

MINUTES
BROOKINGS COMMON COUNCIL
CITY OF BROOKINGS
RECESSED MEETING
May 14, 1980

The meeting was reconvened at 9:32 a.m. by Mayor Elmer Hitchcock.

I. ROLL CALL

Members present were: Darrel Allsup, Ralph Cheney and Roy Brimm.

Staff members present were: City Manager/Recorder Frank Freeman and Praecilla Pruitt Secretary.

II. PUBLIC HEARING

Request from Mr. Larry Anderson of Harris Beach Properties, Inc. to annex approximately 23 acres of property adjacent to the City Limits.

Larry Anderson stated that the preliminary plat was submitted in December of 1979 and he had gotten H.G.E.'s review. There would be 3 lots to the acre and it would cost \$175,000 to bring the water and sewer system to the property. An architect had been hired and within two months a presentation for Brookings first 23 acre planned unit development consisting of 2, 3 and 4 unit condominiums would be made. He had met with all the owners on the East Harris Heights Road and have worked up an agreement on the road situation. He was to provide a water loop on East Harris Heights Road which will serve 3 fire hydrants and also improvements on that road. The Mayor stated that there should be no commercial area allowed. Mr. Anderson stated that he would hook into the 6" water line that goes up to Parkview Drive with a 12" line and continue North to his property and would provide a large interim storage facility until Brookings water plan for the area is achieved. There would be a 60,000 gallon storage tank plus a water booster pump above 230' elevation which would meet the Brookings Master Water Plan. He stated that he would be spending about a quarter of a million dollars on the utilities and was requesting for a reimbursement hookup at a future date from potential neighbors and/or future subdivision sites in that area. After discussion it was the consensus of the Council that Mr. Anderson should have his attorney draw up an agreement which is satisfactory with the Council so that he can go ahead and put in improvements and when other people tie in they will be required to reimburse Mr. Anderson for their portion of the cost and present it to the Council at a later date.

MOTION by Councilman Allsup, seconded by Councilman Cheney that we accept the annexation into the City of Brookings. Motion carried unanimously.

MOTION by Councilman Cheney, seconded by Councilman Brimm that we instruct Mr. Anderson to have his attorney draw up an agreement with the City to reimburse Mr. Anderson for anyone hooking on to his utilities for their proportion and that this agreement be brought from the Attorney to the City Council for approval. Motion carried unanimously.

III. CITY MANAGER'S REPORTS

Council approval of additional new road names in the Brookings area.

MOTION by Councilman Brimm, seconded by Councilman Allsup that we give approval on the road names. Motion carried unanimously.

Mr. Freeman informed the Council that Mr. Gerald Ross was unable to be present and he would be placed on the next Agenda.

IV. COMMUNICATIONS

Terry Hodges had asked for Council approval to utilize the Little League Field for a class reunion with beer to be on the premises. The Council denied the request.

MOTION by Councilman Cheney, seconded by Councilman Brimm that we approve Liquor License renewal for the Flying Gull Restaurant and Innfield Restaurant. Motion carried unanimously.

V. LEGISLATIVE

1. John Spicer informed the Council that on the North Brookings Sewer District the bond issue date was set for July 1, 1980. The call for bids would be on June 11, 1980. At this time they have spent \$16,000 on interim financing and by July 2, 1980 \$22,000. The cost is about \$1,000 a week for interim financing. There was \$14,000 budgeted on interim financing and a \$10,000 contingency fund. It is being run on the assessment roll. He also informed the Council that there was a considerable amount of money that had not been paid, or had been applied for Bancrofting. He desired to get permission from the Council to start foreclosure proceedings to make sure that the money is obtained.

MOTION by Councilman Brimm, seconded by Councilman Cheney that Attorney Spicer be given authority to foreclose. Motion carried unanimously.

2. Mr. Freeman informed the Council that the City owned property on Wharf Street and the assessment on the Wharf Street Improvement Project was \$2,801.00.

MOTION by Councilman Cheney, seconded by Councilman Allsup that we pay the assessment in the amount of \$2,801.00. Motion carried unanimously.

