

MINUTES  
REGULAR PLANNING COMMISSION MEETING  
CITY OF BROOKINGS  
JULY 25, 1978

CALL TO ORDER:

Meeting called to order at 7:40 p.m. by Chairman Earl Breuer.

INVOCATION:

By Chairman Breuer.

ROLL CALL:

Those Commissioners answering Roll Call were: Jean Hagen, Mary Jane Brimm, Ralph Renn, and William Robinson.

Chairman Breuer introduced Building Official Wendell Bartholomew, Cora Cooley, Secretary, Suzie James, Cliff Shaw, a member of the engineering staff engaged by the City to do some engineering work, and Larry Jaffe from Brookings-Harbor Pilot.

APPROVAL OF MINUTES:

MOTION by Commissioner Brimm, second by Commissioner Renn, that minutes of June 27, 1978 meeting be approved as presented. Carried unanimously.

WELCOME TO VISITORS:

Chairman Breuer welcomed the audience which consisted of twenty persons.

PUBLIC HEARINGS:

1. APPLICATION CU-78-3 BY BROOKINGS HARBOR CHRISTIAN CHURCH FOR CONDITIONAL USE PERMIT TO BUILD CHURCH ON TAX LOT 1406, MAP 41-13-6AB, 777 - 5th STREET, ZONED RM.

This request for conditional use is for the erection and to conduct services in a church by the Brookings Harbor Church group, and is necessary because of the zoning in this particular area which is RM, residential medium. Churches are one of the listed permitted occupancies listed in an RM zone. It is certainly within the scope of the ordinance according to Building Official Bartholomew who also stated all papers pertaining to this request were in order and that no responses had been received by mail as a result of the notice mailed to each owner within 250 feet of property.

Neil Ziese, Minister of the Church, introduced himself to speak for proponent.

When Chairman called for opponents, Marvin Pope and Walt Lovejoy, (who also spoke for Bob Peterson), were concerned about the drainage caused by any structure being built across the street from where their residences are. They said the present drainage problem will be increased considerably with the construction of any buildings at that site and the drainage should be taken care of.



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Mention also was made of Barbara Lane being a graveled street which was muddy in the winter and dry and dusty in the summer, and the increase in traffic due to new construction.

No objection to the church itself was heard, except a statement by Paul McConnell in which he expressed his opposition to churches being tax exempt and that he would prefer structures on property that would help with the tax load. He felt the property would be put to better use by constructing five taxable homes on it.

Rev. Ziese said the church would be built in phases, and the first phase would be a 4500 foot building with the parking area, in all probability, graveled.

Mrs. Lovejoy inquired about the amount of space provided for parking - was it ample? It was the considered opinion of the Commission that there was ample parking space provided, however, in most instances, you will usually find street parking also during the services.

City Attorney walked into the Council Chambers at this time.

After discussion, Commissioner Brimm made MOTION that the conditional use permit be approved with the stipulation that the drainage be taken care of. Commissioner Hagen seconded the Motion which carried unanimously.

2. CONTINUATION - CUSTOM LEASES REQUEST FOR ZONE CHANGE ON REVISED ZONING PLAN, INCLUDING A LOT SPLIT OF TAX LOT 500, MAP 41-13-6CA, REZONING THE REAR PORTION ONLY AND HEARING ON COMPREHENSIVE PLAN CHANGE FROM RH TO CG. LOCATED ON FIFIELD STREET.

Building Official: Mr. Chairman, you should have, not in your packet, but laying alongside, the copy of the proposed lot split of this parcel. It is pretty self-explanatory. With Parcel I split off from Fifield Street, then possibly that - your direction of talking about access is probably more important now than it was before, even, but the application for a lot split has been received and is in order.

City Attorney advised Chairman there were a few things that should be gone over and to be kept in mind so the Commission would know what it was doing. First, the burden of proof will be on the person requesting the change, and supportive substantial evidence will have to be placed on several variances. First of all, that it conform to State-wide code, and is in conformity to our own comprehensive plan; that there is a public need for the change and that there is no other property suitable for the need available at this time. And there should be cross-examination for each side.

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Chairman: I think that was very clearly brought out in the Fasano case that was tried in court just North of here a year and a half or two years ago, and the burden of proof definitely rests with the proponents, and as you said, is there a public need for the proposal; will the need be best served by changing the classification of the particular property in question as compared with other available property; if the proposal calls for a change in the comprehensive plan as it relates to small areas, then the question of a mistake in the original plan, or change of circumstances in the area, or a change of overall policy must be addressed as well. The findings to be sufficient must address each of the relevant statutory, ordinance, case law and plan criteria applicable to the specific proposal. The proponents are here tonight.

Murray Palmer: May I say on that, when I asked for the questions to be answered, this is what I was given. (Sheet entitled "Finding of Facts" was handed to the City Attorney.)

Well, as of the last Planning Commission meeting, you informed me that you felt you did not want to rezone a portion of the lot and asked me to resubmit my plan with a lot split. There are two phases to the proposal. One is a lot split and the second is a proposal to rezone the back portion.

Does the request generally conform to the comprehensive plan? I am reading from the list of questions that were given to me by the Building Department.

Let's go back - one of your other requests was relative to the matter of easement. This lot originally was in this shape and Mill Beach Road came down and around here like this, and this becomes Fifield. We bought half of lot, roughly, from Mr. Kofford. At that time he gave us a 25 foot easement out to Mill Beach Road. Now when we were here last time you were suggesting that we widen it to a 40 foot easement and I have tried in vain to find out exactly what you had in mind and how it could be done, because we now own both pieces of property. This easement just enabled us to come from the City street onto our other property. Since we own it now, our Counsel advises us, if anything, we should ask for a vacation of the easement because it is of no necessity and no useful purpose.

