

REGULAR MEETING - PLANNING COMMISSION
CITY OF BROOKINGS
October 2, 1973

Chairman C. William Landis called the meeting to order at 7:30 p.m. Present were Commissioners Gladys Kanick, Les Curtiss, Carl Rust, and Mayor Wilma M. Kemp. Those absent were Commissioners Shirley Earle, Earl Breuer, and Henry Itzen.

APPROVAL OF MINUTES:

MOTION by Commissioner Kanick, seconded by Commissioner Rust and carried unanimously that minutes of regular meeting September 4, 1973, be approved as mailed.

BUILDING REPORT:

The following report for the month of September 1973 was summarized by Building Inspector Charles C. Williams.

	<u>Permit No.</u>	<u>Value</u>	<u>Fee</u>
Residential:			
Connie W. Potter	1924	\$19,224.00	\$71.00
Additions, Alterations and Conversions:			
R. F. Beck	1922	500.00	5.00
Rebecca Banick (Storage Shed)	1923	1,000.00	10.00
David W. Wilson (Slab)	1925	<u>350.00</u>	<u>5.00</u>
		1,850.00	20.00
Plumbing Permits			
	0449		7.00
	0450		8.00
	0451		6.00
	0452		6.00
	0453		8.00
	0454		6.00
	0456		13.00
	0457		<u>13.00</u>
			67.00
September 1973:			
4 Permits Issued		\$21,074.00	
Fees		91.00	
Plmbg. Fees		67.00	
September 1972:			
6 Permits Issued		\$17,228.00	
Fees			105.00

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LEGISLATIVE ACTION:

1. APPLICATION SUBMITTED BY F. G. CREMAROSA DBA
M & F BUILDING CO. FOR VARIANCE ON TAX LOT 501,
MAP 41-13-6BB IN VAN DUZEE SUBDIVISION.

After discussion, MOTION was made by Commissioner Kanick, seconded by Commissioner Rust and carried unanimously that application for variance in setback on Tax Lot 501, Map 41-13-6BB, submitted by F. G. Cremarosa, be approved.

2. APPLICATION BY MRS. LOIS K. UPP DBA LE CHARME BEAUTY
SALON FOR AMENDMENT TO ZONING ORDINANCE TO CHANGE
TAX LOT 1401, MAP 41-13-5B, 302 LUNDEEN LANE, FROM
RL TO CG ZONE.

After discussion, MOTION was made by Commissioner Curtiss, seconded by Commissioner Rust and carried unanimously that application by Mrs. Lois K. Upp for amendment to zoning ordinance to change Tax Lot 1401, Map 41-13-5B, 302 Lundeen Lane, from RL to CG zone be denied.

3. APPLICATION BY FRANK M. AND GLADYS J. CEMPELLIN FOR
AMENDMENT TO ZONING ORDINANCE TO CHANGE TAX LOT 300
MAP 41-13-6CD, ON BEACHFRONT AT END OF MILL BEACH
ROAD, FROM RL TO RH ZONE TO ALLOW FOR CONSTRUCTION
OF MULTI-FAMILY DWELLINGS.

Some property owners within 250 feet of the Cembellin property were heard.

Mr. & Mrs. C. D. Allen indicated part of their driveway was on the plot plan and they wanted it removed. Mr. Howard Newhouse, County Surveyor, said it was not shown as belonging to the Cembellins. Mrs. Kinser stated that as a result of bulldozing done on Cembellin property slide had been caused and blocked off some portion of trail leading to beach. Mr. Newhouse said it was not the intention of Mr. Cembellin to block off passage to the beach, although he did own to the high tide line. Mrs. Kinser was also concerned about structures so near the beach. She was of the opinion it would be a detraction rather than an asset to the surrounding area.