3. Mr. Freeman informed the Council that Scoggins Accounting and Berry Scruggs were both present for the purpose of bringing our accounts up to date for the fiscal year. He felt that they would need to work as bookkeepers and not as auditors. Rex Scoggins stated that he had four accountants in the office and could put three men on the job on Monday until the job is completed. The cost would be between \$30 to \$35 per hour per man. Berry Scruggs requested that the due date be postponed until July 15 or 30th as he did not feel he would have sufficient time to complete the job in 90 man days. Mr. Scruggs stated that he worked with Jerry Burns, a municipal auditor in the valley and also had access to a former City Recorder, George Hyatt who could work half days. Mr. Freeman informed the Council that Mr. Fietz of Yergen & Meyer had proposed that the City work 4 or 5 hours per day coding and batching and send it up to their computer and they would process it and provide the City with the detailed transaction, and would also furnish four days of training prior to this. The approximate total cost would be about \$10,000. Councilman Allsup suggested that the two accounting firms join forces and work together. Mr. Scoggins stated that this was an emergency job and he had his method of operations and did not feel that it would work out well.

MOTION by Councilman Cheney, seconded by Councilman Brimm that since this is a matter of real importance and also extreme emergency that we hire Rex Scoggins to do the bookkeeping job for the City to began on Monday, May 19, 1980.

After discussion the motion carried unanimously.

Minutes - Page 3
Brookings Common Council
Recessed Meeting
May 14, 1980

4. Resolutions No. 245, 246, 247, 248 and 249 were read in their entirety.

MOTION by Councilman Cheney, seconded by Councilman Earle that we adopt Resolution No. 245, 246, 247, 248 and 249. Motion carried unanimously.

5. The Council gave permission to allow Robert Babb to go to Portland to pick up a new Police car.

VI. PAYMENT OF VOUCHERS

MOTION by Councilman Allsup to pay the vouchers.

Councilman Cheney suggested that there be added to the motion that the grocery bill at Sentry Market be cut down to a minimum or at the next meeting he would make a motion to cancel that account. It was decided that they would wait until the July Council meeting to make any motion. The motion to pay the vouchers was seconded by Councilman Cheney and carried unanimously.

VII. OTHER BUSINESS

1. MOTION by Councilman Allsup, seconded by Councilman Brimm that the thirty day clause be waived as Councilman Cheney will be out of the City. Motion carried unanimously.

It was the consensus of the Council that Councilman Allsup and Cheney would take over each of their supervisory jobs while they were absent.

2. MOTION by Councilman Brimm, seconded by Councilman Allsup that the Council meeting would be held on the ~~second~~ Tuesday and the last Wednesday of each month. Motion carried unanimously.

The new meeting date would become effective in June.

3. There was discussion concerning more than one trailer on a water meter as there were some property owners getting ready to be hooked up. The City Manager informed the Council that it must be done by a rate change and an ordinance was to be drawn up by the City Attorney. It would be a rate change for everything that is not in existence. It was decided that the owners should be notified by registered mail and that Cecil Smith should be the person to report any problems.

4. Councilman Allsup informed the Council that Peggy Gould had stated that the City had put in a sewer connection and had not backfilled and put in the asphalt properly. She was asking for an overlay and Councilman Allsup stated he would get an estimate from Tidewater and bring it to the City Manager to be brought up at the next Council meeting to be acted upon.

MOTION by Councilman Cheney, seconded by Councilman Allsup that the meeting be adjourned.

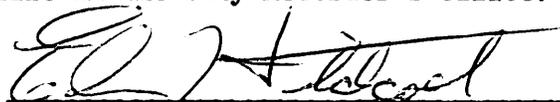
The meeting was adjourned at 11:43 a.m.

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

ATTEST:

