAS, alcohol is the most frequently used drug by high-school seniors; and

WHEREAS, young people begin drinking, on average, at 13.1 years of age;

WHEREAS, young people who begin drinking before age 15 are four times more likely to develop alcohol dependence than those who begin drinking at age 21; and

WHEREAS, alcohol abuse is linked to as many as two-thirds of all sexual assaults and date rapes of teens and college students and is a major factor in unprotected sex among youth, increasing their risk of contracting HIV or other transmitted diseases; and

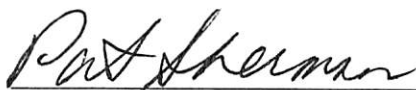
WHEREAS, efforts are needed to increase alcohol abuse awareness, prevention, treatment and risks associated with drinking for teens and adults everywhere:

NOW, THEREFORE, THE CITY OF BROOKINGS, RESOLVES that the month of April be proclaimed

Alcohol Awareness Month

and that Curry County residents be encouraged to join in this observance.

DATED this 27th day of March 2006.



Mayor Pat Sherman



CITY OF BROOKINGS

City Council Agenda Report



Date: March 7, 2006

To: Mayor & City Council

From: John Bischoff, City Planner

Subject: The Measure 37 claim filed by John Babin for Kenneth Byrtus.

Recommendation: That the public hearing for this matter be placed on the March 13, 2006 City Council agenda.

Background /Discussion: Staff has attached a staff report to this memo. John Trew has suggested that the staff report not be made public until such time as it place in the Council packet.

Financial Impact(s): The applicant is requesting a waiver of the additional 2 feet of required setback or \$80,000 in damages.

City Manager Review and Approval for placement on Council Agenda:


Dale Shaddox, City Manager

BABIN & KEUSINK

PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

P.O. BOX 1600 • 517 CHETCO AVE
BROOKINGS, OREGON 97415-0600

CHRISTOPHER KEUSINK

JOHN C. BABIN*

*ALSO LICENSED IN CALIFORNIA

(541) 469-5331 • FAX (541) 469-9865

March 8, 2006

via facsimile only

John C. Bischoff
City Planner
City of Brookings
898 Elk Dr.
Brookings, OR 97415

469-3650

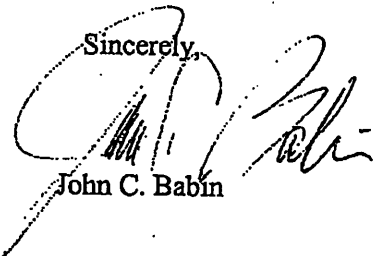
RE: Byrtus tax lots #102 & #104

Dear Mr. Bischoff;

This matter is currently on the agenda for the City Council for their Monday night meeting on March 13, 2006. Due to continuing discussions between the parties regarding resolution of the numerous land use issues, and further due to the unavailability of both Mr. Byrtus and myself, I am requesting that this matter be postponed. You advised that the next available meeting would be the March 27, 2006 meeting.

Please consider this letter a request for such a postponement.

Sincerely,


John C. Babin

JCB:bf

pc: Ed Wait
Client

Measure 37 Report

Report Date	January 19, 2006
Claimant:	Kenneth Byrtus.
Property Address:	1105 Byrtus Place.
Assessor's Map/Tax Lot:	41-13-6CD, Tax Lot 102
Date of Purchase	February, 21, 1989.
Applicable Ordinance at time of purchase	Ord. 216 superseded in April 1989
Applicable Zone at time of purchase	Residential Low Density (R-L)
Current Ordinance	Ord. 446, (Land Development Code) Adopted in April 1989..
Current Zoning	Single Family Residential, 6,000 sq. ft. minimum lot size (R-1-6)

SUMMARY

Measure 37 authorizes an owner of real property to file a claim with the government that enacts or enforces certain types of land use regulations. To be a valid claim, there needs to be more than a land use regulation. The land use regulation relied upon by a claimant must also restrict the use of real property. The land use regulation must also reduce the value of the property.

Measure 37 does not apply to all regulations or even all land use regulations.

Both Measure 37 and the City of Brookings Ordinance No. 04-0-566 defines Land Use Regulation as:

- (a) Any statute regulating the use of land or any interest therein;
- (b) Administrative rules and goals of the Land Conservation and Development Commission;
- (c) Local government comprehensive plans, zoning ordinances, land division ordinances, and transportation ordinances;
- (d) Statutes and administrative rules regulating farming and forest practices.

Measure 37 contains five exemptions. There are five categories of regulations that Measure 37 does not cover. They are:

- (a) Restrictions on uses commonly and historically recognized as public nuisances under common law;
- (b) Restrictions to protect public health and safety, such as fire and building codes, health and sanitary regulations, solid or hazardous waste regulations, and pollution control regulations;
- (c) Restrictions required to comply with the federal law;
- (d) Restrictions on use of property to sell pornography or perform nude dancing; and
- (e) Regulations enacted prior to the date of acquisition of the property by the owner or a family member.

INTRODUCTION

The Claimant is presenting a Measure 37 claim to allow a recreation vehicle garage that was constructed in a location that placed it partially on his property and partially on the adjoining property that was in a

different ownership at the time of construction. The ordinance in effect (Ordinance No. 216) when the Claimant bought the first lot in February 1989 (Tax Lot 102) allowed a minimum side yard setback of 5 feet with a total side yard setback between the two of 15 feet. The subject garage did not meet this setback requirement of Ordinance 216 when constructed in 2004. The Claimant has subsequently purchased the adjoining property, Tax Lot 104, and proposes a lot line adjustment to establish a side yard setback of 6 feet. The height of the garage, under today's ordinance (Brookings Land Development Code, Ordinance 446, Section 20.060), adopted in April 1989, requires an 8 foot side yard setback. A variance for the two foot difference was denied based on the conclusion that not knowing the location of property boundaries does not meet the criteria of being a circumstance beyond the owner's control.

BACKGROUND

Tax Lot 102, purchased by the Claimant on February 21, 1989, is a trapezoidal shaped 1.18 acre (51,400 sq. ft.) parcel located at the west end of Byrtus Place, which is a private street. Tax Lot 104 is a flag lot with a 25 foot wide access strip that extends from the west end of Byrtus Place along the easterly boundary of Tax Lot 102 to the body of the lot, which is adjacent to the south boundary of Tax Lot 102. See Exhibit 1. The access strip is not an easement nor is it a separate tax lot—it is an integral part of Tax Lot 104. Access to Tax Lot 102 is an easement across the northern end of the access strip of Tax Lot 104.

Tax Lot 102 is zoned R-1-6 (Single Family Residential, 6,000 sq. ft. minimum lot size) as is the surrounding area, which is developed with single family homes. Byrtus Place is a private street within a 25 foot right-of-way with a paved travel way and no other improvements. This street was approved as a part of a major partition with the understanding that it would be fully improved to a 45 foot standard when the lots to the north of it were developed and at that time become a public street. Water and sewer service is available to the subject property.

In October 2004 the Claimant was issued a building permit and constructed a 20 X 70 foot recreational vehicle garage using a block wall along the easterly boundary of Tax Lot 102 as part of the wall of the garage. As it turns out, the wall that the Claimant thought was on his property, is actually about 4 feet into the 25 foot wide access strip, which is a part of Tax lot 104. Even if the wall had been on the Claimant's property, it would have been on the property line, thus the recreational vehicle garage would have a zero side yard setback.

When the recreational vehicle garage was being built the City Building Official questioned the location and was told by the Claimant that his property line was on the easterly side of the 25 foot wide access strip and that the access strip was an easement over the Claimant's property. After receiving complaints from neighbors the Building Official asked on two more occasions and was assured that the building was on the Claimant's property and was shown a property corner marker, which the Claimant stated was the corner of his property. After the recreational vehicle garage was finished it came to light that the access strip was not an easement but actually a part of the adjoining lot to the east and south, Tax Lot 104. At that time staff informed that Claimant that the garage was actually on the neighbor's property and thus nonconforming and must be removed or measures taken to mitigate the nonconforming condition.

In 2005, in an attempt to mitigate the problem, the Claimant purchased Tax Lot 104, which included the 25 foot access strip. The Claimant then proposed a lot line adjustment to the easterly boundary of Tax Lot 102 for a total of 10 feet into the access strip of Tax Lot 104, placing the recreation vehicle garage within Tax Lot 102. The problem with this concept is that the access strip to the lot to Tax Lot 104 must be, at least 15 feet wide by ordinance (Ordinance 446, Section 112). The recreational vehicle garage, because of its 21 foot height, requires an 8 foot side yard set back. To maintain the required 15 foot access strip, the setback for the recreational vehicle garage would be only 6 feet.

The Claimant then applied for a variance that was ultimately denied by the Planning Commission. The Claimant filed an appeal to the City Council and at the same time applied for the Measure 37 claim. The City Council also denied the request for a variance based on the conclusion that the fact that the Claimant

did not know where his property boundaries were located is not a circumstance that is beyond his control and thus did not meet the criteria for granting a variance.

NATURE OF THE CLAIM

Claimant:

The Claimant's claim states "At the time the claimants took possession of the subject property, Ordinance number 216 of the City of Brookings was in force and effect. At such time section 4.010 subparagraph (4), section 5.020, 5.050, 5.080, 5.100, 5.710 and 7.020 were in force and effect with regard to setbacks for side yards. Under the aforesaid ordinances the maximum setback applicable to structures, on the subject property was five (5) feet.

"Relying on the aforementioned ordinances, the claimants erected a large garage near edge of the property leaving a six foot set back from the property line.

"The city of Brookings Planning Department is attempting to impose an eight (8) foot setback, pursuant to BLDC 20.60. BLDC was enacted by the City as Ordinance number 90-O-446B effective September 11, 1990."

Response:

Reference to section 5.710 above is thought to be actually 5.110, as this is the highest subsection of Article 5 of Ordinance 216. At the time of this report the Claimant's representative has been notified of the possible typo but not confirmed.

Ordinance 216, Section 4.010.4 reads as follows:

"(b) Each side yard shall be a minimum of five (5) feet and the total of both side yards shall be a minimum of 15 feet."

Section 4.040.5 (Which the Claimant did not refer to), states as follows:

"Except as provided in Sections 5.020, 5.110, 7.010 and 7.020, in an R-L zone no building shall exceed a height of 20 feet."

Staff does not dispute that Tax Lot 102 was purchased at a time when Ordinance 216 was in effect. However, Tax Lot 104 was not purchased until 2005 and the lot line adjustment, which has not been submitted, would adjust a portion of Tax Lot 104 into Tax Lot 102.

When the recreational vehicle garage was constructed the building did not meet the side yard setback for the existing property line and in fact actually intruded into the neighboring property, Tax Lot 104, by 4 feet. The actual building height is 21 feet and Ordinance 216 had a maximum building height of 20 feet, however, when measured under the provisions of Ordinance 216, the building height is 18.5 feet.