All right, who do we give the easement to, to ourselves? We are under no obligation to give the public an easement across our property. The only obligation we have is in our leases to our tenants to allow them access. You don't have to have an easement to go onto your own property. Do you get the point I'm trying to make?

I talked to Wendell and he didn't know what you had in mind in the way of an easement, couldn't offer any suggestions, other than the fact that possibly from a

fire hazard problem. So I took our Fire Chief out and we examined the property on location and he told me that with access here, this is blacktop, in case of fire you could get in here, or in case of an emergency, the property is accessible from McKay's parking lot. As far as he was concerned, he told me at the time, he felt it was a perfect set up with access from two sides of the property, for emergency purposes.

I have explained to all concerned that we are more than willing to do whatever is necessary but nobody seems to be able to tell us how or why on this. Nobody seems to think that there is any necessity at all for an easement in there of any kind. We talked to the engineers and they don't know what we are talking about, they don't know any idea why there would be required an easement onto our own property. So, we're kind of up in the air. I don't understand it myself.

You also requested something on drainage. There is - I don't know if you are familiar with it - there is an all year creek, flows all year round, that runs across, I don't know where it originates - somewhere the other side of the highway, I believe, and it comes onto this property at the corner and it goes down through like this, down through Mr. Rosendale's property, and under the street, under Fifield Street, and there is another drainage ditch under here. Now I don't know where that creek ends up - at the ocean I presume, but it is an all year creek. Now we realize that any building that we do, we'll have to make provision for drainage, obviously, in an on-site plan and we're more than willing to do whatever is necessary. We really don't know what to do about, for example, tiling ..... or what you have in mind on that. As far as surface drainage, of course we will be required to take care of any surface drainage involved if it would create destruction.

That amounts to what you were asking for at last meeting.

Does the overall program comply with the comprehensive plan for Brookings? Well, what is the Comprehensive Plan for Brookings, really? I don't think we have really officially adopted a long range Comprehensive Plan. If this is the plan we are talking about, this was adopted 8 years ago in 1970 and has been constantly, unofficially, you may say, revised. There have been exceptions to it all along. I understand that you are in the process of developing a long range comprehensive plan but that its not been really totally finished. I really don't know how we can comply with nebulous questions.

Is there a shortage of this type of property? There certainly is. I know of only two pieces of commercial-general property that are available for sale. One is on

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off-street parking. We know that there isn't parking on the streets around there. We think its a natural and we think its the only way to do this.

Robinson: You got it here on this lot split that lot fronting on Fifield Street will still be residential.

Murray Palmer: Anything fronting on Fifield Street will continue to be residential. The back part of the lot is what we're talking about.

Has there been changes in the area of population that would suggest modification to the comprehensive plan to meet those changes and needs of the population?

Lord, God, just look at the changes of the population of Brookings in the last eight years when this plan was originally proposed. This isn't the same town it was eight years ago. There was a lot of different types of property available then, but it is long gone.

What is the availability and the suitability of alternate sites for this proposal?

Well, I'll tell you as far as availability. I only know of two. One for \$150,00, a couple of acres on the highway, and the other is a house on Railroad Street. I'd say the availability is very definitely limited.

What are the effects that are expected on local traffic patterns?

None. Because people are coming to these offices and these businesses are coming off the street where parking is no problem. So I don't see that there is any particular effect on that.

Will facilities such as sewer and water supply requirements of this development?

Sewer and water are already available and are meeting the requirements of this job and I don't see why they won't be entirely adequate.

That about answers all the questions that are on here, well

What site controls?

Whatever you say - the site review is fine with us.

Are there any other questions I can answer?

Fire Chief: We did have one thing to talk about and that was the business of hydrants back there because of the required .....

Murray Palmer: Yeh, Merle, er Tony suggested we should consider back in here somewhere at the proper portion of the lot - let's put it this way. Here's roughly, no, about here,

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is where you can come in from McKay's parking lot and then through here to the buildings, and he suggests somewhere in here, a hydrant for additional fire protection.

Are there any other questions I can answer for you?

Renn: You stated your case very nicely, however, as to this drainage, you said there is a natural stream runs down entering your property and it crosses 501. It crosses 501 to Fifield Street, this is natural drainage.

Murray Palmer: Yeh, its a creek, an all year creek back there have you ever,

Renn: It's off of the rear of your lot.

Murray Palmer: Yeh.

Renn: But getting back to your first point, the..... complaint and we put your suggestion, or we suggested, that you have Parcel 1 and Parcel 2, Parcel 1 as your commercial and Parcel 2 to remain residential. Originally this plot of ground, Tax Lot 500, had legal access to Fifield, but you have split this lot and separated Parcel 2 from Fifield. Now 500 does not have legal access to get to the public highway.

Murray Palmer: Yes it does.

Renn: How?

Murray Palmer: Well, I

Renn: Through your property.

Murray Palmer: Yes. Yes, its all one piece.

Renn: How many plots do you own in combination?

Murray Palmer: Three lots.

Renn: All right. You might decide to sell this 500, now how is this man going to get out of there?

Murray Palmer: We can't sell it without giving him an easement, if we sell it, we just bought it and we're not talking about selling it. You can't sell it without giving an easement across it. What are you talking about?

City Attorney: I think the easement disappears when the same party owns both pieces.

Renn: Well, I'm only concerned about the number or properties in town that does not have access.

Robinson: Isn't it true you cannot sell a land-locked piece of property?

Murray Palmer: That's right. We'd have to give a man an easement if we wanted to sell a piece of that off.