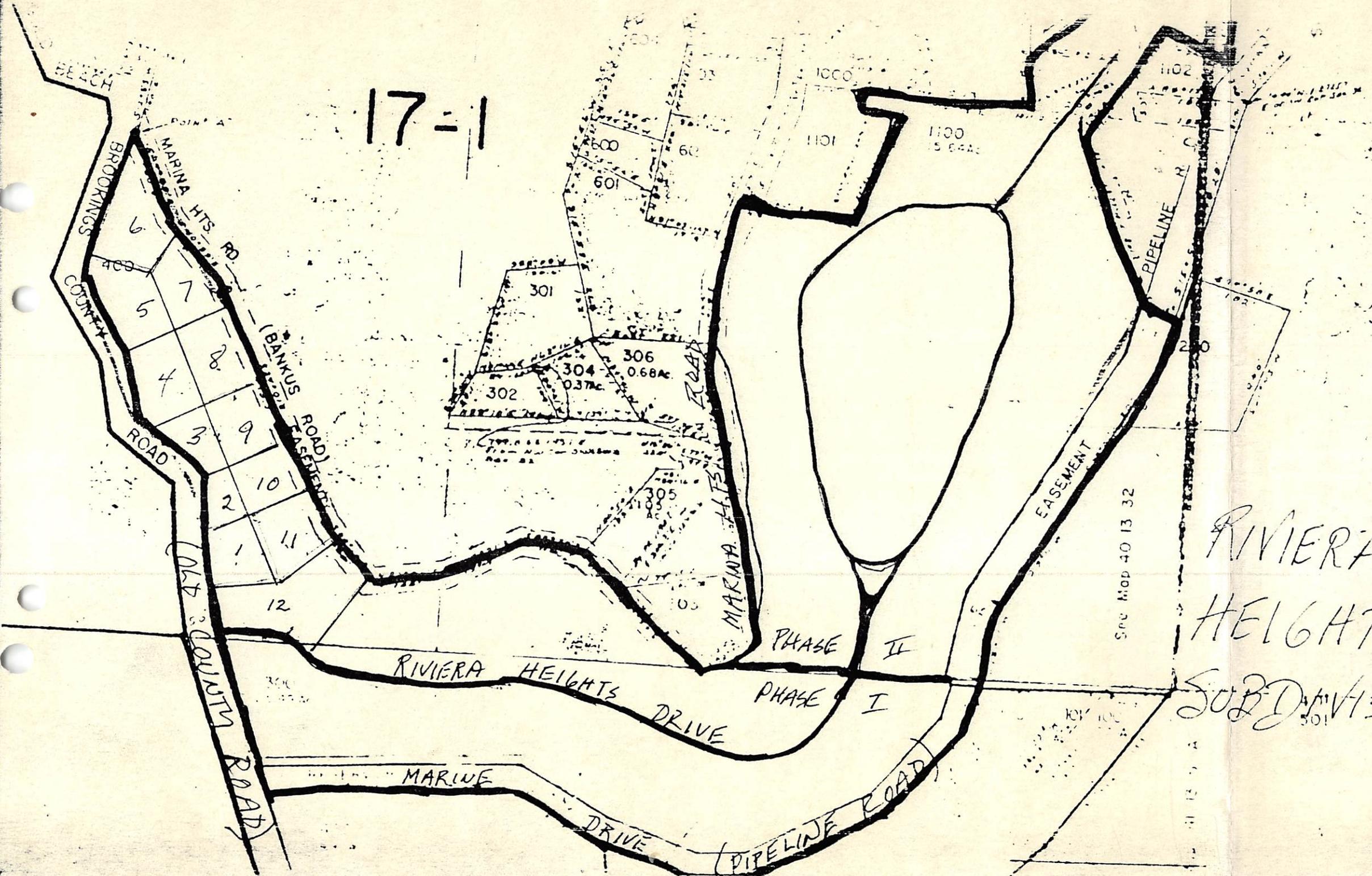


R. J. Earle
Pro Tem Mayor



MAYOR

17-1



Spec Mod 40 13 32

RIVIERA
HEIGHTS
SUBDIVISION

TO: Mayor and Council of the City of Brookings

BY: Philip L. Nelson, Balderree, Killoran, Nelson & Freudenberg,
Attorneys at Law, Grants Pass, Oregon

RE: Riviera Heights Subdivision Appeal
From Requirements of Planning Commission
Approved at Meeting of April 17, 1980

DATE: April 24, 1980

Dear Mayor and Council Members:

Attached at Exhibit "A" and incorporated herein by this reference is a letter from HGE Inc./Engineers & Planners, serving as City Engineer for the City of Brookings. The letter is dated March 21, 1980, is addressed to the building official, Marshall Ferg, and contains numerous conditions for the subdivision. The Planning Commission, at its April 17 meeting approved these conditions set forth in Exhibit "A" as conditions for the subdivision, made modifications to those conditions, and imposed other conditions. The developer is by this memorandum bringing an appeal to the City Council pursuant to Section 9.010 of Ordinance No. 325, the Subdivision Ordinance, to reverse or modify several of the aforesaid conditions imposed on the development by the Planning Commission.

For ease of reference, the conditions contained in the letter at Exhibit "A" are referred to herein as "Streets #'s 1 through 4" (i.e. Street #1, and so on); "Storm Drainage #'s 1 through 3"; "Water System #'s 1 through 4; "Sewer #'s 1 through 3"; and "Erosion Control".

