

MINUTES
BROOKINGS COMMON COUNCIL
CITY OF BROOKINGS
SPECIAL MEETING
September 23, 1981

I. CALL TO ORDER

The meeting was called to order by Mayor Robert L. Kerr at 8:00 p.m.

II. ROLL CALL

Present: Mayor Kerr; Councilmen Walt Lovejoy, Gil Batty, Ray Nidiffer and John Geraghty.

Staff present: City Manager Lynn Stuart, City Attorney John Coutrakon, Building Official Marshall Ferg and Secretary Praecilla Pruitt.

III. PUBLIC HEARING

Joy/Peterson Zone Case Z-81-1

The Mayor announced the purpose of the meeting was to take testimony regarding the zone change from RL to RH on Tax Lots 8100, 8302 and portion of 8310, Map No. 41-13-5CD.

In accordance with Resolution No. 213 Mayor Kerr named City Attorney John Coutrakon as the Presiding Officer. Mr. Coutrakon announced the public hearing and outlined the nature and conduct of the hearing in accordance with Resolution No. 213. He asked if the proponents were in attendance. Dr. & Mrs. Gerrid Joy, Marshall "Bud" Jones and Attorney Daniel C. Thorndike responded in the affirmative. Mr. Coutrakon asked if the opponents were present. Mr. Fred Hummel and Mr. Alex Combs responded in the affirmative.

Mr. Coutrakon asked for challenge for bias, pre-judgment or personal interest. There were none.

Mr. Coutrakon requested agreement to the stipulation for a de-novo hearing with the stipulation that any previous evidence, testimony or documents could be re-submitted into evidence. There were no objections.

Mr. Coutrakon pointed out that the burden of proof is upon the proponent. The more drastic the change or the greater the impact of the proposal in an area, the greater is the burden upon the proponent.

Mr. Coutrakon outlined the procedures of the hearing in accordance with Resolution No. 213, Section 5, paragraphs A - M.

Mr. Coutrakon commenced the hearing and called for any abstentions from the panel. There were none.

Mr. Coutrakon called for the Staff report at which time Mr. Stuart, City Manager gave a brief summary of the project indicating the location of the surrounding zone and land uses and a summary of previous meetings held before the Planning Commission and City Council. There being no questions of the Staff regarding any testimony given, Mr. Coutrakon asked for presentation of the proponents' case.

Mrs. Gisela Joy presented testimony for the proponents by requesting that all previous testimony, evidence and documents be made a part of the record including all the minutes, findings of fact, letters and memorandums. Mrs. Joy submitted into the record Exhibits "A", "B" and "C" (See attached Exhibits "A", "B" and "C").

Mr. Marshall "Bud" Jones, 222 Del Norte Lane read the proponents' findings of fact

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into the record (See attached Exhibit "K"). Mr. Jones then read and submitted a planning document relating to facts of law into the record (See attached Exhibit "D"). He then read the summary of a case entitled "The Friends of Oregon vs. the City of Lake Oswego" and resubmitted the findings submitted with the original application (See attached Exhibit "L").

Mrs. Joy then submitted a letter from Mr. Edward W. Riley (See attached Exhibit "E"), and petitions bearing signatures of support (See attached Exhibit "J"). At this point Mrs. Joy re-submitted four additional letters into the record Exhibits "F", "G", "H" and "I" (See attached Exhibits "F", "G", "H" and "I").

Mr. Coutrakon then requested any member of the audience wishing to speak in favor of the project. Testimony was given as follows:

Mr. John Wheeler, 303 Birch Street - provide additional revenue and employment.

George Chila, 15200 Oceanview Drive, Smith River - provide homes and jobs.

C.J. Brown, 448 Pine Street - provide jobs and economic growth.

Julie Ross, 111 Easy Street - provide economic growth

Jerry Liebrandt, Titus Lane, Harbor - provide employment.

Mr. Coutrakon indicated it was time for the opponents to present their testimony.

Mr. Alex Combs, 236 Memory Lane submitted into the record Exhibits "A", "B", "C" and "D" (See attached Exhibits "A", "B", "C" and "D").

At this point the City Attorney pointed out that both the proponents and opponents were utilizing the 1970 copies of the Brookings Comprehensive Plan and requested that both the proponents and opponents acknowledge their concurrence with the utilization of this document and they did so.

Mr. Combs then read the opponents' findings of fact into the record (See Exhibit "B"). Mr. Combs indicated that he would request the City Council make their determination based upon the fact that the proponents had not sufficiently met the burden of proof requirement and requested that the zone change be denied.

Mr. Coutrakon recessed the meeting at 9:58 p.m.

At 10:12 p.m. Mr. Coutrakon called the meeting to order and Mr. Fred Hummel, 202 Alder Street continued the opponents' testimony.

Mr. Fred Hummel submitted into testimony Exhibits "E" and "F" and read the document into the record (See attached Exhibit "E" and "F"). He reiterated the opponents' request that the zoning request be denied based upon testimony given.

