

MINUTES
REGULAR PLANNING COMMISSION MEETING
CITY OF BROOKINGS
AUGUST 29, 1978

CALL TO ORDER:

Meeting called to order at 7:30 p.m. by Chairman Earl Breuer.

INVOCATION:

Chairman Breuer called on Rev. Daniel Kolasinski to give the invocation.

ROLL CALL:

Answering roll call were William Robinson, Mary Jane Brimm, Ralph Renn, Archie McVay, and Jean Hagen.

Chairman Breuer acknowledged the presence of Wendell Bartholomew, Building Official, Cora Cooley, Office, and Pilot representative, Larry Jaffe.

APPROVAL OF MINUTES:

MOVED by Commissioner Renn, seconded by Commissioner Robinson that minutes of the July 25 - 31 meeting be approved. Motion carried by unanimous vote.

WELCOME TO VISITORS:

Chairman Breuer gave a short welcoming message to the audience which numbered approximately 50 persons.

PUBLIC HEARINGS:

1. REQUEST FOR CONDITIONAL USE PERMIT BY DALE OLIVER, CU-78-4, TO USE TAX LOT 1300, MAP 41-13-6DD FOR STORAGE OF INSURANCE VEHICLES AWAITING TITLE CLEARANCE AND AUTO REPAIR SHOP INSIDE BUILDING. LOCATED ON WHARF STREET BETWEEN KING AND RAILROAD STREETS.

Building Official: Mr. Chairman, I have here the application for this conditional use. It has been properly executed. There is attached to it a statement from Mr. Oliver - it isn't signed - I have to assume that it is by Mr. Oliver. I have here a certificate that says we did send out notices to people of record - the owners of record of the property within 250 feet of the property. I have had no correspondence in response to those letters on this particular one. If you wish I would read this statement, it is part of the papers we do have, it says:

"The property is in very poor condition and can be called an eyesore. I plan on a general cleanup which includes cutting the berry vines, hauling the trash away, fence it, plant some trees in front, put gravel in car storage area in front of the building, paint floors inside building and any other thing I can do to make it look better."

I think, probably, it was at my instigation that Mr. Oliver applied for a conditional use. This is in light manufacturing area and he could have an auto repair shop inside the building, however, there was a little bit of cloud as far as what constituted a wrecking yard or wrecked automobile storage yard. He wanted to bring it before the Commissioners so there would be no surprises as to what he intends to do with it. Mr. Oliver is here. I think perhaps he should present his case. He doesn't have the particular ordinance that you have, the proposed ordinance you have before you, because this hasn't taken effect yet, but he is required to explain to you what he intends to do with it and you in turn can set the conditions controlling the use.

Mr. Oliver owns Red's Auto Wrecking. He has the support of the police department and receives calls from them when there is an abandoned or wrecked automobile. Because of the size of his yard, one-half acre, the storage of these automobiles, which must be held for 30 to 60 days for clearance title, is limited. He said it would be a big help to him if he could store these automobiles elsewhere where he wouldn't have to touch them until he gets title clearance. He also is doing some auto repair work and would like to move that operation out of the wrecking yard. All dismantling would be done in the wrecking yard. The proposed storage area would also be fenced in accordance with the specifications set up by the Commission.

A member of the audience, Doug Sierka, who lives next door to the proposed site, asked whether it would be mechanical or largely body work done at site. Mr. Oliver said there would be no body work done there, just auto repair, and there would be no night work.

After discussion, Commissioner McVay made MOTION that the request for conditional use by Mr. Dale Oliver be accepted. Motion seconded by Commissioner Hagen and carried unanimously.

2. REQUEST FOR AMENDMENT TO ZONE AND COMPREHENSIVE PLAN BY GEORGE DREISZUS, Z-78-4, TO CHANGE TAX LOTS 8600, 8700, 8800, AND 8900, MAP 41-13-5CB FROM RH ZONE TO CG ZONE TO ALLOW THE REMODELING OF CHURCH AND BUILDINGS TO ACCOMMODATE RETAIL AND OFFICE FACILITIES LOCATED AT REDWOOD AND OAK STREETS.

Building Official: Yes, Mr. Chairman, I have here the application for both the comprehensive and zoning ordinance. This property is known as "The Old Catholic Church Property" and I have here the certification that those owners of record of properties adjacent to or

within 250 feet of the property have been notified. There was some discussion that one property owner was not notified. This property owner is not on the tax rolls, I mean it is a church organization and they are not on the tax rolls, therefore we didn't have the ownership of that one from the tax rolls. We are obligated to get our information from the tax rolls so this was the omission there. We did send out the notices, there was a notice in the paper and everything is in order. I have here papers that were - the application was presented by Len Choffel; I have here some statements by him and Mr. Choffel is here. I assume he represents the owner and I think it would be appropriate for him to state his case. I would remind you that it is incumbent upon the proponent to present the case and convince the Commissioners of the merit of the request.

Mr. Choffel introduced Mr. George Dreiszus who then took the floor and read a statement from the church which is made a part of these minutes.

The Chairman announced that he would hear the proponents at this time. Those heard were Gary Wimberly; Mr. Spiering, owner of Gold Coast Realy, and Mrs. Dreiszus.

In response to questions by Leon Brock, there was a discussion regarding alley running from Oak to Alder St. Those participating were Gary Wimberly, Virginia Metzger, and a letter from Max S. Brainard was read by the Chairman. It was definitely established that this was an alley, not an easement.