Robinson: Well, I know,

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Speaker: I'd like to say just a word. I'm sure you're all acquainted with the property. I'm Don Horton, Brookings. A few years ago when we bought the property it was nothing but a marshy swamp. I think you are all very well acquainted with the property. I think you have all seen it recently. It is well improved, many nice buildings on the tax rolls. We have a realtor here with us this evening who will assure you that there is practically no property of this type at all for sale that you can buy for developing. It is needed in the area and all we're asking is to supply the community with what is needed. Thank you.

Chairman: Thank you, Don.

Speaker: I'd like to just say that I'm with Gold Coast Realty and we specialize in commercial properties.

Building Official: What's your name?

Speaker: Len Choffel.

Building Official: Thank you.

Choffel: And I haven't been in it very long but there's a real desire and a real definite need here in Brookings for commercial property, and just like the rest of the gentlemen say, there's just none available. There is just no doubt about that, we need it here. We're hurting for it.

Chairman: I would like to ask our Fire Chief a question and then I've got a paragraph I'd like to read and then we'll be ready for the motion as far as I'm concerned.

How would you propose to put this fire hydrant in there?

Fire Chief: I think it's going to probably be an easement from McKay's off that 12" main,

Chairman: Supposing at some future date McKay's were to rebuild or to sell and that property were to be built solid - then you'd have a building setting over a water main?

Fire Chief: That's right! You guys are going to have to clear it with McKay's. I'm just saying if that is probably the only feasible way. The only other way you could do would be to come down Mill Street. That would be at considerable cost. He's going to have to get an easement, or something, I don't know, that's not my department. There is a problem there with the water main.

Murray Palmer: What about right from Fifield across our own property? You've got a water main running down Fifield Street. We front on Fifield Street. What about putting the hydrant there, right on Fifield Street? You'd still have access to it the same way. Why figure all these ditches?

Fire Chief: This is what I'll be getting into later.



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Murray Palmer: You're telling me that I should get an easement from McKay's and I'm asking you why we can't put it right there on the street where it belongs.

Fire Chief: Because we got lousy mains, man. That's what we're going to be getting into. What I'm saying is, that if you want the water necessary to supply protection for the area, its going to have to come off a 12" main, its not going to come off a 4" pipe.

Chairman: Plus the fact that several years ago an engineering firm prominent in the State of Oregon said that no easement should ever go under a building or should never go in anything except the City streets. I would like to re-read what I read to begin with, and an additional paragraph, and ladies and gentlemen, make up your mind whether you want to grant this or not. Maybe the City Attorney can make up his mind whether he wants to defend the City in the decision.

Is there a public need for the proposal?

And the proponents have attempted to show that there is.

Will the need be best served by changing the classification of the particular property in question as compared with other available property.

There again, an attempt was made to show that it is.

A pre-Fasano case is illustrative of a case where the facts were not deemed to have measured up to the statutory requirements. In Page, private parties sought to invalidate a rezone that reclassified two lots from residential to business. The relevant statute enabled cities to zone ".....for the public interest, health, comfort, convenience, preservation of the public peace, safety, morals, order and public welfare," and the plaintiff claimed that the rezoning was not consistent with this standard. The court found that the City had not met the statutory directives and stated:

If this single intrusion of business is sustained, it will be merely the opening wedge for other commercial interest. It will result in a "commercial island"... We fail to see wherein the change has any substantial relation to the public welfare.

Murray Palmer: However, we are not instituting a commercial island. We are not coming in with an isolated,

Chairman: I am not arguing with you Murray, I'm ready for the motion.

Murray Palmer: No, I'm just answering your statement. You put emphasis on this.

Chairman: This is a law. This case was tried in court and this was the decision.



Murray Palmer: I know it. But you say creating an island, we are not creating an island. An isolated lot, like this church lot, for example, up here in residential. We are not coming in with one isolated lot.

Chairman: Well, there was an opponent here, I don't know if he's here tonight or not but he was pretty much of the opinion that he might sue and if he does, then the City, you still could win and then still lose.

Murray Palmer: Well, Earl, are you.....the Planning Commission?

Chairman: No, I'm ready for the motion. Are there any opponents here tonight? If not, I'm ready for the motion..

Brimm: I'd like to ask Wendell a question. Is there any available commercial property on the map?

Building Official: Well, of course as far as the availability goes I don't know. There are several pieces of property, they are under ownership and apparently the realtors and certainly, Murray, has been probably looking into them. There is quite a little property along the area that is zoned commercial presently and down in the Railroad area there's a lot of property that's zoned commercial but I don't know about the availability.

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Building Official: Yeh, well I don't know whether it is available or not.

Murray Palmer: There are houses along Railroad, there are some of those old company houses. They are in a commercial zone but they are not for sale, although, yes, they are in a commercial zone but that doesn't mean they're for sale.

Brimm: I just wondered.

Murray Palmer: I only know, Mary Jane, of two pieces that are for sale and I comb this town every week and I only know of the two pieces that are available for sale. One just came into the market, \$150,000, out here beyond where Easy is, and the other is this house.

Renn: I suggest - we've taken a lot of time - and Murray Palmer has spent a lot of time answering the questions that were put to him - that we MOVE - recommend to Council that this be accepted provided all these answers to these legal technicalities, and anything pertaining to this change, be in black and white, - in writing, so you can hand to Council and they can look at it and make up their minds. In black and white, then we'll have it on record.

Murray Palmer: You've got it on record on tape, can't you transcribe my remarks?

Renn: So Council has it in front of them.

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Murray Palmer: Well, can't you transcribe the remarks that are on the tape and give it to the Council?

Building Official: Mr. Chairman, may I make a comment?

Chairman: Yes.

Building Official: I think that probably what you're talking about is the fact that Murray in his presentation has tried to appease the Planning Commission with questions, queries that they made previously. As today, as far as his presentation goes, it does not show what his plan is. I think that is probably what Ralph is talking about, somewhat. I mean, simply our zoning, rezoning a piece of property from one zone to a commercial zone with no proposal other than a vague thing, its commercial rentals of some sort. I think that probably what Ralph is talking about, Murray, if you could get down what a proposal - you have more or less placed the burden of engineering and design upon the Commissioners.