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Mill Beach Road, access to property, was not considered by residents living in the area now, as a road which could bear more traffic, in fact, the road is not wide enough for two vehicles in some places. Mr. Newhouse pointed out that a sewage pumping station would be required prior to the development and according to engineer, would be located on the lower level of Cembellin property, pumping up sewer mains to be installed up Mill Beach Road. At that time Mill Beach Road would probably be brought up to standards if the owners, those granted access, and the City could agree. Mr. Newhouse informed the audience that Mill Beach Road is now a public easement.

After much discussion MOTION was made by Commissioner Rust, seconded by Commissioner Kanick and carried unanimously that at this time the application by Frank M. and Gladys J. Cembellin for amendment to zoning ordinance to change that portion of Tax Lot 300, Map 41-13-6CD, not including Zwagg Rock Acres Subdivision, from RL to RH zone, be denied.

OTHER MATTERS:

BORGE JENSEN, owner of Tax Lots 1100, 1200, and 1300, Map 41-13-6BA, located on Ransom Ave. at Second Street, asked permission to give twelve feet off of his Tax Lots 1200 and 1300 to increase present easement of eight feet to twenty feet in width for adequate access to his Tax Lot 1100. His request was accompanied by drawing, copy of which is made a part of these minutes.

Commissioner Kanick made MOTION that Mr. Jensen be granted permission to give twelve feet from his Tax Lots 1200 and 1300 to increase present eight foot easement to twenty feet. Motion seconded by Commissioner Curtiss and carried unanimously.

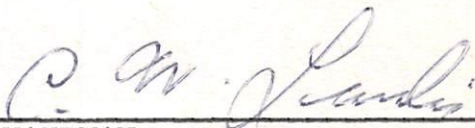
Chairman Landis read September 10, 1973 letter from attorney for LEISURE LIVING BY THE SEA, INC., Mark P. O'Donnell. This letter asked certain questions regarding the Planning Commission's action in regard to a 24 x 60 dwelling MR. PAUL MC CONNELL purchased to place on property he owns on Ransom Ave. Said letter is made a part of these minutes. The 24 x 60 foot

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dwelling did not meet with requirement of Uniform Building Code as adopted by the City of Brookings. A letter will be written to Mr. O'Donnell advising him of the action by the Planning Commission and he will also be advised that his question regarding the revoking of a building permit issued to Mr. Paul McConnell will be referred to the City Council.

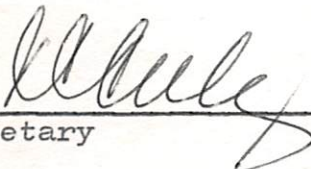
ADJOURNMENT:

Chairman Landis adjourned the meeting at 9:15 p.m.



CHAIRMAN

ATTEST:



Secretary

October 3, 1973

Mr. Mark P. O'Donnell
Attorney at Law
Suite 102
2187 S. W. Main Street
Portland, Oregon 97205

Re: Your letter September 10, 1973 re Mr. Paul McConnell
and Leisure Living by the Sea, Inc., Bandon, Oregon

Dear Sir:

The 24 x 60 dwelling referred to in your letter will not meet the Uniform Building Code as adopted by the City of Brookings. It therefore cannot be placed on the lot in question.

The authority to revoke a building permit is not vested in the Planning Commission. Therefore your request for written confirmation as to status of Permit #1861 is being referred to the City Council.

Very truly yours,

C. William Landis, Chairman
Planning Commission

cc

cc: Mr. Paul McConnell
Mr. Tom Campbell
Mr. Cameron C. Thom, City Attorney

MARK P. O'DONNELL

ATTORNEY AT LAW

SUITE 102

2187 S. W. MAIN STREET

PORTLAND, OREGON 97205

AREA CODE 503
TELEPHONE 228-4375

September 10, 1973

Planning Commission
City of Brookings
City Hall
Brookings, Oregon 97415

Gentlemen:

On January 30, 1973, Paul McConnell paid \$77 to the city of Brookings and was issued a building permit to locate a 24x60 dwelling within the city. Mr. McConnell's address is 832 Ransom.