Claimant:

Claimant cites Ordinance 216, Section 5.020.

The only applicable sub section 020 reads as follows:

"(2) regardless of the side and rear yard requirements of the zone and accessory structure in the residential zone may be build to within three (3) feet of a side or rear lot line provided the structure is more than 65 feet from the street abutting the front yard and 20 feet from the street abutting the street side yard, provided the structure is detached from all other buildings by ten (10) feet or more, and provided the structure does not exceed a height of 15 feet and area of 600 square feet."

Response:

The recreational vehicle garage is 1,400 sq. ft. in size, 18.5 feet high pursuant to Ord. 216 and was built over the property line. There is nothing in Section 5.020 that would apply.

Claimant:

Claimant cites Ordinance 216, Section 5.050.

Response:

Section 5.050 is titled "Sign Requirements" and has nothing to do with building setbacks or building height.

Claimant:

Claimant cites Ordinance 216, Section 5.080

Section 5.080 reads as follows:

"Architectural features such as cornices, eaves, canopies, sunshades, gutters, chimneys, and flues shall not project more than 24 inches into a required yard."

Response:

There is no applicable provision in this subsection that relates to this claim.

Claimant:

Claimant cites Ordinance 216, Section 5.110.

Section 5.110 reads as follows:

"General Exception to Building Height Limitations. Vertical projections such as chimneys, spires, domes, elevator shaft housings, towers, aerials, flagpoles, and similar objects not used for human occupancy are not subject to the building height limitations of this ordinance.

Response:

Any such projection on the subject recreational vehicle garage has not been included in determining the building height.

Claimant:

Claimant cites Ordinance 216, Section 7.020. Section 7.020 is entitled "Standards Governing Conditional Uses"

Subsection 7.020.2 reads as follows:

"A conditional use in a residential zone may exceed the height limitation of the zone in which it is located but shall not exceed a height of 50 feet."

Response:

The Claimant has not applied for a conditional use related to this claim. The above subsection applies to uses allowed with a conditional use permit. There is no statement within this section or in Section 4 that allows a permitted use to exceed the stated building height of 20 feet.

Claimant:

Claimant cites Ordinance 446, Section 20.060

Claimant states Section 20.060 of Ordinance 446 was amended in 1990.

Response:

The Claimant is correct that Section 20.060 was amended in September 1990, although not particularly relevant to this claim. The 1990 amendment to Section 20.060 only changed the rear yard setback from 5 feet to 15 feet. It did not effect the side yard setback requirement.

CONCLUSIONS

The recreational vehicle garage in question, constructed in October/December of 2004, clearly does not meet the setback requirements of Ordinance 216 as it existed when Tax Lot 102 was purchased. Neither does the recreational vehicle garage meet the setback provisions of Ordinance 446, Section 20.060, adopted in April 1989. The Claimant's purchase of Tax Lot 104 in 2005 and then pursuing a lot line adjustment does not result in a valid Measure 37 claim. The Claimant was not the owner, as required by Measure 37, of Tax Lot 104 at the time of the enactment of either of the city's setback ordinances.

Measure 37 deals with the use of real property. With that use it is implied that the zoning standards in effect at the time would also apply. Staff does not believe that the intent of Measure 37 is to allow the use of a property without regard to development standards and restrictions such as yard setbacks.

An additional requirement of a valid claim under Measure 37 is that the Claimant allege and prove a reduction in value of the real property. The Brookings City Ordinance requires that the reduction in value of the real property be supported by an appraisal by an appraiser licensed by the Appraiser Certification and Licensure Board of the State of Oregon. The Claimant has not presented a claim alleging a reduction in value or the required appraisal to support the claim.

Since a recreational vehicle garage is allowed by either Ordinance 216 or Ordinance 446, the only issue is if the location of the garage in some way affects the value of the Claimant's property. The fact that the garage was constructed in a manner that did not meet the setback requirements of either ordinance, its location as built should not affect the issue of value.

RECOMMENDATION

Staff recommends that the claim be denied.

JOHN C. BABIN*
*ALSO LICENSED IN CALIFORNIA

BABIN & KEUSINK

PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

P.O. BOX 1600 • 517 CHETCO AVE
BROOKINGS, OREGON 97415-0600

(541) 469-5331 • FAX (541) 469-9865

received
10-24-05 DC

CHRISTOPHER KEUSINK

October 18, 2005

Burke Raymond
City Manager
City of Brookings
898 Elk Drive
Brookings, Oregon 97415

RE: Byrtus Measure 37 Claim - Amended

Dear Mr. Raymond:

The information provided herein is intended to supplement the measure 37 claim filed on behalf of my clients Ken and Virginia Byrtus on September 2, 2005.

1. Name and Contact Information of all Claimants/Property Owners:

Claimant # 1 Kenneth L. Byrtus
Address: 16219 Lower Harbor Road
 Harbor, Oregon 97415
Telephone: (541) 469-4100
Ownership Interest: tenant by the entirety

Claimant # 2 : Virginia L. Byrtus
Address: 16219 Lower Harbor Road
 Harbor, Oregon 97415
Telephone: (541) 469-4100
Ownership Interest: tenant by the entirety

2. Name and Contact Information of Person Submitting Claim:

Name of Agent: John C. Babin
Address: Babin & Keusink, P.C.
 P.O. Box 1600
 Brookings, OR 97415
Telephone #: (541) 469-5331
Fax #: (541) 469-9865
Authorization: See attached Designation of Attorney Representative

3. **Name and Contact Information of Others with Interest in this Property:**

Lien Holders: None

Name, Address & Telephone #:

Description of Interest:

Lessee/Lessor of Property: None.

Name, Address & Telephone #:

Description of Interest:

Every other person holding present or future interest in property: None.

Name, Address & Telephone #:

Description of Interest:

4. **Description of Property the Claim is For:**

Address: 1105 Byrtus Place, Brookings, Oregon 97415

APN: 41-13-06CD

Tax Lot #: 102

Legal Description: See attached Exhibit 1

Date Property was Acquired: 2-21-1989

Zoning at time of Purchase: Residential (precise designation unknown)

Current Zoning: R-16

5. **Evidence of Ownership/Lien Holders:**

Deed: The current deed is attached hereto as exhibit 2.

Title Report: A recent title report is attached hereto as exhibit 3.

6. **Current Land Use Regulation that Restricts the Use and Causes a Reduction of Property Value:**

Brookings Development Code Section 20.060

Brookings Land Development Code Section 136.030(E)

7. Description of Restrictions Imposed/Disputed:

At the time the Claimants took possession of the subject property, Ordinance number 216 of the City of Brookings was in force and effect. At such time, section 4.010 subparagraph (4), sections 5.020, 5.050, 5.080, 5.100, 5.710 and 7.020 were in force and effect with regard to setbacks for side yards. Under the aforesaid ordinances, the maximum setback applicable to structures, on the subject property was five (5) feet.

Relying on the aforementioned ordinances, the claimants erected a large garage near edge of the property leaving a six foot set back from the property line.

The City of Brookings Planning Department is attempting to impose an eight (8) foot setback, pursuant to BLDC 20.60. BLDC was enacted by the City as Ordinance number 90-0-446.B effective September 11, 1990.

8. The amount of claim and supporting documentation.

Amount of Claim: \$ 97,735.78

Supporting Documentation: The claimant requests that the request for an appraisal be waived as the claim is based solely on the cost of the building and the cost of the removal of the building. Documentation is attached that support the amount of the claim as follows: Attached hereto as Exhibit 4 is proof of the total cost of the building. We estimate the cost to remove the building from its current location will be \$20,000.00. Supporting documentation of this estimate will be provided at a later date if needed.

9. Copies of any leases or CCR's applicable to property that imposes restrictions on the use of the property:

None known.

10. Statement of Relief Sought by Claimant:

The claimants seek recognition that the RV garage currently situated on the subject property is governed by the setback requirements of Ordinance No. 216 and therefore not in violation of any setback requirements after approval of the requested lot line adjustment. In lieu thereof, damages in the amount of \$ 97,735.78 are sought to cover the removal and relocation of the garage.

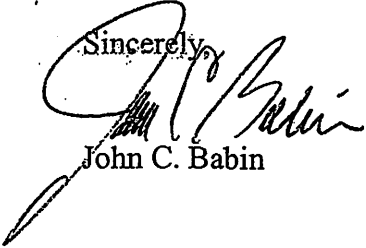
Burke Raymond
City Manager
City of Brookings
October 18, 2005
Page 4

11. **Explanation of the proposed use of the real property:**

The property use is residential.

Please advise if there is any further information necessary to complete consideration of this claim.