Murray Palmer: May I answer that?

Building Official: You certainly may.

Murray Palmer: You must realize that we have several people who are interested, but none that we can talk seriously to or even come up with a lease and get a commitment from them if we don't have anything to offer to build on. We can't present you with anything concrete because we don't have any property to build it on. I don't know of any requirement that we specifically say this is going to be such a business on this lot and before we rezone it it'll have to be approved if its rezoned - any business that is on it would have to be approved.

Chairman: No, no.

Building Official: I think at the last meeting, Murray, our attorney did mention the fact, I mean the necessity to show the need of a particular type of rental. In other words, what they are looking at is something to say, hey, that would be a good idea and the City does need that.

Murray Palmer: We have an office building for a logging contractor, as an example. I won't have the lease signed, because I can't. Now what do I do? He wants to put his office in. We just finished one for Ray's Sentry Market. He wants to put one similar to that. But I sure can't come and say, look I want to put an office building on there for Mr. Jones if he puts up with this four month delay thing and two months later maybe he changed his mind or gone somewhere else and then you give me a rezoning. Then say, hey, you didn't put that office building, you're putting something else on. You've got me in a real bind on this thing.

Building Official: I realize it, but you're also asking the Commissioners to gamble with you also. In other words

they're speculating right along with you and this isn't really fair to the Commissioners for you to do that.

Murray Palmer: I would say yes, up to a point, perhaps, unless you take a look at what we've already done and that should certainly speak for itself. I think we've put nice buildings on there and I think we've put a development there that is a credit to the community and I certainly don't think that we are going to go in there and do something that is going to tear down the value. Look at what we've already built - why we'd be crazy. If you go in there and deliberately put in something that is going to detract from the value of over five other businesses in there - we'd certainly be stupid to do something like that, and we may be -

Don Horton: Don't you have to approve of anything, Wendell, as far as construction, and drainage, and access, and everything?

Building Official: Yeh, but not the occupancy, Don. You could build a building there. What I'm thinking of, for example, I mean let's take maybe, pardon me, Earl, may I?

Murray Palmer: Well, no, its not going to be a red light district.

Building Official: Well,

Murray Palmer: My wife wouldn't let me.

Building Official: Conceivably though, I mean, let's assume that the Commissioners and yourself feel that you can build, say, four office buildings of the type that Ray's Sentry have and it doesn't come out that way. And so then you say we have a Honda dealer here that's just aching to get alongside the other outfit and he wants to get a good lease and so we put it in there. Now, then, we have had objections from the audience in the other meetings, the public hearing, about the noise from motorcycles, but I would have no control, nor would the Commissioners have any control over you doing that because that would be an allowed occupancy in that area. So this is what I'm getting at. I don't think -

Murray Palmer: Are you saying that you could shut me off first even though its an allowed deal, even though its allowable in the area, you could shut me off?.....

Chairman: We could allow this for office buildings only, you know. We have that right.

Brimm: See, once we rezone it Murray, you can put anything in there that's in the zone.

Chairman: And inasmuch as the burden of proof is on you,

Murray Palmer: .....how do you go about zoning a town? That's a curiosity to me.

Chairman: I never had anything to do with it.

Murray Palmer: That would be dandy.....responsibility  
.....would say you can only put in certain types of  
businesses down here, you can put in a grocery store but  
you can't put in a dry goods store, or you already have  
a dry goods store so you can't have two cause that will  
put competition in for the first one.

Brimm: Well I don't think we feel that way.

Murray Palmer: I think you're taking an awful lot of responsi-  
bility upon yourselves when you start delineating any  
specific business that can go on a specific lot.

Chairman: Now, Murray, you're presuming, we haven't done this,  
I said we could.

Brimm: How many remonstrances did you have against this?

Building Official: Its on record and its in your minutes.

City Attorney: Either way you go on this you're going to have  
to come up with a set of finding of facts.....

Hagen: Well, that upper, upper half of the lot certainly  
isn't residential. That alley, or whatever it is through  
there, you're just looking at the back of all those  
buildings. No one would want to put a home in there.

Robinson: No. This is one fact that I don't like to disagree  
with you Wendell. This is a free country, its built on  
free enterprise. If they want to build a cleaning estab-  
lishment for Robinson's cleaning place, in competition to  
you - that's my prerogative as a free citizen of the United  
States and if the Honda people want to come in and if they  
give them a good lease, I can agree, I wouldn't like the  
noise,

Murray Palmer: But you've got noise pollution to take care of  
that.

Robinson: Well, probably so, but my point is there is nothing  
in the world to stop us from putting another grocery store  
right next to McKay's Market either, see, because that is  
our prerogative as Americans, or our right, or whatever  
you want to call it. So I don't quite go along with this  
Honda thing or something else that could possibly go in  
there. If we rezone it, if we're agreeable to rezoning  
this thing CG

TAPE TURNED OVER

Don Horton: I was here at that meeting too and the very same  
night that the man got up and complained about the noise  
another man got up from the audience and said I live right  
next door. He says I work all shifts at the plywood. He  
says I have been bothered much less with the noise of the  
motorcycle shop than I have from the traffic on the street.



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Now we have offered to put in a road down to Fifield. Now I'll ask you Wendell, would you rather see a low-cost housing unit, a bunch of houses outlined in that alley, or would you rather see it fixed up like it is now into commercial property that has a lot of value to it.

Building Official: I won't answer that Don, because I really haven't got any, I haven't got any choice in the matter, I mean what I want hasn't got anything to do with it. Really, it hasn't.