The developer is not appealing those conditions set forth in Exhibit "A" hereto as follows: Streets #'s 1 and 4; Storm Drainage #3; Water System #'s 1, 2, 3 and 4; Sewer #'s 1, 2 and 3; and Erosion Control.

The Planning Commission's conditions were ten in number, as follows:

1. Regarding Water System #1, on Exhibit "A" hereto, the Planning Commission approved the condition only insofar as it affected Phase I of the subdivision.

2. In regard to Condition Streets #2 at Exhibit "A", the Planning Commission required a street to be built in the subdivision, known as Riviera Heights Drive, to be 34 feet in width and to have a four-foot wide sidewalk on one side of it.

3. In regard to Storm Drainage #1 at Exhibit "A" hereto, the Planning Commission required a culvert of 18 inches.

4. In regard to Storm Drainage #3, the Planning Commission required the runoff water be taken from the property under ground, a condition the developer is not appealing.

5. The Planning Commission required a title search be made by the developer regarding the title to Marine Drive, also known as Pipeline Road, which condition the developer herein does not appeal to the City Council.

6. The Planning Commission required that the developer perform no further construction on the road, presumably Marine Drive, until the City Council approves the preliminary plat of the subdivision.

7. The Planning Commission required that the City Council, apparently, not approve the preliminary plat until Marine Drive, also known as Pipeline Road, is deeded to the City of Brookings by the developer.

8. In accordance with the first sentence in condition Streets #3, at Exhibit "A" hereto, the Planning Commission required that the developer improve half of Old County Road and Marina Heights Drive to the limits of property frontage. This apparently means that where the subdivision borders Old County Road and Marina Heights Drive that one-half of the street is to be improved.

9. The Planning Commission required a geologist's report regarding the type of soil in the subdivision.

10. The Planning Commission accepted the recommendations of the City Engineer as expressed in Exhibit "A" hereto. (Apparently this approval would be subject to Exhibit "A" as modified by the other conditions set forth hereinabove which the Planning Commission imposed upon the developer.)

The appeal herein from the requirements of the Planning Commission imposed upon the development of the subdivision is as follows:

A. STREET WIDTH AND SIDEWALK:

1. In regard to condition Streets #2, which the Planning Commission in its Condition #2 amended to be a 34-foot street with a four-foot sidewalk on one side of the street, the street being that proposed within the subdivision and known as Riviera Heights Drive, the developer is in agreement that the City Engineer's recommendation of a 28-foot wide street, from the face of curb to face of curb, would be appropriate. As stated in Exhibit "A", this would provide two ten-foot travel lanes and an eight-foot parking lane on one side. Pursuant to Section 7.010(1) of the City's Subdivision Ordinance, Ordinance #325, "The location, width, and grade of streets shall be considered in their relation to... topographical conditions, public convenience and safety, and the proposed use of the land to be served by the streets." The developer believes the foregoing factors are met with a 28-

foot wide street, that is, first, the steep topography of the site if the street is wider than 28 feet will require extensive cuts and fills and perhaps slope easements, detrimentally affecting the usefulness of the lots in the subdivision for residential purposes, and secondly that public convenience and safety are met with a 28-foot wide street, and thirdly that the proposed use of the land to be served by the streets as residential properties is compatible with the 28-foot wide street.

2. The developer not only appeals from the requirement of the Planning Commission that the street have a 34-foot width, but also appeals from the requirement of a four-foot sidewalk. The developer agrees with the City Engineer that a sidewalk is questionable in regard to its usefulness and further asks that either a variance from the requirements of Section 7.080 of the Subdivision Ordinance be granted pursuant to Section 8.020, et seq, of the Subdivision Ordinance, or, in the alternative, that a requirement for a sidewalk not be imposed pursuant to the authority contained in Section 8.010 of the Subdivision Ordinance. Section 8.010 provides for modification from the standard requirements of the Ordinance "If the subdivision plat comprises a complete neighborhood unit" and if it is determined such modification or exception is not detrimental to the public health, safety and welfare and that adequate provision has been made in the development for traffic circulation. The developer believes the sidewalk is not necessary for the public or for traffic circulation in the subdivision.