Sincerely,



John C. Babin



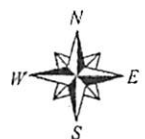
Applicant: Kenneth Byrtus

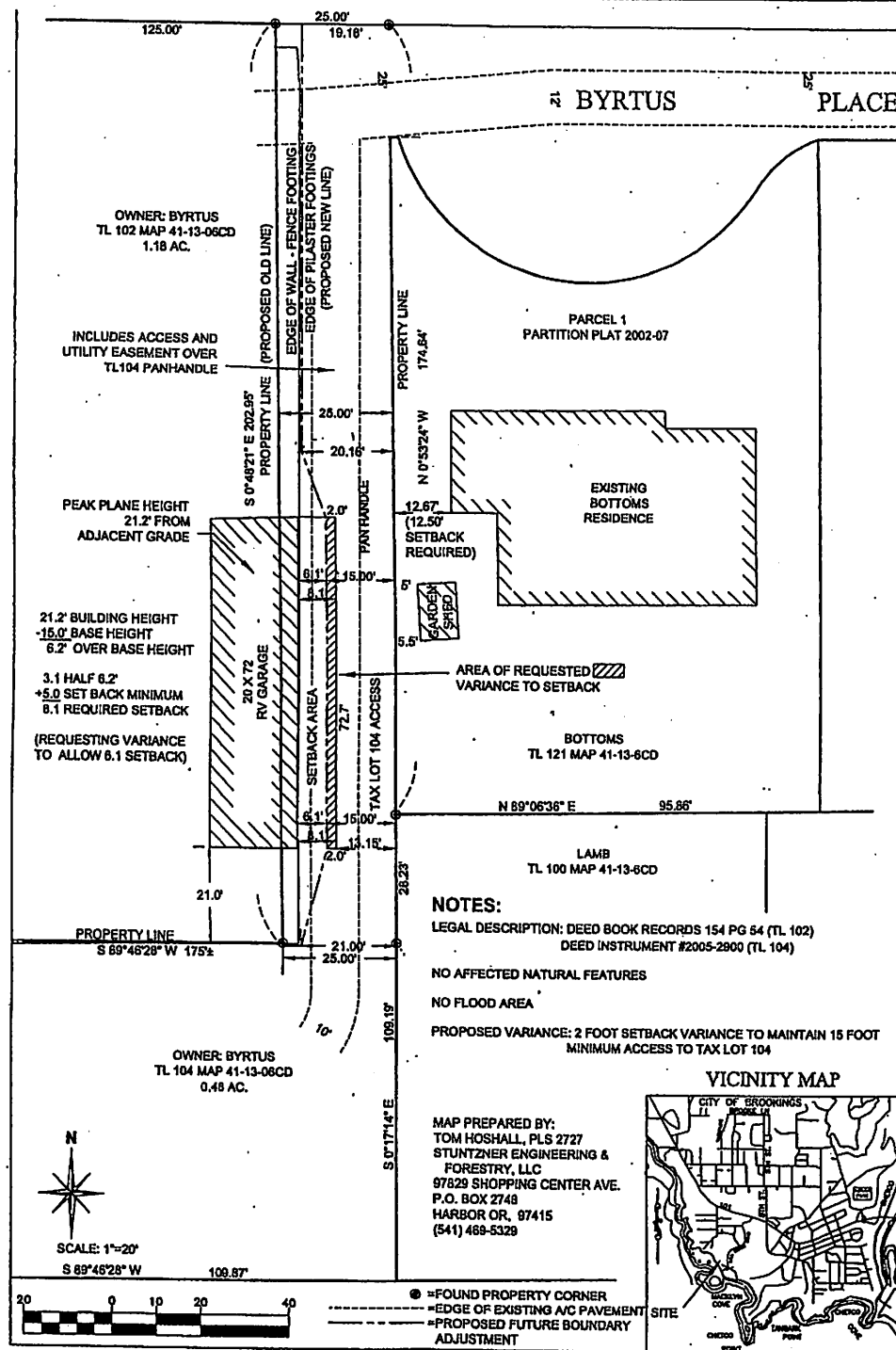
Assessor's No: 41-13-06CD Tax Lot 104

Size: 1.18 acre

Location: 1105 Byrtus Place

Zone: R-1-6 (Single-family Residential, 6,000 sq. ft. minimum lot size)





Applicant: Kenneth Byrtus

Assessor's No: 41-13-06CD Tax Lot 104

Size: 1.18 acre

Location: 1105 Byrtus Place

Zone: R-1-6 (Single-family Residential, 6,000 sq. ft. minimum lot size)



EXHIBIT 1

ALSO GRANTING a right-of-way easement, appurtenant to the above described and granted premises, over, across and upon that certain tract or parcel of land consisting of 3.3 acres, more or less, lying in Section 6, Township 41 South, Range 13 West, W.M. Curry County, Oregon, being a strip 50 feet wide, 25 feet on each side of the following described center line;

Beginning at a point on the Westerly side of the Oregon Coast Highway 45.2 feet South and 326.2 feet East of the Interior corner of said Section 6, (Said point being also 45.2 feet South and 2313.8 feet West of the 1/4 corner on the East side of said Section 6); Thence South 71 deg. 19 min. West 582.0 feet; thence South 8 deg. 38 min. East 492.5 feet; thence South 15 deg. 2 min. West 221.7 feet; thence South 72 deg. 40 min. West 412.6 feet; thence South 34 deg. 4 min. West 236.1 feet; thence South 4 deg. 2 min. West 275.2 feet; thence South 47 deg. 41 min. West 154.4 feet; thence South 28 deg. 43 min. East 89.4 feet; thence South 61 deg. 10.0 min. East 154.6 feet; thence South 21 deg. 39 min. West 255.0 feet, more or less, to the High Tide line of the Pacific Ocean. The easement hereby granted shall not be an exclusive easement unto the grantees herein and shall not operate to restrict the right of grantor, or successors in ownership of the said land subjected to said easement, to create or grant a right or easement for public travel over and across the same, nor to restrict the right to improve the said lands and right of way for the purpose of facilitating public travel over and across the same.

EXCEPTIONS:

The rights of the public in and to that portion of the herein described property lying within the limits of public roads or highways.

Any adverse claim based upon the assertion that some portion of said land is tide, submerged or submersible lands, or has been created by artificial means or has accreted to such portion so created.

The rights of the public and of the State of Oregon in the ocean shore and dry sands area as declared acquired under the provisions of Chapter 601 of Oregon Laws of 1967, and Chapter 601 of Oregon Laws of 1969, or otherwise.

WARRANTY DEED (INDIVIDUAL)

INDEX

BR

154

54

WILLIAM I. CUNNINGHAM AND JEAN CUNNINGHAM, as tenants by the entirety
 KENNETH L. BYRTUS AND VIRGINIA L. BYRTUS, husband and wife
 of CURRY State of Oregon, described as

all that real property situated in the County

REAL PROPERTY DESCRIBED IN EXHIBIT "A" ATTACHED
 HERETO AND BY REFERENCE MADE A PART HEREOF.

Cunningham to
 Byrtus 2-89

and covenant(s) that grantor is the owner of the above described property free of all encumbrances except
 as shown on EXHIBIT "A" attached hereto
 and will warrant and defend the same against all persons who may lawfully claim the same, except as shown above.

The true and actual consideration for this transfer is \$ 200,000.00.

Dated this 21st day of February, 19 89.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY
 DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE
 LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR AC-
 CCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING TITLE
 TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR
 COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES.

William I. Cunningham
 William I. Cunningham
Jean Cunningham
 Jean Cunningham

STATE OF OREGON, County of Curry

February 21st, 19 89 personally appeared the above named
 William I. Cunningham and Jean Cunningham
 instrument to be their voluntary act and deed, and acknowledged the foregoing



Before me:

Elaine Pommeroy

Notary Public for Oregon

My commission expires: 11-25-89

The dollar amount should include cash plus all encumbrances existing against the property to which the
 property remains subject or which the purchaser agrees to pay or assume.

~~Notwithstanding to whom this deed is made, the grantor warrants that the property is free of all encumbrances except as shown on Exhibit A attached hereto.~~

WARRANTY DEED (INDIVIDUAL)

William I. Cunningham
 Jean Cunningham
 TO

Kenneth L. Byrtus
 Virginia L. Byrtus
~~*****~~
 Send tax statements to:
 Kenneth L. Byrtus
 6419 East St.
 Germain Circle
 Orange, CA 92669

STATE OF OREGON,

County of _____ ss.

I certify that the within instrument was received for record
 on the _____ day of _____ 19 _____

at _____ o'clock _____ M. and recorded in book _____
 on page _____ Records of Deeds of said County.

Witness my hand and seal of County affixed.

By _____

Deputy

BR 154 PAGE 56

EXHIBIT "A" Continued

ALSO GRANTING a right-of-way easement, appurtenant to the above described and granted premises, over, across and upon that certain tract or parcel of land consisting of 3.3 acres, more or less, lying in Section 6, Township 41 South, Range 13 West, W.M. Curry County, Oregon, being a strip 50 feet wide, 25 feet on each side of the following described center line;

Beginning at a point on the Westerly side of the Oregon Coast Highway 45.2 feet South and 326.2 feet East of the Interior corner of said Section 6, (Said point being also 45.2 feet South and 2313.8 feet West of the 1/4 corner on the East side of said Section 6); Thence South 71 deg. 19 min. West 582.0 feet; thence South 8 deg 38 min. East 492.5 feet; thence South 15 deg 2 min. West 221.7 feet; thence South 72 deg. 40 min. West 412.6 feet; thence South 34 deg. 4 min. West 236.1 feet; thence South 4 deg. 2 min. West 275.2 feet; thence South 47 deg. 41 min. East 154.4 feet; thence South 28 deg. 43 min. East 89.4 feet; thence South 61 deg. 10.0 min. East 154.6 feet; thence South 21 deg. 39 min. West 255.0 feet, more or less, to the High Tide line of the Pacific Ocean. The easement hereby granted shall not be an exclusive easement unto the grantees herein and shall not operate to restrict the right of grantor, or successors in ownership of the said land subjected to said easement, to create or grant a right or easement for public travel over and across the same, nor to restrict the right to improve the said lands and right of way for the purpose of facilitating public travel over and across the same.

EXCEPTIONS:

The rights of the public in and to that portion of the herein described property lying within the limits of public roads or highways.

Any adverse claim based upon the assertion that some portion of said land is tide, submerged or submersible lands, or has been created by artificial means or has accreted to such portion so created.

The rights of the public and of the State of Oregon in the ocean shore and dry sands area as declared acquired under the provisions of Chapter 601 of Oregon Laws of 1967, and Chapter 601 of Oregon Laws of 1969, or otherwise.

Indexed in Deeds
 State of Oregon
 County of Curry
 I hereby certify that the within instrument was
 recorded on the 24 day of Feb. 1988
 at 3:45 P.M.
 Vol. 154 Page 54-56
 By William J. Curry County Clerk
William J. Curry Deputy
 Fee Paid \$ 2.00

Curry County Title, Inc.
29820 Ellensburg Ave.
P.O. Box 672
Gold Beach, Oregon 97444
(541) 247-6645
(541) 247-6914 Fax
(541) 247-2708 Escrow Fax
1-(800) 535-9465
E-mail cctqb@gb.wave.net

TITLE ONLY:
Borrower: Byrtus

September 26, 2005

Babin & Keusink
P.O. Box 1600
Brookings, OR 97415
Attn: Janet

Title Number : 73041T
Title Officer : Lacey Kreick

PLANT SERVICE REPORT:

Liability : \$N/A
Premiums : \$200.00

We are prepared to issue title insurance in the form and amount shown above. This Report is preliminary to the issuance of a policy of title insurance and shall become null and void unless a policy is issued, and the full premium therefore paid. The land hereinafter described is:

See Exhibit A attached hereto and made a part hereof.

and as of September 17, 2005 at 8:30 A.M., title is vested in:

KENNETH L. BYRTUS and VIRGINIA L. BYRTUS, as tenants by the entirety

The policy shall be issued subject to the usual printed exceptions, conditions, stipulations and exclusions from coverage appearing in such policy form and the following:

1. Rights of the public in and to any portion lying within the limits of public roadways, if any, and/or right of private parties over any portion lying within existing roadways or driveways not disclosed by the public records.
2. Any adverse claim based upon the assertion that some portion of said land is tide, submerged or submersible lands, or has been created by artificial means or has accreted to such portion so created.
3. The rights of the public and of the State of Oregon in the ocean shore and dry sands area as declared acquired under the provisions of Chapter 601 of Oregon Laws of 1967, and Chapter 601 of Oregon Laws of 1969, or otherwise.
4. That certain Ordinance adopting Land Development Code and Zoning Map of the City of Brookings showing Ordinance number 89-0-446 as disclosed by instrument;
Recorded : May 24, 1989 BR: 156 Pages: 1170-1180
5. Deferred Improvement Agreement including the terms and provisions thereof, between Kenneth L. Byrtus and Virginia L. Byrtus and City of Brookings;
Recorded : April 25, 1991 Inst. #91-2125
6. An easement created by instrument, including the terms and provisions thereof;
Dated : May 23, 1991
Recorded : July 30, 1991 Inst. #91-3952
In Favor of : Coos-Curry Electric Cooperative, Inc.
7. Taxes, 2005-2006 a lien in an amount to be determined, but not yet payable.
8. City Liens, if any, of the City of Brookings. (No search has been made). (If search is requested an additional fee may be charged).