Don Horton: We've done nothing but improve the whole area and that's all we're asking to do now.

Building Official: I certainly have to agree with that.

Renn: .....

Building Official: That's coming up.

Renn:.....

Murray Palmer: I think that would be covered by your site review, wouldn't it? If, when you build.

Renn: Well, when its commercial you can build right up to the property line, a chinese wall facing the residential properties.

Murray Palmer: Maybe you are not aware that you're probably not within 250 feet of any house. The only houses are built right out in front along Fifield Street. This back piece wouldn't be within 150 feet of any house on there.

Chairman: I think you were very gracious when you offered the lot split and if I were living there I would have no further complaint. I wouldn't see any reason why they would complain, but the, they may. Do you folks want to make a decision tonight or do you want to take a week, or 10 days, or do you want to take 40 days? What's your pleasure, the hour is getting late.

Robinson: .....I say my mind is made up. We were satisfied we got access in there, correct?

Renn: Well, he owns the property.

Robinson: Yeh, so we've got access in there. The drainage over here is taken care of and they have done what we wanted and they have left this residential down here and they want this up there and I make a MOTION we accept it.

Chairman: This is a recommendation to the Council, Bill, and it is a recommendation to not only change the zone but to change the comprehensive plan as well and apparently we are also looking here at a lot split. So presumably, if you had this in mind, then I would imagine we had better grant the lot split first and then go back to the other.

Robinson: In other words what you mean is to make a motion that we accept the lot split?

Chairman: Yes.

Robinson: I will right now make a MOTION we accept the lot split.

Renn: Second the Motion.

Chairman: It has been moved and seconded that the application for a lot split, or minor subdivision, or minor..... It has been moved and seconded that the request for lot split be granted. Any further question or comment?

Brimm: Are you just doing the lot split now, not the rezoning?

Chairman: Yes. Then we will come to the rezoning and the comprehensive plan. All those in favor signify by saying Aye.

Response: All Aye.

Chairman: Lot split request granted. Now we are ready for your motion and I think you should make this one motion to include the zone change and comprehensive plan change and it is in the form of a recommendation to the City Council.

City Attorney: .....finding of facts.....

Renn: May I make a motion?

Renn: I MOVE we recommend to Council to create the zone change provided the proponents submit in writing answer to the various questions and legal technicalities that were brought up here tonight, so the Council can act.

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Murray Palmer: You said that we submit these answers to these questions in writing. We have submitted them to the Planning Commission. Now another month later we are to submit them right directly to the Council .....

TOO MANY VOICES SPEAKING AT ONCE TO TRANSCRIBE

Robinson: Repeat that again, will you?

Renn: All right. I MOVE that we recommend to Council to make this zone change provided the proponents submit the answers to the questions, under the law, in writing to the Council.

Robinson: This includes the comprehensive plan?

Renn: Oh.....questions go with the comprehensive plan.

City Attorney: With his presentation of the Finding of Facts to you, then you will approve or disapprove.

CONVERSATION TAKING PLACE THAT COULD NOT BE HEARD

Brimm: And then take action.

City Attorney: Yes, that's the way I would go about it.

Chairman: .....your legal advice to the City Council and the City Planning Commission, I should think we had better accept your advice.

Mrs. Manley: I didn't hear what the advice was. Would you please repeat that?

Murray Palmer: What does your Finding of Facts consist of? Here's what we've already,

City Attorney: I can give you sections and quotes..... there's a chapter:.....

Murray Palmer: Is that the answer I'm trying to simplify? An answer to the specific questions.

City Attorney: The questions that you have, right there,

Murray Palmer: All right.....

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Murray Palmer: Aren't we just duplicating what he just said?

City Attorney:.....

Chairman: Then we would need a motion to follow the gentleman's advice.

Renn: My motion died.

Brimm: I MOVE that we take our attorney's advice and then present the finding of facts and then review them.

Robinson: You mean we are to carry this over for another month?

Brimm: No.

City Attorney: .....all you're going to do.....finding of facts.....you can't just say we recommend it, you've got to come up with something.....involves necessity and so forth and something to base it on..... all these questions, you have a written statement.....

Renn: This is to be done before the next Council meeting?

City Attorney: Well, it depends on when you're meeting..... on evidence you just approve or disapprove.

Murray Palmer: But you're not going to have another meeting of the Planning Commission for another month. The Council meets next week.

TOO MANY VOICES SPEAKING AT ONCE TO TRANSCRIBE

Don Horton: Pardon me, but wasn't the motion there to go before the Council - that you recommended we go before the Council with these answers? .....

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Don Horton: I must of misunderstood your motion, Bill, but

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Robinson: Ralph made the first motion and somebody said it died on the floor. Right? There was a motion - he made a motion. Wasn't seconded, no.

Chairman: Then Bill made a motion and Ralph seconded it.

Don Horton: That was to go to the Council, wasn't it?

Robinson: I made a motion that we recommend to the City Council that this be, what was the word? the comprehensive plan and the zoning be granted to meet this request.

TOO MANY VOICES SPEAKING AT ONCE TO BE TRANSCRIBED

Robinson: Yeh, that was the first one, but then I

Chairman: .....previous.....Can we make a motion to include these facts and put it in a package yet tonight, or do we have to come back. We'd have to come back for a review.

City Attorney: We could, I'm just looking....this thing.... be opposed.....Whichever way you go you're going to have to comply with the law and the law states you have to have findings of fact and findings of fact can't be general and ambiguous, you've got to have what facts you base your decision on. Outlined and set forth and you .....we found a public need, we found a public need because there are only two lots available in the whole area.....

Murray Palmer: Could I ask a question, please?

City Attorney: Sure.