Mr. Coutrakon requested any additional testimony from individuals opposing the zone change. Mr. Paul Jenkins, 221 Musser Street read a letter of opposition, marked Exhibit "H" submitted on behalf of Mrs. Donald Packer and Mrs. John Fitzgerald, followed by his own letter of opposition marked Exhibit "I" and submitted an advertisement from the Curry Coastal Pilot and an advertisement mailed to New York by a local real estate firm marked Exhibit "G" (See attached Exhibits "G", "H" and "I").

Clarence Seburn, 301 Maple Street read his letter of opposition into the record and was marked Exhibit "J" (See attached Exhibit "J").

Barbara Hummel, 202 Alder Street read two letters of opposition into the record

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(See attached Exhibits "K" and "L").

Bob Corrigan, 233 Del Norte Lane opposed mud being deposited on Del Norte Lane.

Robert Heavey of 16 Seascape Court read his letter of opposition into the record (See attached Exhibit "M").

Mr. Coutrakon offered the opportunity for cross-examination of the opponents.

Mr. Thorpe, Engineer for the proponents asked Mr. Combs if he was aware of the amount of materials being transported down the river by flood water. Mr. Combs gave a negative response.

Mr. Marshall "Bud" Jones asked Mr. Jenkins if he was aware that the property belonged to the developers and they had a right to utilize the property. Mr. Jenkins replied in the affirmative. Then Mr. Jones asked Mrs. Hummel questions regarding the Comprehensive Plan with relation to buildable areas. Mrs. Fred Hummel replied that the entire City of Brookings was a buildable area.

Mr. Wheeler questioned Mr. Combs regarding adequacy of the water system. Mr. Combs indicated he was aware of all the water and sewer problems in the area.

Mrs. Ross asked Mr. Hummel if there were any architectural standards for the City of Brookings. Mr. Hummel indicated that he objected to replacing natural beauty with man-made structures.

Mr. C.J. Brown asked Mr. Combs questions regarding construction on steep slopes. Mr. Combs referred to the Comprehensive Plan as his criteria for testimony.

Mr. Coutrakon indicated that each side would be given seven minutes for rebuttal testimony.

PROPONENT REBUTTAL:

Mr. John Thorpe of 96520 Aldridge Road stated that there would not be enough erosion to make any significant amount of shoaling in the river. He felt that it would be difficult to develop a park as stated by the opponents. The building site would be feasible since the buildings would be constructed on piling foundations and would not necessitate moving large amounts of earth. The only affect on the City would be the domestic sewage from the development as the water and sewer would be owned and maintained by the Homeowner's Association. He also stated that according to the Chetco River floodplain study none of the structures would be within the floodplain.

Gisela Joy stated that they had worked closely with the Army Corps of Engineers and other agencies and never had any adverse comments concerning the river bank. Also a large part of the opponents' testimony was based on personal opinion and not facts. Their burden of proof was demonstrated in the fact that there was a demand for this type of housing, and two recommendations to approve the project by the Planning Commission.

Mr. Jones stated that according to the population of the City there was only a small handful of citizens opposing the project.

OPPONENT REBUTTAL:

Mr. Hummel indicated that there was a significant amount of clearing being done on the project which he felt was detrimental to the community and in conflict with

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the Comprehensive Plan. He referred to the 179 letters of opposition were a sampling of opinion from the community, and closed his testimony by indicating that he again felt that the proponents had not sufficiently met the burden of proof requirement and requested that the City Council deny the zone change request.

Mr. Coutrakon then closed the public hearing and provided the opportunity for the City Council to ask questions. He indicated again that the decision was to be based upon compliance or non-compliance with the City Zoning Ordinance, Comprehensive Plan and relative LCDC Goals.

Councilman Nidiffer questioned the intent of the developers concerning the possibility of 34 units being placed on the property. Mrs. Joy explained that the opponents must have included the 23 units on the Smuggler's Cove project and the 11 units now being requested. They were proposing one property with 8 units and the other property with 3 units which would not be the maximum available under the RH zoning, but all that they desired to build. Councilman Nidiffer then stated that the developers had put additional units on the Smuggler's Cove property. Mrs. Joy stated that in 1977 they had made application and requested by handwritten letter to construct 18 units which was reduced at the first meeting to fifteen 2 and 3 bedroom units. There was a great demand for one bedroom units and at the 1978 meeting a set of plans was presented showing 23 units with the revised one bedroom floor plans. This did not actually increase the density of the structures on the property but only increased the number of units within that density. Mrs. Joy stated that it was in the minutes at that time when it was approved and the photograph published in the newspaper on September 26, 1978. Councilman Nidiffer stated that this zone change could allow for 32 units. Mrs. Joy stated that if the zone change was approved that they would stipulate that they would only build a total of 11 units.