NOTE: Any conveyance or encumbrance should include the following:
TOGETHER WITH an appurtenant easement as disclosed by BR: 154 Pages: 54-56
recorded February 24, 1989.

NOTE: Subject to parcel acquired by Byrtus recorded February 24, 1989 DV: 154
Page: 54.

NOTE: Taxes for the year 2004-2005 in the amount of \$8,315.47 paid in full.
Map No. 41-13-06CD, Tax Lot No. 102 (R10752)

(continued)

NOTE: EXEMPT OCEAN SHORES: Map No. 41-13-06CD, Tax Lot 107 (R23259)

NOTE: We find no judgments or United States Internal Revenue Liens against:
TO FOLLOW:

Prepared by:

Bianne Becker for:

Lacey Kreick
Title Officer

Exhibit A

A tract of land lying in Government Lots Three (3) and Four (4) and in the Northeast Quarter (NE $\frac{1}{4}$) of the Southwest Quarter (SW $\frac{1}{4}$) of Section Six (6), Township Forty-one (41) South, Range Thirteen (13) West, Willamette Meridian, City of Brookings, Curry County, Oregon, described as follows:

Beginning at a point on top of the bluff along the Pacific Ocean which bears South 1208.7 feet and West 1405.0 feet from the interior Quarter (1/4) Section Corner of Section 6;

thence East a distance of 85.0 feet to an iron pipe;

thence East a distance of 125.0 feet to a point;

thence South a distance of 253.8 feet to a point;

thence West a distance of 135 feet, more or less, to the ordinary high tide line of the Pacific Ocean;

thence Northwesterly following the ordinary high tide line of the Pacific Ocean, a distance of 250 feet, more or less, to a point which bears South 30° 00' West a distance of 80.0 feet, more or less, from the point of beginning;

thence North 30° 00' East a distance of 80.0 feet, more or less, to the point of beginning.

Except therefrom that portion of the herein described parcel conveyed by deed recorded July 17, 1973
BR: 70 Pages: 346-349.

SEE MAP 41 13 ECA



THIS SKETCH IS PROVIDED, WITHOUT CHARGE, FOR YOUR INFORMATION. IT IS NOT INTENDED TO SHOW ALL MATTERS RELATED TO THE PROPERTY, INCLUDING BUT NOT LIMITED TO AREA, DIMENSIONS, EASEMENTS, ENCROACHMENTS OR LOCATIONS OF BOUNDARIES. IT IS NOT A PART OF, NOR DOES IT MODIFY, THE COMMITMENT OR POLICY TO WHICH IT IS ATTACHED. THE COMPANY ASSUMES NO LIABILITY FOR ANY MATTER RELATED TO THIS SKETCH, UNLESS SUCH COVERAGE IS SPECIFICALLY PROVIDED BY THE COVERED RISKS OF THE POLICY. REFERENCE SHOULD BE MADE TO AN ACCURATE SURVEY FOR FURTHER INFORMATION.

Cost of RV Building

	A	B	C
1	Contractors	Check Number	Amount
2	Don Williams Construction Company	2490	1500.00
3		2484	750.00
4		2494	2500.00
5		2505	10000.00
6		2506	1500.00
7		2512	2500.00
8		2518	4750.00
9		2519	2000.00
10		2521	2000.00
11		2522	3400.00
12	Sub-Total:		30900.00
13			
14	Myron Parke Tree Removal	2492	2000.00
15	Sub-Total:		2000.00
16			
17	Pacific Wood Laminates	2493	2787.84
18	Sub-Total:		2787.84
19			
20	DeHasler Concrete	2498	1700.00
21		4766	1000.00
22		4804	400.00
23		2533	300.00
24	Sub-Total:		3400.00
25			
26	E & S Wood Construction	2499	7391.54
27	Sub-Total:		7391.54
28			
29	Gold Beach Lumber	2507	5149.15
30	Sub-Total:	2523	3967.52
31	Sub-Total:		9116.67
32			
33	Coos Curry Equipment	2511	500.00
34	Sub-Total:		500.00
35			
36	Tidewater Cement		2685.00
37			2000.00
38	Sub-Total:		4685.00
39			
40	Zia & Associates	2513	2889.00
41	Sub-Total:		2889.00
42			

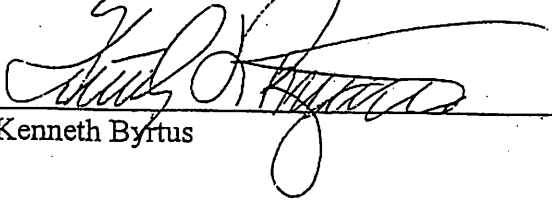
Cost of RV Building

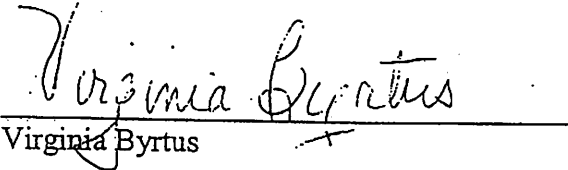
	A	B	C
43	Oles Garage door	2516	1700.00
44	Sub-Total:		1700.00
45			
46	Cole Heating	2517	1500.00
47		2526	1500.00
48	Sub-Total:		3000.00
49			
50	Robert Anderson Painting	2520	550.00
51		2524	1100.00
52	Sub-Total:		1650.00
53			
54	Kerr's	2527	1000.00
55	Sub-Total:		1000.00
56			
57	Mill Electric	2529	1558.00
58		4750	1986.39
59	Sub-Total:		3544.39
60			
61	Don Kirk Electric	4803	2403.19
62	Sub-Total:		2403.19
63			
64	G.O. Gutter	4771	768.15
65			768.15
66			
67		Grand Total	77735.78
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DESIGNATION OF ATTORNEY REPRESENTATIVE

We, Kenneth and Virginia Byrtus, do hereby designate John C. Babin, Babin & Keusink, P.C., 517 Chetco Avenue, P.O. Box 1600, Brookings, Oregon 97415, as our attorney representative in the matter of Application for Variance pending before the Common Council of the City of Brookings.

Dated: September 8th, 2005


Kenneth Byrtus


Virginia Byrtus

TO: Mayor and City Council
FROM: John Bischoff, Planning Director
THROUGH: Dale Shaddox, City Manager
DATE: March 22, 2006



Issue: Comprehensive Plan and zone change on a city owned lot.

Background: The city owns a lot located 200 feet east from Seacrest Dr. on a private road named E. Harris Heights Rd. This lot was obtained in 1981 specifically for the placement of a water tank to balance the city's water distribution system. The city has initiated a zone change from the existing R-1-6 (Single Family Residential, 6,000 sq. ft. minimum lot size) to PO/S (Public Open Space) and a corresponding Comprehensive Plan change, to allow the tank as a permitted use and to allow the height needed for the proper tank capacity.

Recommendation: The Planning Commission and staff recommend approval of the Comprehensive Plan and zone changes.

CITY OF BROOKINGS PLANNING COMMISSION
STAFF AGENDA REPORT

SUBJECT: Comprehensive Plan/Zone Change
FILE NO: CPZ-1-05
HEARING DATE: March 7, 2006

REPORT DATE: February 24, 2006
ITEM NO: 8.3

GENERAL INFORMATION

APPLICANT: City of Brookings.

REPRESENTATIVE: City Staff.

REQUEST: A Comprehensive Plan change from Residential to Open Space and a zone change from R-1-6 (Single Family Residential, 6,000 sq. ft. minimum lot size) to PO/S (Public Open Space).

TOTAL LAND AREA: 0.38 acres.

LOCATION: On the northerly side of a private street, named East Harris Heights Rd. approximately 200 feet easterly from Seacrest Ln. on the north side of the Glenwood Condominiums.

ASSESSOR'S NUMBER: 40-14-36AD, Tax Lot 1900.

ZONING / COMPREHENSIVE PLAN INFORMATION

EXISTING: R-1-6 (Single Family Residential, 6,000 sq. ft. minimum lot size).

PROPOSED: PO/S (Public Open Space).

SURROUNDING: West and South—R-1-6; North—Northwest R-1-6, Northeast and East—County R-2 Residential Two.

COMP. PLAN: City and County—Residential.

LAND USE INFORMATION

EXISTING: Has old garage building that will be removed.

PROPOSED: Water Tank.

SURROUNDING: Single family homes and Condominiums.

PUBLIC NOTICE: Mailed to all property owners within 250 feet of the subject site and advertised in the local newspaper.

BACKGROUND INFORMATION

The subject property is a city owned, irregular shaped, 0.38 acre (16,553± sq. ft.) parcel of land located on the north side of a private street named East Harris Heights Rd. approximately 200 feet east of Seacrest Ln. The property has 174.97 feet of frontage on the private street, a westerly boundary of 70.85 feet extending in a northeasterly direction from the private street and then turns north for 15.05 feet to the north boundary. The north boundary east for 74.98 feet then turns south for 15.05 feet then easterly again for 29.13 feet to the east boundary that extends 159.76 feet back to the private street. At this time the property contains an old garage that will be removed.

The lot is currently zoned R-1-6 (Single Family Residential, 6,000 sq. ft. minimum lot size) as is the area to the northwest, west and south. The city limits line is along the easterly boundary and the area to the northeast and east is zoned by the county as R-2 (Residential Two). The area to the west is developed with single family homes on building envelope lots as a part of the Glenwood PUD, and the area to the south is developed with condominiums as a part of the same PUD. The area within the county is developed with single family houses on large lots.

Topographically the property is essentially flat on the northerly portion and then slopes to the south and east on the southerly portion.

East Harris Heights Rd. is a paved travel way within a 22 foot wide easement with curbs on both sides. The paved portion extends to the city limits and from that point it is a gravel road.

PROPOSED ZONE CHANGE

The city is proposing a Comprehensive Plan change from the current Residential designation to an Open Space designation and a zone change from the current R-1-6 Zone to the PO/S zone. The purpose for the change is to allow the construction of a 2 million gallon water tank. The tank would be a conditional use in the R-1-6 Zone and is a permitted use in the PO/S Zone. If the lot remained in the R-1 Zone, the conditional use would also have to include consideration of a structure height that is greater than 30 feet. The PO/S Zone allows structures up to 40 feet in height as a permitted use. The PO/S Zone is also the more appropriate zone for the use. The project will include a perimeter fence around the site.