Murray Palmer: This findings of fact - haven't we, in effect, exactly complied with that this evening? I've taken your detailed list of questions that constituted finding of facts and I've answered them and you've got them all on tape, doesn't that constitute,

City Attorney: This not a judgment Murray, it has to be put in writing, that's what I'm saying.....

Building Official: Mr. Chairman.

Chairman: Yes.

Building Official: You could, I mean if you wish to take, take time to prepare findings of fact and hold a special meeting of the Planning Commission to address this item, you would have time either way, not to delay the proponents before the Council because the next meeting of the Council is the 15th of August. That's their next meeting. There will have to be a public hearing, and if you do it before - you could do it next Monday, get it prepared by this time. You could get the transcripts to this, possibly. Prepare your finding of facts and act upon them at a special meeting, next Monday, possibly.



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Renn: That would have to be a public meeting.

Building Official: It will have to be announced, 24 hours.  
It is an open meeting, not a public hearing, only an open meeting, just a special meeting of the Planning Commission.

Robinson: It has to be an open meeting?

Building Official: An open meeting, yes.

Robinson: I'll forego watching the Monday night ball game.

Building Official: You can do it on Tuesday too, I mean either day, it doesn't make any difference.

Robinson: Let's get this show on the road! You need a motion for a special meeting?

Chairman: Okeh, let's make it Monday night at 7:30.

Building Official: At that time you can make your decision based upon the finding of the facts as you compile them.

Don Horton: I would like to ask one more question. Are we supposed to bring a written list of the,

Building Official: You won't have anything more to do.

City Attorney: Whose going to prepare those finding of fact...  
....proposed.....he can submit a full set too.....

Building Official: Yeh, you can do it. You don't need to.

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Horton: Okeh, thank you. Sorry we wasted so much of your time.

Renn: I think the findings of fact should be signed by the proponent.

Building Official: Know what you got to do, Murray?

Murray Palmer: Well, yeh, generally speaking.....

END OF PUBLIC HEARING JULY 25, 1978 TO BE  
CONTINUED, MONDAY, JULY 31, 1978 - CUSTOM LEASES

3. CONTINUATION - JOHN R. DECK APPLICATION FOR ZONE AND COMPREHENSIVE PLAN CHANGE FROM RM TO CG ON TAX LOT 2000, MAP 41-13-6BD, OFF CHETCO AVENUE, ADJOINING BROOKINGS SUPPLY COMPANY.

Robinson: Do we have a map of that?

Building Official: You would have that only in your previous meeting minutes. If you refer to your minutes you will find that this was presented last week. John did not have proper information, was not provided proper information. There was one opponent that spoke and it shows that in your minutes, I believe.

Mr. Deck: I now also have a list entitled "Finding of Facts" that has to do with what we all just went through, because the situation is very similar. And what they stated as the facts definitely applies to this case exactly. I think I'll go on with the little maps I've drawn here to give you an idea of what I have in mind.

The first map is very crude. It shows the existing building and also two mobile homes parked off to the side where I have a quarter office and the vacant lot leased to Chetco Mobile Mart. They have done well since I originally leased the property and they need additional sales area, and this was the reason that I originally asked for a zone change, although I have some long term plans for it which I will get into shortly. This was the reason we instigated the change at this time, with a request for a change. And if you'll notice, all they are requesting use of is 200 feet wide and about a 125 feet deep. That's on the first map.

Now if you'll look at the second page, I would like to talk about some problems. Last winter my store was flooded three times. It's this same creek we were talking about in the other case, just a little further upstream.

Renn: Runs right through your building practically.

Mr. Deck: Yes, practically. The pipe actually runs underneath the building as you see on the map. Now, since I've been flooded there's a ditch as you see here, indicated as an open ditch. I have water running from the motel over into this storm drain and since we've put a pretty good ditch in there, why I think as a short term elimination of problem, I don't think my store will flood any more. You'll see how the water is being fed from above and every time they build another home up on Easy Street and up in this area it creates additional problems as far as rapid water run-off and additional flooding problems. Also, I'm a little concerned that should you have another failure of this pipeline, which is extremely old, it erupted right in front of the building this last winter while I was out of town. If that should happen underneath the building, I might have some serious problems. I'd certainly like to see something done as far as this drainage problem.

My long term plans are on page 3, which, as you can see, does not include any mobile home rentals and so forth. I plan in the future to build another building where the present mobile homes are parked, plus, on the back section, where I'm requesting the zone change, to put in a two-story complex and to have the bottom story consisting of professional buildings, top story very nice apartments. And at that time I will naturally want to see the creek moved along the back of the property run down the corner, or down the side, as you can see. I'm prepared to grant a 20 foot easement across the back portion for storm drainage purposes and also, this can be used as a barrier to protect the homes that are above it. Which, by the way, there are a few very nice homes just above us.

I would like to state that since I've owned that property why I've indicated what direction I'm going to go with it, as far as improvements from the community standpoint and I certainly hope you see fit to go along with me on it.

Chairman: What were we going to change the zone on this from what to what?

In Unison: From RM to CG.

Robinson: CG is what?

Renn: Is the contour of ground such as this drainage ditch at the "up" end - will the water then flow West, to the North, or to the West.

Mr. Deck: I believe so.

Renn: And then due South.

Mr. Deck: It will sure go to the street.

Renn: You can't run water up hill, apparently this plan - you say water from the motel is suppose to cross then through an open ditch going in this direction.

Mr. Deck: That's right.

Renn: .....reverse it and go this way.

Mr. Deck: If you could go that way.

Chairman: .....

Robinson: CG is what?

Chairman: Commercial General.

Robinson: Well, what can be put in commercial general?

Building Official: Just about anything.

Robinson: Two-story apartments?

Building Official: Yes.

Chairman: Could you put a two-story building on an RM?

Building Official: You can go 25 feet high. Yes, you could.