B. IMPROVING ONE-HALF OF OLD COUNTY ROAD AND MARINA HEIGHTS DRIVE:

1. In regard to condition Streets #3 at Exhibit "A", the first sentence of which has been approved by the Planning Commission in its Condition #8, hereinabove, that "The developer should be required to improve half of the Old County Road and Marina Heights Drive to limits of property frontage", the developer brings an appeal. This appeal from this requirement is to modify the requirement so that only those sections of the aforesaid street should be so improved in one-half thereof for those lots which will use either of the aforesaid streets for access. Such lots appear to be lots numbered 1 through 11 at a maximum (as shown on the attached map) and none of the other lots in any part of the subdivision would be served by the Old County Road or Marina Heights Drive. The imposition of considerable additional expense upon the other lots adjacent to Marina Heights Drive, or upon all other lots throughout the entire remainder of the subdivision, does not appear to be protective of the public welfare pursuant to Section 1.010 of the Subdivision Ordinance since such lots would have additional cost attributed to them for improvement

of a street which does not serve the lots. The City of Brookings Public Improvements Ordinance, Ordinance #146, sets forth in Section 5 that assessments upon property are to be consistent with the benefits derived and to be just and reasonable between the properties to be determined to be specially benefitted. The developer does not believe that other than for the lots specifically enumerated above that there is any special benefit to the remaining lots of the subdivision whether or not the same border Old County Road or Marina Heights Drive. The developer, if it is going to be improving Old County Road, would do that from its intersection with Riviera Heights Drive in a northerly direction to the intersection of Old County Road with Marina Heights Drive and then around to lot 11. What the developer would like to do would be to prepare the slopes to the streets, install curb and gutter, and then patch in this to the existing street until complete street development can be installed. (The developer desires to reserve the right to amend its determination concerning what lots would best have access from Old County Road and Marina Heights Drive and desires not to be irrevocably committed in this letter of appeal for the purposes of the appeal brought herein to the enumeration of Lots #1 through #11 as being the only lots served by the said streets.) Other than for the enumerated lots along said streets, the special benefit appears to be to third parties' lots and properties across Old County Road and Marina Heights Drive from the subdivision.

2. The developer has no objection to a minimum width of 28 feet between the face of the curb nor to the improvement of the street through the use of a public improvement district which would result in assessment being levied against the lots that will directly benefit from the street improvement, that is, Lots #1 through #11, and perhaps Lot #12. It may be advisable to simply construct an improved Old County Road and Marina Heights Road from the intersection of Riviera Heights Drive along Old County Road to Marina Heights Drive and then up Marina Heights Drive through Lot #11 of the subdivision.

C. DEEDING RIGHT OF WAY: In regard to Condition Street #4, on Exhibit "A", the developer has no objection to the condition as set forth therein but does have an objection to the condition of the Planning Commission, Condition #7 hereinabove, that states that the City Council is not to approve the preliminary plat until Pipeline Road (i.e. Marine Drive) is deeded to the City. Preliminary plat approval is given by the Planning Commission pursuant to Section 2.050(2), and not by the City Council, and this requirement of the Planning Commission is appealed from since the same is not in accordance with the Subdivision Ordinance.

The developer prefers to comply with Condition Streets #4, of Exhibit "A", in which such deeding is to be done prior to approval of the final plat for the subdivision.

D. LARGER CULVERTS: Condition Storm Drainage #1, of Exhibit "A", has been modified by Condition #3 of the Planning Commission to require 18-inch culverts down Old County Road to replace existing eight and twelve inch culverts. The developer appeals this requirement as set forth in Exhibit "A" and as modified by Planning Commission Requirement #3 if legal research shows that the developer does not have responsibility to increase the size of culverts in order to accommodate water coming from the subdivision property. If the developer does not have such legal responsibility, the developer feels that those properties adjoining the flow of water through existing culverts should bear responsibility for any costs involved in installing any larger culverts.

E. ADDED STORM DRAINS: The developer appeals from the requirement of Condition Storm Drainage #2 in Exhibit "A" since the same requires an additional storm drain system or systems draining the 1600 lineal feet of Riviera Heights Drive (the street within the subdivision) and also Marina Heights Drive, with the condition setting a maximum spacing of 500 feet between catch basins. The developer desires to study this subject since the developer's engineer feels it may be adequate to allow such streets to be drained at the sides thereof, through gutters and the like. The developer's engineer desires to discuss this matter with the City Engineer to see if adequate drainage could not be provided on the surface at the sides of the streets as aforesaid. The developer's engineer estimates the cost of installing 1100 feet of storm drainage to drain just the 1600 lineal feet of Marina Heights Drive would be approximately \$30,000.00 and the developer feels it would not be protective of the public welfare to install any such drainage system, if not required by engineering studies, since such expense would raise the price of the lots in the subdivision in order to pay the additional expense for the drainage system. It should be noted that the same general drainage conditions exist on Marine Drive, also known as Pipeline Road, as should exist on Riviera Heights Drive, and water is removed adequately along the side of Marine Drive without the installation of below-surface drainage systems.