ANALYSIS

The Land Development Code does not contain specific criteria to be considered when deciding a change of zone. However, in the process of making such a decision the Commission must consider the different uses allowed as permitted in the requested new zone and the compatibility of those uses with, and the impact they may have on, existing uses in the surrounding area. The Commission must also consider how the requested change affects the goals and policies of the City's Comprehensive Plan. The requested zone change presents three areas that must be analyzed - compatibility with existing uses, traffic impact on existing streets and consistency with the goals and policies of the Comprehensive Plan. The following is staff's analysis.

Compatibility.

Although not particularly compatible aesthetically with residential uses, water tanks are compatible with the need to provide sufficient water pressure to areas of the city to supply both household and

fire flows. Water tanks must also be located at specific elevations to provide these services and thus sites of suitable elevation must be utilized regardless of their compatibility with surrounding uses. The city acquired the subject site specifically for a water tank in 1981.

Traffic Impacts.

With the current R-1-6 Zoning the subject lot could be divided into two lots and be constructed with single family houses, which generate 10 vehicle trips per day or a total of 20 additional trips a day over the private street. The PO/S Zone will generate only one trip per day for routine inspections of the water tank.

Comprehensive Plan.

Goal 11, Public Facilities and Services, contains the following policy:

“Water distribution, pumping and storage. New development requiring extension of water mains, pumping and storage facilities will be paid for and constructed by the developer pursuant to the provisions of the City of Brookings Standard Specifications document dated August 1988”.

The subject site was selected and acquired as the location for a new storage reservoir in 1981 for the purpose of serving growth in the north end of town. Funds for the tank will come from System Development Charges or SDCs, which are paid at the time a vacant lot is developed, thus the project is consistent with the goal and policies of the Comprehensive Plan.

FINDINGS

1. The city is requesting a Comprehensive Plan change from a Residential designation to a Open Space designation and a zone change from R-1-6 (Single Family Residential, 6,000 sq. ft. minimum lot size) to PO/S (Public Open Space) on a 0.38 acre parcel of land owned by the city.
2. The property was acquired by the city in December of 1981 for the specific purpose of constructing a water reservoir.
3. Under the existing R-1-6 Zone, the water tank and the additional 10 feet of structural height would both be subject to a conditional use permit approval.
4. Under the PO/S Zone the tank can be constructed to the required 40 feet in height as a permitted use.
5. Water storage reservoirs for distribution purpose must be sited at specific elevations and in locations that are available at that elevation.
6. Routine inspection of the tank site will generate two vehicle trips each day, one trip to the site and one trip away.
7. Goal 11, Public Facilities and Services, of the Comprehensive Plan contains a policy that the city will expand facilities to provide services for growth.

CONCLUSIONS

The water tank is a necessary addition to the city's water distribution system and will be located on a parcel that was acquired in 1981 specifically for this purpose because of the elevation and location of the site. The proposed change to the Public Open Space Zone will allow the construction of a water tank on the site as a permitted use for both the use itself and for the height requirement of the tank as opposed to going through the conditional use process required by existing Single Family Residential Zone.

RECOMMENDATION

Staff supports a recommendation of **APPROVAL** of Case File No. CZ-1-05, to the City Council based on the findings and conclusions stated in the staff report.

**BEFORE THE PLANNING COMMISSION
CITY OF BROOKINGS, COUNTY OF CURRY
STATE OF OREGON**

In the matter of Planning Commission File No.))	Final ORDER
CPZ-1-05; application for a Zone Change; City of))	and Findings of
Brookings, applicant.))	Fact

ORDER approving an application for a Comprehensive Plan designation change from Residential to Open Space and a zone change from R-1-6 (Single Family Residential, 6,000 sq. ft. minimum lot size) to PO/S (Public Open Space) on a 0.30 acre parcel located on the north side of East Harris Heights Rd. approximately 200 feet east of Seacrest Ln.; Assessor's Map 40-14-36AD, Tax Lot 1900; Zone R-1-6 (Single Family Residential, 6,000 sq. ft. minimum lot size).

WHEREAS:

1. The Planning Commission duly accepted the application filed in accordance with Section 144, Amendments, of the Land Development Code; and,
2. The Brookings Planning Commission duly considered the above described application on the agenda of its regularly scheduled public hearing on March 7, 2006; and
3. Recommendations were presented by the Planning Director in the form of a written Staff Agenda Report dated February 24, 2006, and by oral presentation, and evidence and testimony was presented by the applicant and the public at the public hearing; and,
4. At the conclusion of said public hearing, after consideration and discussion of testimony and evidence presented in the public hearing, the Planning Commission, upon a motion duly seconded, accepted the Staff Agenda Report and recommended that the City Council approved the request, and
5. The Brookings City Council duly considered the above described application in a public hearing at a regularly scheduled public meeting held on March 27, 2006, and is a matter of record; and
6. At the conclusion of said public hearing, after consideration and discussion of testimony and evidence presented in the public hearing, the City Council, upon a motion duly seconded, accepted the Planning Commissions recommendation; and

THEREFORE, LET IT BE HEREBY ORDERED that the application for an amendment on the subject parcel is approved. This approval is supported by the following findings and conclusions:

FINDINGS

1. The city is requesting a Comprehensive Plan change from a Residential designation to a Open Space designation and a zone change from R-1-6 (Single Family Residential, 6,000 sq. ft. minimum lot size) to PO/S (Public Open Space) on a 0.30 acre parcel of land owned by the city.

2. The property was acquired by the city in December of 1981 for the specific purpose of constructing a water reservoir.
3. Under the existing R-1-6 Zone, the water tank and the additional 10 feet of structural height would both be subject to a conditional use permit approval.
4. Under the PO/S Zone the tank can be constructed to the required 40 feet in height as a permitted use.
5. Water storage reservoirs for distribution purpose must be sited at specific elevations and in locations that are available at that elevation.
6. Routine inspection of the tank site will generate two vehicle trips each day, one trip to the site and one trip away.
7. Goal 11, Public Facilities and Services, of the Comprehensive Plan contains a policy that the city will expand facilities to provide services for growth.

CONCLUSIONS

The water tank is a necessary addition to the city's water distribution system and will be located on a parcel that was acquired in 1981 specifically for this purpose because of the elevation and location of the site. The proposed change to the Public Open Space Zone will allow the construction of a water tank on the site as a permitted use for both the use itself and for the height requirement of the tank as opposed to going through the conditional use process required by existing Single Family Residential Zone.

Dated this 27th day of MARCH, 2006.

Pat Sherman, Mayor

ATTEST:

John C. Bischoff, Planning Director

**IN AND FOR THE CITY OF BROOKINGS
STATE OF OREGON**

**AN ORDINANCE AMENDING THE
COMPREHENSIVE PLAN DESIGNATION
ON A PARCEL OF LAND LOCATED ON
EAST HARRIS HEIGHTS ROAD FROM
RESIDENTIAL TO OPEN SPACE AND THE
ZONING FROM R-1-6 (SINGLE FAMILY
RESIDENTIAL, 6,000 SQ. FT. MINIMUM
LOT SIZE) TO PO/S (PUBLIC OPEN
SPACE)**

ORDINANCE NO. 05-O-570

Sections:

Introduction.

Section 1. Comprehensive Plan designation to Commercial.

Section 2. Zoning Map amendment to General Commercial.

WHEREAS, a public hearing was held on October 26, 2005 before the Brookings Planning Commission for the purpose of considering a request for a Comprehensive Plan change from a Residential designation to an Open Space designation and a zone change from R-1-6 (Single Family Residential, 6,000 sq. ft. minimum lot size) to PO/S (Public Open Space) on a 0.30 acre parcel of land located on East Harris Heights Rd. 200 feet east of Seacrest Dr.; (identified as Assessor's Map No. 40-14-36AD; Tax Lot 1900).

WHEREAS, following closure of the public hearing after considerable evidence and testimony was presented by proponents and opponents, the Planning Commission directed the Planning Director to prepare a recommendation, with findings, to the City Council, for approval of the request; and

WHEREAS, the Brookings City Council, at its regularly scheduled meeting of March 27, 2006 did conduct a public hearing on this matter, during which hearing considerable testimony and evidence was presented by the applicant's representative, interested parties and recommendations were received from and presented by the Planning Director; and

WHEREAS, at the conclusion of said public hearing, after consideration and discussion, the Brookings City Council, upon a motion duly seconded, did vote in the majority to grant the applicant's request and instructed staff to prepare a Final Order to that effect;

The city of Brookings ordains as follows:

Section 1. Amendment to the Comprehensive Plan to designate property Open Space. The Comprehensive Plan of the City of Brookings is amended to show that the property described in Exhibit "A" and "B", attached, is designated as Open Space.

Section 2. Amendment to the Zoning Map to designate property PO/S (Public Open Space) The Zoning Map of the City of Brookings is amended to show that the property described in Exhibit "A" and "B", attached, is zoned PO/S (Public Open Space)

(See Attachment A and B)

First Reading: _____

Second Reading: _____

Passage: _____

Effective Date: _____

Signed by me in authentication of its passage this _____ day of _____ 2006

Pat Sherman, Mayor

ATTEST:

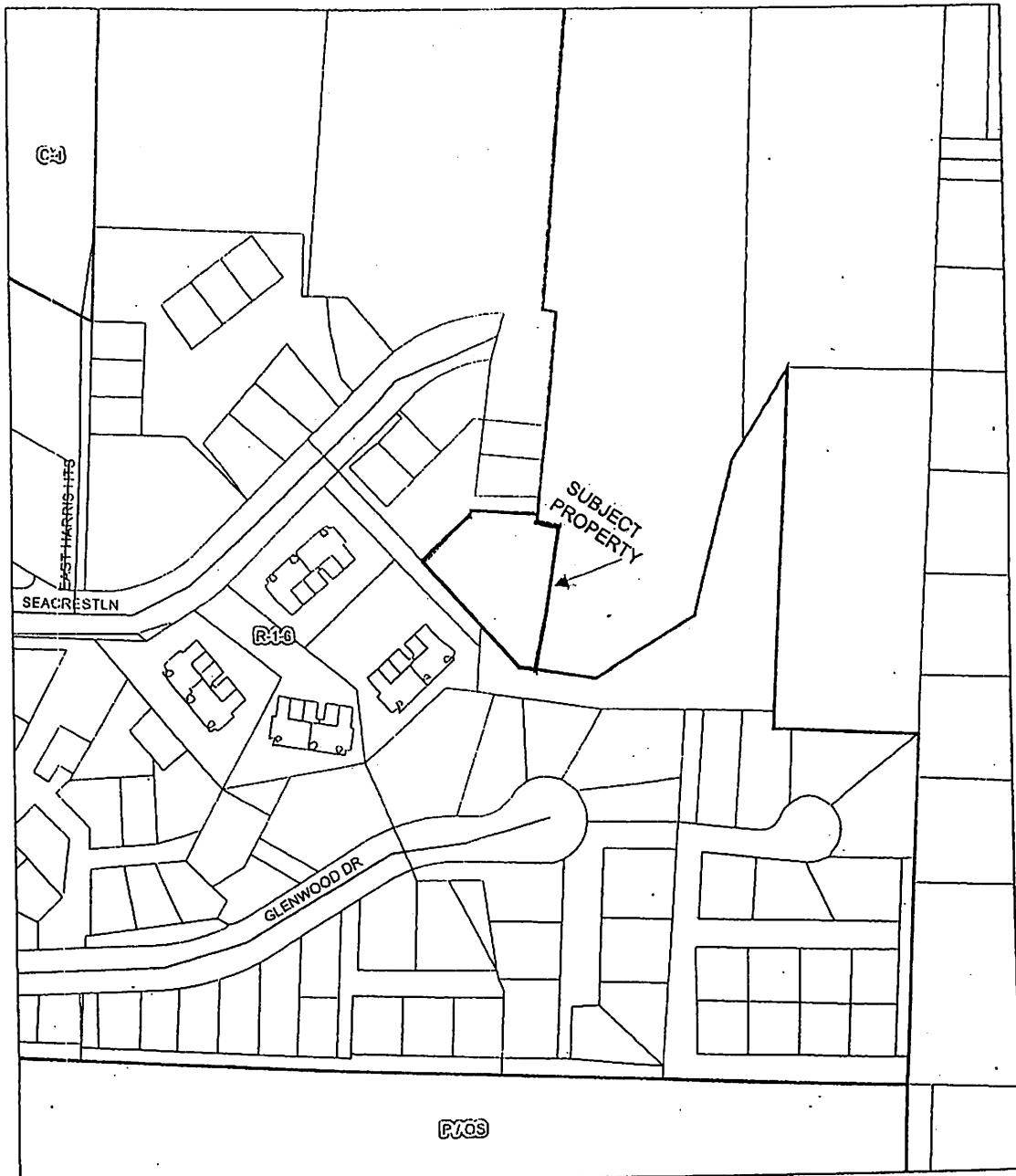
Paul Hughes, Finance Director/Recorder

EXHIBIT A

A parcel of land located in the Southeast Quarter of the Northeast quarter of Section 36, Township 40 South – Range 14 West, W.M. Curry County, Oregon; described as follows:

Beginning at a point located South 46° 31' 00" East a distance of 196.46 feet, from the initial point of Glenwood Condo Stage III, Plat 1995-8; Thence, North 44° 30' 00" East a distance of 70.85 feet; Thence, North 04° 39' 00" East a distance of 15.05 feet; Thence East a distance of 74.98 feet; Thence South 04° 38' 17" West a distance of 15.05 feet; Thence South 80° 14' 00" East a distance of 29.13 feet; Thence south 03° 59' 00" West for a distance of 55.43 feet; Thence South 10° 23' 30" West for a distance of 104.33 feet; Thence North 83° 43' 00" West for a distance of 13.96 feet; Thence North 46° 31' 00" West for a distance of 161.01 feet to the **Point of Beginning**.

Exhibit B



CITY OF BROOKINGS
COMMON COUNCIL MEETING MINUTES
City Hall Council Chambers
898 Elk Drive, Brookings, OR 97415
March 13, 7:00 p.m.

I. Call to Order

Mayor Pat Sherman called the meeting to order at 7:00 p.m.

II. Pledge of Allegiance

Led by Karen Degenais, American Red Cross

III. Roll Call

Council Present: Mayor Pat Sherman, Council President Larry Anderson (arriving at 7:03 pm), Councilors Jan Willms, Craig Mickelson, and Dave Gordon, Ex Officio Councilor Susan Stadelman, a quorum present.

Council Absent: None

Staff Present:

City Manager Dale Shaddox,
Public Works Director Don Wilcox,
Public Works Inspector Richard Christensen,
Administrative Assistant Donna Colby-Hanks,
Planning Commissions Bruce Nishioka and Jim Collis

Media Present: Curry Coastal Pilot Reporter Peter Rice

Other:

6 other citizens

IV. Ceremonies/Appointments/Announcements

A. Ceremonies

1. Red Cross Proclamation

Mayor Sherman presented the Red Cross Proclamation to Karen Degenais, American Red Cross, who stated a grant has been received from the Ford Foundation for CPR and First Aid training.

B. Announcements

1. Introduction of Public Works Inspector, Richard Christensen

Public Works Director Don Wilcox introduced, reviewed the experience, and welcomed Public Works Inspector Richard Christensen. Christensen stated he was settling into his office and was looking forward to the challenges. The Council welcomed him to the City of Brookings.

2. *Mayor's briefing on affordable housing*

Mayor Sherman discussed which members from the community attended the Affordable Housing Summit and the content of the sessions. Sherman submitted to the Council a summary of the information received and advised Curry County would be having a meeting March 29th on the subject. Councilor Anderson described the crisis level for minimum wage worker housing.

V. Oral Requests and Communications from the Audience

A. Committee and Liaison reports

1. *Chamber of Commerce- none*

2. *Council Liaisons*

Ex Officio Stadelman attended Azalea Princess practice, graduated from Toastmasters, and went to Las Vegas on vacation.

Councilor Willms attended a Health Fair Committee meeting, the Soroptimist Community Baby Shower, spoke regarding Azalea Park at the Newcomer Welcome Club, attended an Azalea Park Work Party, worked with ASPIRE students, and attended an Azalea Park Foundation meeting.

Councilor Anderson attended a school meeting.

Mayor Sherman attended the Community Agencies meeting, Health Fair Committee meeting, Soroptimist Community Baby Shower, America's Wild Rivers Coast Business Conference, and an Azalea Park Foundation meeting.

Councilor Mickelson attended the Urban Renewal Advisory Committee meeting, Soroptimist Community Baby Shower, and a Chamber marketing meeting.

Councilor Gordon attended the Community Agencies meeting, Soroptimist Community Baby Shower, Del Norte Airport meeting, America's Wild Rivers Coast Business Conference, Chamber marketing meeting, and a Southwest Advisory Committee on Transportation (SWCT) meeting.

3. *Planning Commission Annual Report – Vice-chair Collis*

Planning Commission Chair Bruce Nishioka reviewed the annual report. Vice-chair Collis explained the cell tower decision had been most difficult. The Council commended the Planning Commission for their continuing hard work.

B. Unscheduled

None

VI. Regular Agenda

A. *Approval of agreement with Lions Club for Kans-for-Kids at Bankus Fountain Park (City Manager)*

City Manager Dale Shaddox reviewed the staff report and clarified the location and the anchoring of the container for the Kans-for-Kids project.

Councilor Anderson moved, a second followed, and the Council voted unanimously to approve the agreement with Lions Club for the Kans-for-Kids facility in Bankus Fountain Park.

B. *Approval of a letter in support of a sport salmon fishing season for 2006 (City Manager)*

City Manager Dale Shaddox reviewed the staff report and advised of corrections in dates of the request for the sport salmon fishing season. The Council felt the loss of the season would have a major financial impact on the economy of the City.

Councilor Gordon moved, a second followed, and the Council voted unanimously to approve a letter in support of adopting a salmon sport fishing season for the 2006 the same as was approved in 2005.

VII. Consent Calendar

A. *Approval of Council Meeting Minutes*

- 1. *Meeting of February 22, 2006***
- 2. *Meeting of February 27, 2006***

B. *Acceptance of Planning Commission Minutes*

- 1. *Meeting of February 7, 2006***
- 2. *Meeting of February 21, 2006***

C. *Approval of vouchers for month of February, 2006 (\$228,616.62)*

D. *Approval of Liquor License application for The Gallery*

E. *Approval of Liquor License application for Wine Wisdom*

F. *Approval of Municipal Court Collection Agreement*

End Consent Calendar

Mayor Sherman reviewed the items on the consent calendar.

Councilor Anderson moved, a second followed, and the Council voted to approve the consent calendar as published.

VIII. Ordinances/Resolutions/Final Orders

A. *Ordinances*

- 1. *Ordinance No. 06-O-477A, An Ordinance Amending Ordinance No. 91-O-477 Providing for Systems Development Charges in the city of Brookings, and Repealing Ordinance No. 87-O-418***

City Manager Dale Shaddox reviewed the staff report and answered questions. Ex Officio Stadelman read Ordinance No. 06-O-477A in its entirety.

Councilor Mickelson moved, a second followed, and the Council voted unanimously to have the second reading of Ordinance No. 06-O-477A by title only.

Ex Officio Stadelman read Ordinance No. 06-O-477A by title only.

Councilor Gordon moved, a second followed, and the Council voted unanimously to adopt Ordinance No. 06-O-477A, An Ordinance amending Ordinance No. 91-O-477 providing for Systems Development Charges in the City of Brookings, and repealing Ordinance No. 97-O-418.

B. Resolutions

1. Resolution No. 06-R-750, A Resolution of the City of Brookings Readopting Public Contracting Rules and Prescribing Rules of Procedure for Public Contracting

City Manager Dale Shaddox reviewed the staff report for Resolution No. 06-R-750.

Councilor Mickelson moved, a second followed, and the Council voted unanimously to approve adoption of Resolution 06-R-750, a resolution of the City of Brookings readopting public contracting rules and prescribing rules of procedure for public contracting.

IX. Remarks from Mayor and Council

A. Council

Councilor Gordon advised priorities of several projects were discussed at the SWCT meeting. Gordon and other attendees felt the Constitution Way project was most important. Councilor Anderson stated the Chetco Avenue sidewalk project was coming along and would be very nice when completed. Councilor Willms asked about the progress on codification of the municipal code.

B. Mayor

Mayor Sherman commended the citizens for their patience with the construction on Chetco Avenue.

X. Adjournment

Councilor Gordon moved and the Council voted unanimously by voice vote to adjourn at 8:21 pm.

Respectfully submitted:

Pat Sherman
Mayor

ATTEST by City Recorder this ____ day of _____, 2005.

Paul Hughes
Finance Director/City Recorder

MINUTES
BROOKINGS PLANNING COMMISSION
January 10, 2006

The regular meeting of the Brookings Planning Commission was called to order by Commissioner Dentino at 7:05 p.m. in the Council Chambers at the Brookings City Hall on the above date with the following Commission members and staff in attendance.