Chairman: In other words there would be little or no change in that regard.

Building Official: Not in this proposal, no.

Chairman: Well, we're probably looking at a very similar thing here, that we were looking on Custom Leases, in other words, as long as we're going to meet next Monday, John, it would be in order, I suppose it would be in order to review this at the same time.

City Attorney: Well .....

Brimm: We haven't gotten any findings of fact from you, have we?

Mr. Deck: Only from the standpoint I stated that everything he stated as far as finding of facts applies to this piece of property also.

City Attorney: Not necessarily.

Robinson: Why do we need all this finding of facts stuff?

Brimm: Because, Bill,

Chairman: A few of the cities around the State of Oregon have been sued and have lost their case. In other words they've granted a zone change then found out they couldn't grant it.

Robinson: Well, why do we have to make a zone change then? He's already RM, isn't he?

Renn: Yes, but he wants to put a commercial building up here, with apartments on top.

Robinson: Well, that makes it a commercial building because there is office space below, eh?

Renn: Yes, the apartments are secondary.

WORDS COULD NOT BE HEARD OVER LAUGHTER

Robinson: Say that out loud, will you?

Brimm: I feel that we have got the, like our lawyer said, we have to go the right route on this thing and we have to get the finding of facts and probably like Earl said, maybe we should postpone this until next Monday night and get the finding of facts on it.

Mr. Deck: You'd like it in writing.

Brimm: Right, and then we'll all work on the same thing.

Robinson: May I ask a question before we go any further, here, John? Immediately, what you want to do on this upper piece of ground is use it for initial storage space for more of your units.

TOO MANY VOICES SPEAKING AT ONCE TO BE TRANSCRIBED.

Robinson: .....the guy that's leasing this property here.

Mr. Deck: Right.



Robinson: And we are zoned for that at the present time, correct?

Building Official: No.

Mr. Deck: It would have to be zoned commercial,  
NOT CLEAR ENOUGH TO TRANSCRIBE

City Attorney: May I ask - what is the present need to change the remainder of the lot.

Mr. Deck: Immediately - none, but I might chop it up.....

City Attorney: ..... asking a question.

Mr. Deck: I guess I am answering it with a question here. Why not plan for the future..... that, I think I said this the last time I was here. When I'm ready, which hopefully will not be too long, I will be very reluctant to even hire an architect to design the building so that I can go to the insurance company to try to get the funds to build this building without adequate zoning.

Chairman: Plus the fact, probably as time goes on, its going to become increasingly more difficult to get a zone change. It might be easier for you to get that zone change today than it would be, even six months down the road.

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Chairman: What you're proposing is that he split part of it off, John and just ask for,

City Attorney: No, all I'm saying, its not zoned at the present time, you've got to show a need for changing zone, like public need.....piece of property.

Chairman: It would be easier to justify, all right. I don't know that we're being challenged on this at all,

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Chairman: I don't think we are. The only challenge came from an individual when John agreed to put in a buffer zone there, a landscaped zone, he seemed quite happy with it.

Mr. Deck: Well, he was concerned about some kind of heavy commercial development, noise, and so forth.

Chairman: And the other man didn't come.

Robinson: Did you write a letter?

Chairman: And the one alongside didn't say anything and the City has a little park on part of it.

Building Official: There were no announcements put out for this one. We announced at the last meeting that this,

City Attorney: Who gave notice then..... to the property owners.....

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Building Official: Not for this particular date.

City Attorney: You did .....

Building Official: Yes, Yes.

City Attorney: .....

Building Official: Yes.

Renn: Then there were objections to it.

Brimm: How many were there?

Hagen: Just one, wasn't there?

Chairman: One.

Robinson: Then you said when he found there was going to be a buffer he withdrew his objections.

Mr. Deck: He seemed pleased.

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Robinson: What kind of facts do we want then before we meet Monday?

Chairman: Well, we want a similar type of set of facts that Murray and .....presented on their piece of property.

Robinson: You understand what that's all about?

Mr. Deck: I hope.

NOT CLEAR FOR TRANSCRIBING

Mr. Deck: Wendell, you offered to do that in the other case, would you be willing to give me some hand or rough it out?

Building Official: Yes. We'll do all we can.

Mr. Deck: I appreciate it.

Building Official: You bet.

Chairman: Okeh, we'll continue this then until Monday.

Mr. Deck: Monday. Thank you.

END OF PUBLIC HEARING JULY 25, 1978, TO BE  
CONTINUED MONDAY, JULY 31, 1978 - JOHN DECK

LEGISLATIVE ACTION:

1. REQUEST BY PHILIP L. AND DOROTHY BISCHOF, TAX LOT 701, MAP 41-13-6BB, ON RANSOM AVENUE NEAR CHETCO AVENUE.

This property has sewer available on it, it can have water available to it, it meets the minimum requirements of a building lot in Brookings, it presently now has some high grass and some low brush and some beautiful trees on it. It seems to be a logical solution to a large lot to cut off a smaller portion of it and make it available for residential use. There are no particular problems with this. The foregoing according to the Building Official.

Commissioner Robinson made MOTION we accept this request for minor partition.

Commissioner Renn questioned why the size of this proposed lot split did not conform to the rest of the lots in the immediate area and the Building Official replied:

The problem with it, Ralph, is that there is a garage. There are buildings on Parcel A and in order to maintain the clearance of the back lot, why he has to squeeze it into 60 feet there. He could get a couple more feet, but that's about all.

After clarification, Commissioner Brimm seconded the Motion. Carried unanimously.

2. REQUEST BY WHEELER & ASSOCIATES, INC., TAX LOT 1000, MAP 41-13-6DD, MEMORY LANE AND RAILROAD STREET.

Building Official reported that proposal is to split property into the maximum of three parcels. The building in construction is Taco Ole; the building on Parcel 3 is the existing Coast Steel, now a building supply business. Mr. Wheeler and Associates wish to sell those parcels and maintain ownership of Parcel 2 and this is the reason for the request.