Mayor Kerr stated that he had a copy of the Planning Commission minutes of August 2, 1977 and he read portions from those minutes which stated that "...the plan is for 15 individual units".... and the motion stated that "...they recommended to the City Council that they approve the zone change providing plans as presented are developed as shown". The Mayor stated that he was putting this into the record because we are being told that there weren't any changes. Mrs. Joy stated that she had given the reasons for the change and the changes were approved by the Planning Commission at the time. There was a time span of 18 months of that particular re-zone application. Mayor Kerr stated that this was presented to the Planning Commission and this is what they voted on, and it was presented to the City Council on December 13, 1977 and the minutes state"...that it would be a townhouse development with possibly 15 units"....and the motion stated "...that the Comprehensive Plan and Zone change be approved with the stipulation that it be in accordance with building and engineering department and Council review of the building permit". Mrs. Joy again explained her previous reasons for the change from 15 to 21 units and that everyone was aware of the change and it was approved and acceptable. Mayor Kerr stated that he was on the Council at the time it was presented and his vote was as presented and not as developed. Mrs. Joy stated that nothing was developed before it was approved. The Mayor stated that there had been changes and this could happen again.

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Mr. Bud Jones then showed the Council and audience all the drawings previously submitted and explained them. Mayor Kerr then asked the price range of the saleable units and Mr. Joy stated that the 8 unit piece of property would cost from \$65,000 to \$85,000, and the 3 unit piece of property would cost from \$250,000 to \$350,000. The Mayor then asked the price range of the units that were advertised for rent, and Mr. Joy stated that they would be rented for about \$400 a month. The Mayor then stated that he desired the price to acquire the affordable and adequate supply of housing for the local people.

Councilman Nidiffer stated that he was ready to make a motion but requested a recess to prepare a list of findings to support his motion.

The meeting was recessed at 11:45 p.m.

The Mayor reconvened the meeting at 12:17 a.m.

MOTION by Councilman Nidiffer, seconded by Councilman Geraghty that the Zoning Case Z-81-1 as submitted for change from R-L to R-H be denied based on the following findings: The applicant did not meet the burden of proof requirement because applicants' written statements and testimony did not state sufficient facts to support conclusions of compliance with the Comprehensive Plan and LCDC Goals stated thereon; and Resolution 213 requires a greater burden of proof than presented because the change requested is drastic in comparison to the expanse of the surrounding low density land use. I would further support my motion by adopting the findings submitted by Mr. Hummel and Mr. Combs this evening, excluding any superfluous language. Roll call vote: Councilman Nidiffer "yes"; Councilman Geraghty "yes"; Councilman Batty "yes" Councilman Lovejoy "no"; and Mayor Kerr did not vote.

IV. ADJOURNMENT

MOTION by Councilman Batty, seconded by Councilman Lovejoy that the meeting be adjourned. Motion carried unanimously.

The meeting was adjourned at 12:20 a.m.

This meeting is recorded on tape and is on file in the City Recorder's office.



Mayor Bob Kerr

ATTEST:



Naomi Bradfield, City Recorder

VOUCHERS PAYABLE
September 22, 1981

<u>VOUCHER #</u>	<u>CHECK #</u>	<u>VENDOR</u>	<u>AMOUNT</u>
1		Richard L. Blandau, M.D.	\$ 35.00
2		Baker & Taylor Company	6.88
3		Blue Star Gas - Northwest	443.90
4		Brookings Supply, Inc.	173.89
5		Brookings Firefighters Association	655.00
6		Brookings Sanitary Service	110.00
7		Goldia M. Brown	132.80
8		Gerald W. Burns	3,966.20
9		Crescent City Radio & Television	346.60
10		Cantel of Medford, Inc.	8.00
11		C.M.I., Inc.	43.39
12		Coos-Curry Electric Cooperative	1,944.20
13		Curry Coastal Pilot	18.50
14		Dan's Photography	52.33
15		Del-Cur Supply Co-op	19.85
16		Edison Record Clearance	13.44
17		The Everton Publishers, Inc.	37.85
18		Frank's Office Equipment	36.00
19		Warren Gay	10.55
20		General Telephone Company of the Northwest, Inc.	549.58
21		Greyhound Bus	13.30
22		H.G.E., Inc.	4,228.26
23		Hinds Supply Company	87.62
24		Leisure Press	8.00
25		Littrell Parts	26.40
26		M & K Restaurant	26.05
27		New Era Press	20.00
28		Northwest Trades School	400.00
29		Lloyd Olds	716.66
30		O'Neale Supply Co., Inc.	62.10
31		Oregonian Publishing Company	77.20
32		Pacific Waterworks Supply Co., Inc.	595.18
33		Paramount Pest Control, Inc.	17.00
34		Psychology Today	9.97
35		Ritz's Repair	39.00
36		South Coast Lumber Co.	275.75
37		Te-Cum-Tom Enterprises	4.45
38		Wall Street Journal	141.00
39		Wecco, Inc.	44.75
40		Western Fire Equipment	39.86
41		Wilson Tire Service	2,628.82

TOTAL \$ 18,065.33

The following bill was removed from payment:

Voucher No. 40

39.86

APPROVED FOR PAYMENT

\$ 18,025.47