Subsequently, the permit was "not honored" as it was concluded by Charles Williams, building inspector, that the 24x60 dwelling was a mobile home.

On June 20, 1973, I made application for Mr. McConnell for a variance from the state plumbing code requirement for venting. After two hearings, your planning commission apparently rejected the variance application.

I have been retained by Leisure Living by the Sea, Inc., of Bandon, Oregon, to protect their interest in this matter. The 24x60 dwelling is a single family dwelling which is a use permitted by the zoning of Mr. McConnell's property. Your zoning ordinance defines "dwelling, single-family" as "a detached building, other than a trailer house designed for and occupied by not more than one family." (emphasis added) Your zoning ordinance defined "building" as "a structure built for the support, shelter, or enclosure of persons, animals, chattels or property of any kind." Mr. McConnell's 24x60 dwelling, which my client sold to him, is a single family dwelling and is not a trailer house.

Section 5070 of your ordinance does not prohibit the use of this dwelling on Mr. McConnell's property.

Mr. McConnell has now requested that my client refund his money to him as the city of Brookings will not permit him to locate this 24x60 dwelling on his property. Before my client can do this, we

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would appreciate written confirmation that the city council has revoked building permit number 1861 and will not allow Mr. McConnell to place this 24x60 dwelling on his property. In discussing this matter with your legal counsel, who is receiving a copy of this letter, I would ask both you and him to consider the following factors:

- (a) The city of Brookings is listed as having a serious housing problem (Oregon Statewide Housing Element, p. 72);
- (b) State v Work, 449 P.2d 806 (1969); City of Salem v. Trussell, Or. App. 474 P.2d 371 (1970);
- (c) Mr. McConnell's dwelling will be taxed in the same manner as any home (ORS 308.865);
- (d) Mr. McConnell's dwelling bears an insignia as required by ORS 446.185 and as interpreted in Attorney General's Opinion No. 6825 of May 4, 1971.

My client has instructed me to advise you that if the building permit is not honored and/or Mr. McConnell is not allowed to place his dwelling at the above address, then I have been instructed to file an action for the tort of interference with a contractual relationship. I hope you will request an opinion from your counsel. Should you seek any further information, please do not hesitate to contact me.