Commissioners Present:

Rick Dentino	Randy Gorman
Bill Dundom	Ron Hedenskog
	Bruce Nishioka

Commissioners Absent: Jim Collis

Staff Present:

John Bischoff, City Planner, Dianne Snow, Deputy City Planner, and Cathie Mahon, Secretary.

Media: Coastal Pilot reporter, Brian Bullock

Other:

Approximately 15 participants in the audience

CHAIR ANNOUNCEMENTS

None.

MINUTES

By a 4-0 vote (motion: Commissioner Hedenskog) the Planning Commission approved the minutes of December 6, 2006, as written.

By a 3-0-1 vote (motion: Commissioner Hedenskog; Commissioner Dundom abstained due to absence) the Planning Commission approved the minutes of December 13, 2005 as written.

THE PLANNING COMMISSION TOOK THE FOLLOWING ACTION ON WRITTEN REQUESTS AND COMMUNICATION

Before the public hearing, Commissioner Hedenskog declared bias due to conducting business with the applicant, and left the bench.

1. By a 3-0 vote (motion: Commissioner Gorman) the Planning Commission approved the request for a final map for the subdivision known as "Derr *Subdivision*" to divide a 1.05 acre parcel of land into five (5) lots, located at the corner of Hassett Street and Old County Road; R-1-6, (6,000 square foot minimum lot size) zone; Assessor's Map 40-13-32CC, Tax Lot 1300; Gary and Julie Derr, applicants.

Commissioner Hedenskog returned to the bench at 7:18 p.m.

Chair Nishioka entered the public hearing and conducted the remainder of the meeting at 7:19 p.m.

THE PLANNING COMMISSION TOOK THE FOLLOWING ACTION IN THE PUBLIC HEARINGS

1. By a 5-0 vote (Motion: Commissioner Dentino) the Planning Commission approved File No. **M3-7-05**, a request for a minor partition to divide a 1.48 acre parcel into three (3) residential parcels; located at 16960 Parkview Drive; Assessor's Map 40-13-31CB, Tax Lot 801; R-1-6, (6,000 square foot minimum lot size) zone; Rich Roberts of Roberts & Associates Land Surveying, Inc., representative; Benjamin Murray, applicant.

Before the public hearing, Commissioners Hedenskog, Dentino, Dundom, and Gorman declared ex parte due to a site visit. There was no challenge from the audience as to the jurisdiction of the Commission to hear the request.

The action was taken following questions and comments regarding the request from the following:

Rich Roberts, Roberts & Associates Land Surveying Inc., representative.
P. O. Box 2791, Harbor, OR.

The applicant waived their right to seven (7) additional days in which to submit written testimony.

2. By a 5-0 vote (Motion: Commissioner Hedenskog) the Planning Commission approved the Final ORDER and Findings of Fact for File No. **M3-7-05**.
3. By a 5-0 vote (Motion: Commissioner Hedenskog) the Planning Commission approved File No. **M3-1-06**, a request for a minor partition to divide a .50 acre parcel into three (3) parcels; located at 919 Seventh Street; Assessor's Map 40-13-31DD, Tax Lot 3200; R-1-6, (6,000 square foot minimum lot size) zone: Richard Smith, applicant.

Commissioners Dentino, Dundom, Gorman, and Hedenskog declared ex parte due to a site visit. There was no challenge from the audience as to the jurisdiction of the Commission to hear the request.

The action was taken following questions and comments regarding the request from the following:

Richard Smith, applicant
Mr. Raymond Hodges

P. O. Box 1870
925 Seventh St.

Brookings, OR 97415
Brookings, OR 97415

The motion was amended to include the following condition:

- #32** *Prior to the recordation of the final plat map the applicant shall remove the existing free standing shed from the property and shall either remove the detached garage or shall sign an agreement to acquire a building permit and start construction of a house on the lot containing the garage or remove the garage within 6 months of the approval date of this partition.*

The applicant waived their right to seven (7) additional days in which to submit written testimony.

4. By a 5-0 vote (Motion: Commissioner Dundom) the Planning Commission approved the Final ORDER and Findings of Fact for File No. **M3-1-06** as amended.
5. The public hearing was opened for File No. **CUP-1-06**, a request for a conditional use permit to construct a dwelling group consisting of four (4) single family homes on a .57 acre parcel; located at 725 Third Street; Assessor's Map 41-13-06BA, Tax Lot 2200; R-1-6, (6,000 square foot minimum lot size) zone; Jim Capp, representative; Kurt Kessler, applicant.

Commissioners Dentino, Dundom, Gorman, and Hedenskog declared ex parte due to a site visit. There was no challenge from the audience as to the jurisdiction of the Commission to hear the request.

The action was taken following questions and comments regarding the request from the following:

Jim Capp

P. O. Box 2937

Harbor, OR

Oliver Jacobson

P. O. Box 943

Brookings, OR

The public hearing was closed for additional oral testimony when an opponent, Mr. Jacobson, requested seven (7) additional days to submit written argument. It was agreed to continue the matter until the next Planning Commission meeting on February 7, 2006.

The Chair outlined the procedure: any opponents have 7 days, until January 17, 2006 to submit written testimony. The applicant will review that testimony and have until January 24, 2006 for their review and rebuttal.

A short recess was declared by the Chair at 9:25 p.m. The meeting reconvened at 9:33 p.m. with the same five (5) commissioners present.

6. By a 5-0 vote (Motion: Commissioner Dentino) the Planning Commission approved File No. **CUP-2-06**, a conditional use permit to construct a dwelling group consisting of two single-family dwellings; located at 994 Parkview Drive; Assessor's Map 40-14-36, Tax Lot 700; R-1-6, (6,000 square foot minimum lot size) zone; Charles Smith of Stuntzner Engineering, representative; Larry Anderson, applicant.

The motion was amended to delete #4 on the Final Order:

4) The existing dwelling must be connected to the City sewer system prior to obtaining the building permit to construct the proposed dwelling.

Commissioners Dentino, Dundom, Gorman, and Hedenskog declared ex parte due to a site visit. There was no challenge from the audience as to the jurisdiction of the Commission to hear the request.

The action was taken following questions and comments regarding the request from the following:

Charles Smith, Stuntzner Engineering, representative P.O. Box 2162 Harbor.

The applicant waived their right to seven (7) additional days in which to submit written testimony.

7. By a 5-0 vote (Motion Dentino) the Planning Commission approved the amended Final ORDER and Findings of Fact for File No. **CUP-2-06**.

COUNTY REFERRELS

1. By a 4-1 vote (motion; Commissioner Hedenskog; Commissioners Dentino, Gorman, Nishioka, and Hedenskog voted in the affirmative with Commissioner Dundom voting against the motion) the Planning Commission will send a favorable recommendation to the county to approve File No. **CR-S-0403**, a request for a subdivision to be known as *Ocean Heights Subdivision*; to divide a 22.28 acre parcel into 34 residential lots; Assessor's Map 41-13-04B, Tax Lot 400; R-2 (County-Residential) zone; Jim Capp, representative; Mahar-Kessler Properties LLC, applicants.

The Commission approved the following recommendations that were in the staff report prepared by City Planner Bischoff, be forwarded to the County:

- That the applicant submit drainage plans prepared by an engineer licensed in Oregon addressing all storm water runoff, including roof drains, generated by the proposed subdivision in terms of on-site and off-site impacts. The applicant shall pay the costs of a peer review of the plans by an engineering firm acceptable to the county.
- Prior to final plat map approval the applicant shall show that each lot created by the subdivision can be developed.
- A note placed on the final plat stating that each lot within the subdivision shall be developed under the provisions of the City of Brookings *Hillside Development Standards* pursuant to Section 100 of the Brookings Land Development Code.
- That Ocean Heights Drive is gated at a point just below the driveway for Lot 34 and again at the intersection with Payne Lane and that the gates be provided with emergency opening devices.
- A barrier shall be placed at the south end of Ocean Vista Lane and a sign stating that it is a "Dead End" be placed at the intersection with Ocean Heights Road.
- The applicant shall amend the recorded Crown Terrace Road maintenance agreement to include the lots of this subdivision into the maintenance system and that a note be placed on the final plat map stating that the owner of each lot within the subdivision is subject to the maintenance agreement.

- The applicant shall improve the entire length of Crown Terrace Loop to Hillside Collector Standards.

The following additional recommendations were stated at the public hearing:

- That the County work with the Harbor Fire Department and Harbor Water District to ensure that the water storage in the Crown Terrace area is adequate for necessary fire protection of both structural and brush fires and that an adequate number of fire hydrants are located throughout the area.
- That the County investigate the potential of widening Payne Road to Hillside Collector standards for the distance from the end of the county road to the new road created by the subject subdivision.
- That the County investigate mitigation of the Foster Road bottleneck.

ELECTION OF OFFICERS

Commissioner Dentino made a motion to have Commissioner Nishioka remain as Chair and Commissioner Collis remain as Vice-Chair. With a show of hands, the motion was approved.

COMMENTS by the PLANNING STAFF

- City Planner Bischoff reminded the Commission that the annual report is due. The secretary passed out a "draft" copy and requested that any changes be brought into the office by the end of the month.
- Bischoff mentioned the county is having training for their commissioners and have extended an invitation to the Brookings Commission. More information will be forwarded.

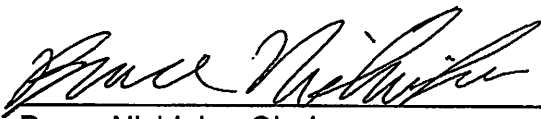
COMMISSIONERS COMMENTS

None.

ADJOURNMENT:

With no further business before the Planning Commission, the meeting closed at 11.57 p.m.

Respectfully submitted,


 Bruce Nishioka, Chair
 (approved at Feb 7, 2006 meeting)

MINUTES
BROOKINGS PLANNING COMMISSION
March 7, 2006

The regular meeting of the Brookings Planning Commission was called to order by Chair Nishioka at 7:00 p.m. in the Council Chambers at the Brookings City Hall on the above date with the following Commission members and staff in attendance.

Commissioners Present:

Jim Collis	Randy Gorman
Rich Dentino	Ron Hedenskog
Bill Dundom	Bruce Nishioka
	Richard Yock

Staff Present:

John Bischoff, City Planner, Dianne Snow, Deputy City Planner, and Cathie Mahon, Secretary.

Other:

Student Ex Officio Skylar Shuford
Approximately 5 participants in the audience

CHAIR ANNOUNCEMENTS

Chair Nishioka apologized for his absence at the last meeting. He introduced Commissioner Richard Yock as the new commissioner, who was welcomed by the commission.

MINUTES

By a 5-0-2 vote (motion: Commissioner Collis, Commissioners Dundom and Yock abstained due to absence) the Planning Commission approved the minutes of February 7, 2006, as amended.

By a 5-0-2 vote (motion: Commissioner Dentino; Commissioners Nishioka and Yock abstained due to absence) the Planning Commission approved the minutes of February 21, 2006, as written.