The only thing that I could see would be wrong with it is that you might have future splitting of Parcel 2 later on which would certainly be legal. Plenty of road access. Staff recommends approval.

Commissioner Renn MOVED, Commissioner Robinson seconded, that we grant the lot split requested by Wheeler & Associates. Carried unanimously.

3. STEVE HERZOG & TEDDY FREEMAN, TAX LOT 600, MAP 41-13-5BB, OLD COUNTY ROAD NEAR PIPELINE ROAD.

Building Official reported this property had been "whacked up" several times. Not really, but it has had a lot of plans on it. This is part of the property that the Catholic Church owned and they are proposing to build a

church up on Tax Lot 400. Steve and his Buddy own the rest of the property. There is a house existing on tax lot where it says 600 in the little odd shaped one there and they propose to split off a legal size, if odd shaped, Parcel 2 from this general piece of property. It is certainly within the scope of the real estate law. There is water available and sewer available and there is no reason why it shouldn't be allowed as far as Building Official knows.

After discussion, Commissioner Robinson made MOTION we grant the lot split for Herzog and Freeman. Carried unanimously after second by Commissioner Renn.

#### SUBDIVISION PLATS

1. SPRUCE-KNOLL SUBDIVISION, FIFIELD STREET AND ARNOLD LANE.
  - (a) Final Plat - Phase I
  - (b) Preliminary Plat - Phase II

Building Official stated, if you recall, and correct me if I'm wrong, the original preliminary plat, Phase I, was approved. This is a print from the mylar of the final plat. Phase I was for this piece of property to be developed in full size lots. There were some corrections to be made from the original. There were some corner lots that were only sixty feet, they have increased them. I assume we want to look them over and see they do have the full size lots on the corners. There were no improvements, as such, required by the Planning Commissioners on this Phase I because it does abut existing streets. I believe that there are, if we can ever get the right terminology, there are waiver of protests, or agreements to improve if the street is ever fully improved, that the owners will not protest the improvement. And that's about all there is to it. We do have a City Engineer who hasn't seen these previously and he may have some questions he might want to address. Cliff, do you have any concern?

The Engineer was concerned about fire protection, adequate water, and asked about size of main serving area.

Building Official believed 4" main comes down Fifield St. from Mill Beach. As the other properties develop there will have to be additional water brought down. He believed the Cembellin problem, the Tony Felipe problem, the Spruce-Knoll Phase II problem will all be solved at the same time when they get together and get that pipe in there. This is the one that comes down Arnold, 8" is it? or something that the study shows that comes down and loops through there second.....then this would make the 4" as a loop that would be a pretty good pipe then, for what we have.

Don Smith, one of the developers of the subdivision, introduced himself and said: I wanted to make a notation there that Phase II of this subdivision consists of 36 lots will be - we have a preliminary plot here tonight, we'll

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go right into that portion of the subdivision as rapidly as we can get the engineering, and so forth, for the whole piece and in so doing, of course, you'll notice, we have the 50 foot streets, curbs, and sidewalks, the drainage. They were talking earlier about that creek that comes clear through town. Well, it dumps down there on our property, and of course we will be taking care of that a little easier than some of the people above us because we are getting closer to the ocean then.

Review of plats and discussion followed.

Then, Commissioner Renn MOVED we recommend the Chairman sign the final plat of the Spruce-Knoll Subdivision. Seconded by Commissioner Brimm and carried unanimously.

Discussion continued regarding Phase II.

Engineering Aide, Suzie James, had comment that the postal authorities and emergency services personnel have questioned the naming of the streets in Phase II because of the similarity of the names. She then sited that we now have Spruce Street and Spruce Avenue as an example and the confusion that is caused by such similarity. On the plat, Knoll was a part of each street name.

Don Smith said the developers understood and had no objections to changing the names.

Chairman: It has been MOVED and seconded that the preliminary plot plan of first addition of Spruce Knoll Subdivision be accepted.

Question by Engineering Aide James, Does this also include the engineering?

It was clarified that everything would have to be taken care of before any lots could be sold.

Chairman: It has been MOVED and seconded that the preliminary plat be accepted with provisions. Carried unanimously.

#### REPORT BY BUILDING OFFICIAL:

You have the copy of my report there before you. We had a good month and we had a terrible month. It was a good month from the standpoint of volume. It will be hard to top again because for the first time in Brookings' history we issued permits for construction of over a million dollars in one month. It consisted of, I'll have to admit, two school buildings but at least we hit a million dollars in one month. We got a single family dwelling, two duplexes, a mobile home - it's the first time we've issued a permit for a mobile home, officially - and two residential remodels and three commercial remodels, a carport, the school buildings and several miscellaneous fences and signs, but the total, including the surcharge and permit fees were \$2,124.00 and we issued \$140.00 worth of plumbing permits. The permit for the school hasn't come in yet because they are revising that somewhat right now and we haven't got the plumbing permit for the school but it would add



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considerable to it, making a total of \$2,270.12 permit fees collected this month of June.

REPORT BY CITY MANAGER:

Not present.

REPORT BY FIRE CHIEF:

Chief Keeling discussed items as shown on his July 24, 1978 listing under the heading of "Fire Protection Assessment". This listing is made a part of these minutes and the Chief's talk may be heard on the tape covering minutes of this date.

OTHER MATTERS:

Jim Kemp presentation of proposal for Chetco River frontage was withdrawn, according to the Building Official there was a situation that developed that hadn't been thought about and so Mr. Kemp withdrew his request.

The Chairman then announced that this meeting would be continued over until Monday night.