Very truly yours,



Mark P. O'Donnell
Attorney at Law

MPO:ge

cc: Mr. Tom Campbell
Mr. Paul McConnell
Mr. Cameron Thom

MARK P. O'DONNELL

ATTORNEY AT LAW

SUITE 102

2187 S. W. MAIN STREET

PORTLAND, OREGON 97205



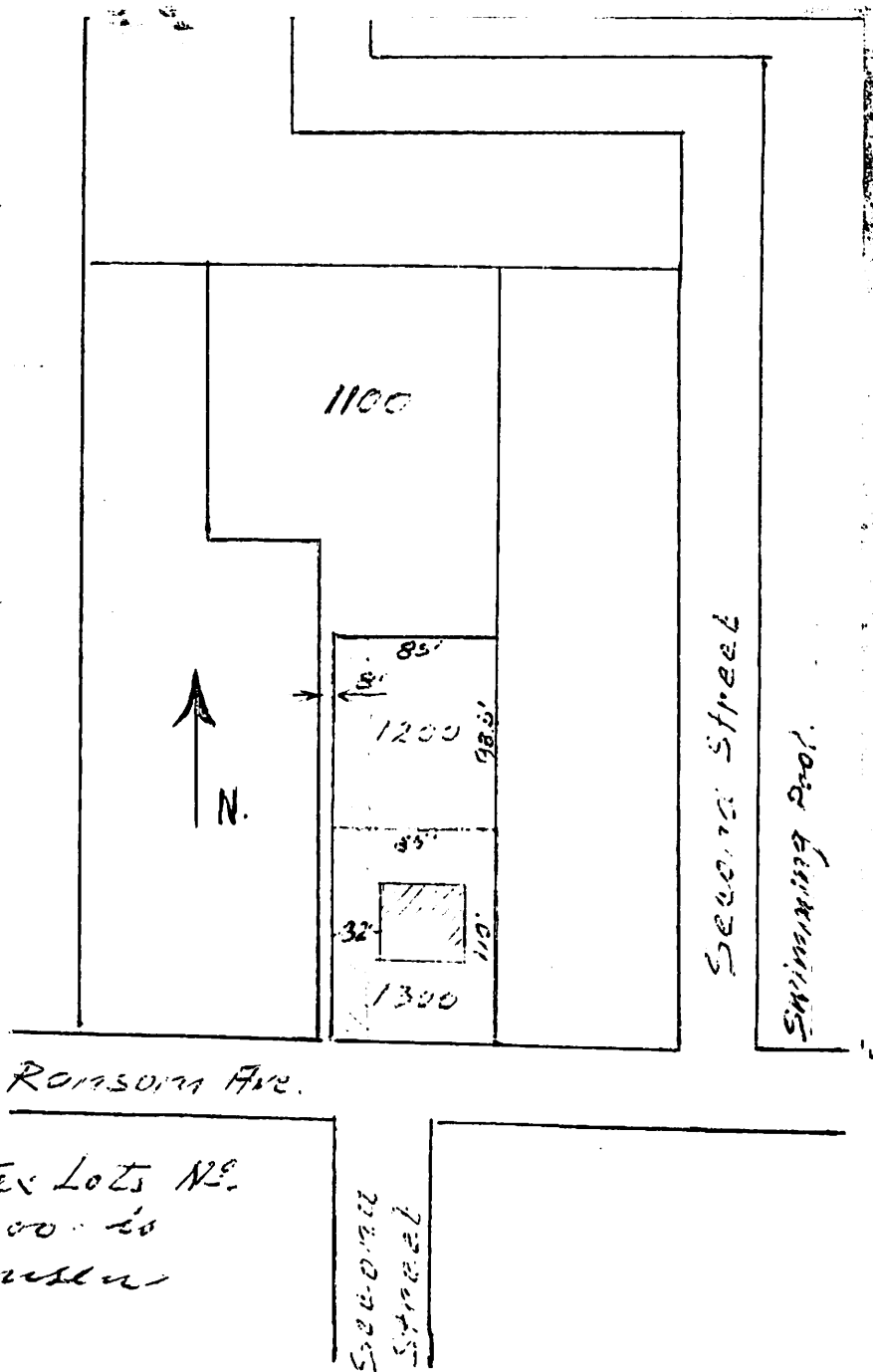
McConnell
9 4639

Planning Commission
City of Brookings
City Hall
Brookings, Oregon 97415

Legal description.
 41-13-6 - BA Brookings.
 NE 1/4 - NW 1/4 Sec. 6
 T. 41S - R. 13 W. 1/4
 Curry County.
 Oregon.

Plot Plan
no scale

OK BY permission
 16-0-1973
 D. W. Jensen
 Chairman



Owner of Tax Lots NE.
 1100 - 1200 - 1300 - is
 Borge Jensen

Request to widen 8' right of way
 to become a 12' + 8' = 20' right
of way by deducting 12' strip from
 Tax Lot NE 1300 - 1200 owned by me.
 and added to the 8' R.O.W.