THE PLANNING COMMISSION TOOK THE FOLLOWING ACTION ON WRITTEN REQUESTS AND COMMUNICATIONS

1. By a 7-0 vote (motion: Commissioner Dentino) the Planning Commission approved the request for a one year extension for File No. **SUB-1-05**, for a subdivision, *Chetco Terrace Estates*, to divide a 4.91 acre parcel of land consisting of 7 parcels to create 18 residential lots; R-1-6 (Single Family Residential, 6,000 sq.ft. minimum lot size) zone; Assessor's Map 41-13-5CA, Tax Lots 1300, 1600, 6100, 6101, 6120, 6180 and 6190; Ross Walton, applicant.

The action was taken following questions and comments from the following:
Tammy Beckley, Beckley & Co. Real Estate, representative for Mr. Walton.

Note: the original approval was April 5, 2005. This extension will expire one (1) year from the approval date, April 5, 2007, unless the final plat is approved and recorded.

THE PLANNING COMMISSION TOOK THE FOLLOWING ACTION IN THE PUBLIC HEARINGS

1. Chair Nishioka opened the public hearing for File No. **CUP-3-06**, a request for a conditional use permit to construct a 100 foot high mono-pole telecommunications tower with a 12 foot by 26 foot equipment shelter building; located at 224 Cove Road; Tax Assessor's Map 41-13-06DD; Tax Lot 1003; IP (Industrial Park) zone; Verizon Wireless; applicant; Ed Fournier, agent for Technology Associates.

Planner Snow announced the property recently changed ownership from Mr. & Mrs. Alsup to Mr. Dan Ambrose who was present at the hearing but choose not to testify.

The Chair stated the hearing was open for testimony due to being continued from the February 7, 2006 hearing. Planning staff was asked to review the request.

The action was taken following questions and comments regarding the request from the following:

Ed Fournier, agent for Technology Associates, representative for Verizon Wireless
Barbara Nysted 427 Buena Vista Loop Brookings, OR 97415

Read into the record was a memorandum from John Trew, Attorney for the City

Commissioner Gorman made a motion to approve the request with the condition that the tower be of a stealth design, resembling a tree. It failed due to the lack of a second.

By a 3-2 vote (motion: Commissioner Dentino; Commissioners Collis, Dentino, and Hedenskog voted in the affirmative; Commissioners Gorman and Nishioka against the motion; Commissioners Dundom and Yock could not vote due to absence at the initial public hearing February 7th) the Planning Commission approved the request for File No. **CUP-3-06**.

The motion was amended to include the following additional condition due to a memo from Fire Chief Sharp and his concern for the weeds at the subject property:

- *Existing vegetation, consisting of weeds and briars, adjacent to the southern boundary, must be removed and replaced with similar landscaping as proposed on the west and north sides of the site.*

Commissioners Collis, Dentino, Gorman, Hedenskog and Nishioka declared ex parte due to a site visit. There was no challenge from the audience as to the jurisdiction of the Commission to hear the request.

The applicant waived their right to seven (7) additional days in which to submit written testimony.

2. By a 3-2 vote (motion: Commissioner Hedenskog; Commissioners Collis, Dentino, and Hedenskog voted in the affirmative; Commissioners Gorman and Nishioka voted against the motion; Commissioners Dundom and Yock could not vote due to absence) the Planning Commission approved the Final ORDER and Findings of Fact for File No. **CUP-3-06**, as amended.

A recess was declared at 8:48 p.m. The meeting reconvened at 8:55 p.m.

- 3 By a 7-0 vote (motion: Commissioner Hedenskog) the Planning Commission approved File No. **M3-2-06**, a request for a minor partition to divide a .96 acre parcel into two (2) parcels; located at 259 Marine Drive; Assessor's Map 41-13-05B, Tax Lot 305; SR-20 (Suburban Residential) zone; Michael Konkell, applicant.

Commissioners Dundon, Hedenskog and Collis declared ex parte due to a site visit. There was no challenge from the audience as to the jurisdiction of the Commission to hear the request.

The action was taken following questions and comments regarding the request from the following:

Michael Konkell, applicant

P. O. Box 851

Brookings, OR 97415

The applicant waived their right to seven (7) additional days in which to submit written testimony.

4. By a 7-0 vote (motion: Commissioner Collis) the Planning Commission approved the Final ORDER and Findings of Fact for File No. **M3-2-06**.
5. By a 7-0 vote (motion: Commissioner Hedenskog) the Planning Commission will send a favorable recommendation for File No. **CPZ-1-05**, a Comprehensive Plan change from a Residential designation to an Open-Space designation and a zone change from R-1-6 (Single-family Residential, 6,000 square foot minimum lot size) to PO/S (Public Open Space), for the purpose of allowing the placement of a new water tank located on a private street named East Harris Heights Road on the east side of Seacrest Lane; Assessor's Map 40-14-36AD, Tax Lot 1900; City initiated.

Commissioners Dundon, and Hedenskog declared ex parte due to a site visit. There was no challenge from the audience as to the jurisdiction of the Commission to hear the request.

COMMENTS by the PLANNING STAFF

- City Planner Bischoff reminded the Commission that the annual report was scheduled for the City Council meeting, March 13, 2006. Vice-Chair Collis will attend the meeting because Chair Nishioka will be out of town.

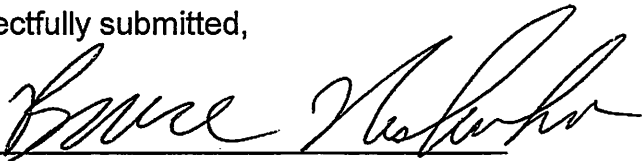
COMMISSIONERS COMMENTS

None.

ADJOURNMENT:

With no further business before the Planning Commission, the meeting closed 10:02 p.m.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Bruce Nishioka", written over a horizontal line.

Bruce Nishioka, Chair

(approved at 3-21-06 meeting)

BUILDING DEPARTMENT ACTIVITIES SUMMARY

For the Month of: February 2006

No.	Building	Permit Fee	Plan Check Fee	Surcharge	SDF's	Value Current Month	No. to Date	Total to Date	No. Last Yr	Total Last Year
9	Single Family Dwelling	\$5,517.00	\$3,586.07	\$441.36	\$70,911.00	\$1,545,535.00	11	\$1,840,638.00	2	\$456,860.00
2	Single Family Addition	\$185.00	\$120.26	\$14.80	\$0.00	\$22,923.00	1	\$17,123.00	2	\$110,260.00
0	Single Family Garage-Carport	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	2	\$17,939.00	3	\$78,610.00
1	Two Family Residential	\$818.00	\$531.70	\$65.44	\$0.00	\$253,144.00	4	\$1,117,383.00	4	\$1,423,152.00
0	Multi-Family Residential Apts	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$0.00	0	\$0.00
3	Commercial New	\$2,873.50	\$2,643.31	\$229.88	\$46,756.00	\$928,352.00	3	\$928,352.00	0	\$0.00
1	Commercial Addition-Change	\$179.50	\$116.68	\$14.38	\$0.00	\$26,653.00	1	\$26,653.00	2	\$37,000.00
0	Churches	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$0.00	0	\$0.00
0	School Repair-Addition	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$0.00	1	\$16,870.00
0	Building Removal	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$0.00	0	\$0.00
0	Misc.-Retaining Wall-Fence	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	3	\$35,800.00	2	\$3,046.00
16	Total Building Permits	\$9,573.00	\$6,998.02	\$765.84	\$117,667.00	\$2,776,607.00	25	\$3,983,888.00	16	\$2,125,798.00
14	Mechanical Permits	\$393.85	\$0.00	\$31.51	N/A	N/A	20	N/A	12	N/A
13	Plumbing Permits	\$666.40	N/A	\$53.31	N/A	N/A	18	N/A	6	N/A
1	Mfg Home Install - Permit Fee	\$160.00	N/A	\$12.80	\$7,879.00	N/A	1	N/A	1	N/A
1	Mfg Home Install - Administrative Fee	\$30.00	N/A	\$30.00	N/A	N/A	1	N/A	1	N/A
45	TOTAL PERMITS	\$10,823.25	\$6,998.02	\$893.46	\$125,546.00	\$2,776,607.00	65	\$3,983,888.00	36	\$2,125,798.00
	Total Year to Date Calculated Fees	\$15,249.56	\$9,705.62	\$1,247.56	\$184,497.00	\$3,983,888.00				
	2005 YTD Calculated Fees	\$8,593.70	\$5,232.55	\$599.46	\$66,830.00	\$2,125,798.00				

URBAN RENEWAL DISTRICT - BUILDING DEPARTMENT ACTIVITIES SUMMARY

For the Month of: February 2006

No.	Building	Permit Fee	Plan Check Fee	Surcharge	SDF's	Value Current Month	No. to Date	Total to Date	No. Last Yr	Total Last Year
0	Single Family Dwelling	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$0.00	0	\$0.00
0	Single Family Addition	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$0.00	0	\$0.00
0	Single Family Garage-Carport	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$0.00	1	\$33,129.00
0	Two Family Residential	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$0.00	0	\$0.00
0	Multi-Family Residential Apts	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$0.00	0	\$0.00
3	Commercial New	\$2,873.50	\$2,643.31	\$229.88	\$46,756.00	\$928,352.00	3	\$928,352.00	0	\$0.00
0	Commercial Addition-Change	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$0.00	1	\$25,000.00
0	Churches	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$0.00	0	\$0.00
0	School Repair-Addition	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$0.00	0	\$0.00
0	Building Removal	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$0.00	0	\$0.00
0	Misc.-Retaining Wall-Fence	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$0.00	0	\$0.00
3	Total Building Permits	\$2,873.50	\$2,643.31	\$229.88	\$46,756.00	\$928,352.00	3	\$928,352.00	2	\$58,129.00
3	Mechanical Permits	\$125.00	\$0.00	\$10.00	N/A	N/A	3	N/A	0	N/A
3	Plumbing Permits	\$142.80	N/A	\$11.42	N/A	N/A	3	N/A	0	N/A
0	Mfg Home Install - Permit Fee	\$0.00	N/A	\$0.00	N/A	N/A	0	N/A	0	N/A
0	Mfg Home Install - Administrative Fee	\$0.00	N/A	N/A	N/A	N/A	0	N/A	0	N/A
9	TOTAL PERMITS	\$3,141.30	\$2,643.31	\$251.30	\$46,756.00	\$928,352.00	9	\$928,352.00	2	\$58,129.00
	Total Year to Date Calculated Fees	\$3,141.30	\$2,643.31	\$251.30	\$46,756.00	\$928,352.00				
	2005 YTD Calculated Fees	\$381.50	\$247.98	\$26.71	\$0.00	\$58,129.00				