F. WATER SYSTEM: In regard to Condition Water System #1, at Exhibit "A", the same was modified by Planning Commission Condition #1 to approve said Condition Water System #1 only insofar as the same pertains to Phase I of the subdivision. The developer appeals this condition of the Planning Commission,

Condition #1, and desires to restore Condition Water System #1 to the form in which it is found in Exhibit "A". The developer believes that Condition Water System #1 provides a complete plan for both phases of the subdivision and said plan should be established as a condition of the subdivision at this time rather than having the plan divided into two elements, one regarding Phase I and another regarding Phase II. The developer believes pursuant to Section 1.010 of the Subdivision Ordinance that by approving the water system for both phases will assure an adequate water supply and protect the public health.

G. WORK ON ROAD: The developer appeals from Planning Commission Condition #6 hereinabove that no further construction be done by the developer on the road, presumably Marine Drive (also known as Pipeline Road) until the City Council approves the preliminary plat of the subdivision. Preliminary plat approval is granted by the Planning Commission pursuant to Section 2.050(2) of the Subdivision Ordinance and not by the City Council and this condition of the Planning Commission does not appear to be in accordance with the aforesaid provision of the Subdivision Ordinance. The developer does not desire to be precluded from said further construction on the road, including proper sloping and clearing along the road, until it has dedeed its interest in the road to the City of Brookings.

H. GEOLOGIST'S REPORT: The Planning Commission required a geologist's report on the subdivision property but no reason was given for the report. There was no testimony by any engineer or other party showing a need for any such report and the developer appeals this condition since it appears to be an arbitrary condition imposing an additional expense upon the development of the property. There are no slides, incidentally, taking place on the property to be developed which would evidence the need for a geologist's report.

I. CITY ENGINEER'S LETTER: Insofar as Condition #10 of the Planning Commission means that the Planning Commission accepts the rest of City Engineer's recommendations as set forth in Exhibit "A", as modified by applicable Conditions #1 through #10 of the Planning Commission, the developer does not appeal said Condition #10 ~~except insofar as the developer has otherwise appealed~~ the City Engineer's Conditions as set forth hereinabove in the lettered subparagraphs of this letter and as the developer has in such fashion appealed other Conditions of the Planning Commission modifying the City Engineer's recommended Conditions.

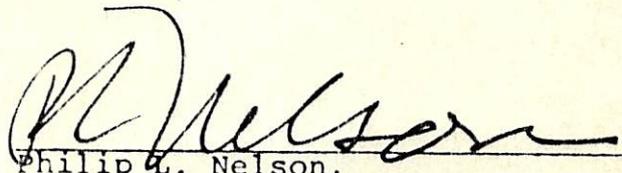
* * * * *

NEIGHBORHOOD UNIT PURSUANT TO
SECTION 8.010 OF SUBDIVISION ORDINANCE

In regard to the various conditions to be applied to Riviera Heights Subdivision, the developer asks that reference be made to Section 8.010 of the Subdivision Ordinance which states that the standards and requirements of the ordinance may be modified "if the subdivision plat comprises a complete neighborhood unit." It appears that Riviera Heights Subdivision, which is almost 30 acres in size, is a "complete neighborhood unit" and because of this it would be appropriate for the City Council to exercise its power under Section 8.010 of the Subdivision Ordinance to act with flexibility in the imposition of conditions upon the subdivision development.

As stated in Section 8.010, modifications may be made to the standards and requirements of the ordinance so long as "such modifications are not detrimental to the public health, safety and welfare and adequate provision is made within the development for traffic circulation, open space, and other features that may be required in the public interest."

The developer asks that in its consideration of the matters brought forth in this appeal that the City Council remain flexible in its imposition of conditions upon the development, due to the development's scope, in order to best serve the interests of the general public and that part of the public which is going to live in Riviera Heights Subdivision.


Philip L. Nelson,
Of Attorneys for Harris Miller, Inc.