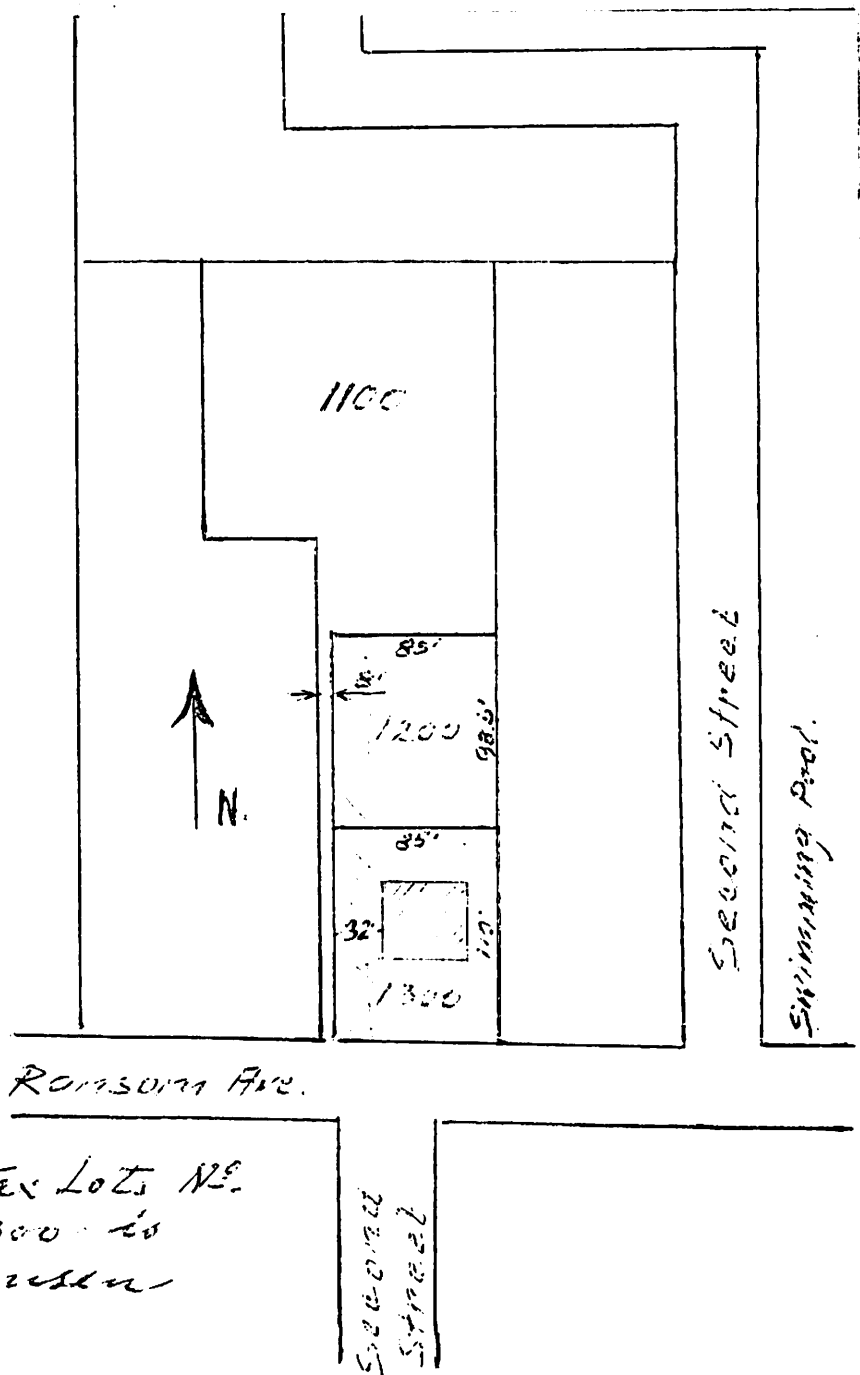
Please consider.

Borge Jensen

Legal description.
 41-13-6 - BA Brookings.
 NE 1/4 - NW 1/4 Sec. 6
 T41S - R13E - PMM
 Curry County
 Oregon

Plot Plan
no scale

OK BY *perman*
 comm. 10-2-73
Don Jansen *Chairman*



Owner of Tax Lots No.
 1100 - 1200 - 1300 is
Borge Jansen

Request to widen 8' right of way
 to become a $12' + 8' = 20'$ right
of way by deducting 12' strip from
 Tax Lot No 1300 - 1200 owned by me.
 and added to the 8' - B.T.

Please consider

Borge Jansen