Frances O'Connor, a member of the Star of the Sea Church spoke in favor of the zone change.

Paul Cantrell, member of the Christian Science Church expressed concern over future development of area. He felt the Commission would be justified in restricting the area to certain businesses that would not be undesirable to the surrounding area.

Terry Phillips, 433 Pine Street, right behind vacant lot, was neither for or against. He had a couple of questions regarding the allowances under the two different zones regarding height and types of businesses. Also wanted more information regarding type of buildings planned.

Wilma Cantrell reminded the Commissioners that the intent can be very good, but sometimes when property is resold then there is a loss of control of what goes in there.

After discussion, Commissioner McVay MOVED to grant the zone change limiting the height of any building to 35 feet, not allowing an automotive repair shop, a tavern or a night club or a veterinarian hospital. Motion seconded by Commissioner Brimm who asked what effect it would have on the traffic. Less than on Sunday, replied the Chairman who then polled th Commissioners.

Commissioner Hagen	Yes
Commissioner McVay	Yes
Commissioner Renn	Naye
Commissioner Brimm	Yes
Commissioner Robinson	Yes

Motion carried with one dissenting vote.

LEGISLATIVE ACTION:

1. REQUEST FOR MINOR PARTITION BY ROBERT ZASTROW,
TAX LOT 1001, MAP 41-13-5BB, ON PIONEER ROAD.

Building Official: Mr. Chairman, you have that map before you. This is a lot split of a lot split. I think you recall that last year sometime this piece of property was split off from an adjoining piece of property and at that time the Commissioners, in their wisdom, demanded a fairly large easement, or right of way, back to this property. Now the dream has come true, so to speak, and in fact, they are requesting a lot split from this and we do have adequate access; there is sewer available, there is water available. There is no objection from staff as far as this lot split goes.

MOVED by Commissioner Renn, seconded by Commissioner Hagen that lot split, or minor partition, be granted. Motion carried unanimously.

2. PRESENTATION OF CAMEO SUBDIVISION PRELIMINARY PLAT BY OWNERS C. KEITH & R. DRAHEIM.

Building Official: Mr. Chairman, you have among you, between you, and around you, copies of the preliminary plat of this. This particular proposal is located at the intersection on the Northwest intersection of 5th Street and Ransom Avenue. This area is where you have seen, last Spring, the black smoke rolling up as they prepared the land. The land has been cleared. Mr. Draheim and Mr. Keith are both here with their engineers, they do have some engineering problems, I understand, but basically they are experienced subdividers. We have some of their subdivisions in the City now and I am sure they would like to get up here and go over this thing with you and see if there are any problems that you can determine you might have.

Mr. John Thorp, P.E., spoke for the developers and said there were three primary problems. One - grading slopes which they can take care of. He said they had been advised by City staff that the water pressure at the existing 6" main at corner of 5th & Ransom is too low to get adequate pressure to the upper end of the subdivision. They have made provision on the preliminary plat for booster pump and pressure tank, but they are hoping that the City will be able to get its new

water tank in operation before the subdivision is occupied, thereby making the booster pump and pressure tank unnecessary. There is a central sewer line running up the middle of the cul de sac and the first three lots on the corner of 5th & Ransom fall away and it is going to take some doing to get the sewage to flow from those back to the system. It is possible the extension of 5th Street may have to be considered to serve these three lots.

The Building Official said there really was no objection, as far as staff goes, to this particular plat subject to review by the engineering staff for the City and approval by the City staff of the engineering data. This is strictly a preliminary and does meet the requirements of a preliminary plat for the City of Brookings.

Commissioner Renn questioned whether the design was the best for this piece of property. A discussion followed with the engineer.

After discussion, Commissioner McVay MOVED and Commissioner Robinson seconded, that preliminary plat of Cameo Subdivision be approved. The Motion carried with one dissenting vote by Commissioner Renn.

OTHER MATTERS:

At this time Chairman Breuer read letter of thanks to the Planning Commission from Al R. Hooten before he left his post as City Manager.

1. AN ORDINANCE ESTABLISHING HEARINGS PROCEDURES.

Proposed ordinance (made a part of these minutes) was read by Chairman Earl Breuer.

After discussion, it was agreed to recommend that the seven (7) items under "Burden of Proof" be submitted in writing and signed by proponent.

REPORT BY BUILDING OFFICIAL:

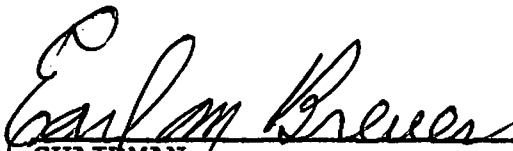
We had just one single family dwelling, a pretty good sized house, \$70,000. One duplex and two residential remodels, three commercial remodels, four storage buildings, small ones, three signs, two patios, two heaters - wood burning stoves - one entry wall and one fence. The total value was \$169,179.00. The total permits, including the surcharge, was, for building permits, \$778.60, plumbing permits \$275.60, making total of fees collected to \$1,054.20. Not too bad at that - but we didn't quite do it this month like we did last month.

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Regular Planning Commission Meeting
City of Brookings
August 29, 1978

Building Official showed the Commissioners a new sketch of the development for the Dr. Joy property made up of cluster buildings. Their plan now is to make it in three stages. Various phases of such a development were discussed.


ADJOURNMENT:

Meeting adjourned at 9:15 p.m.



CHAIRMAN

ATTEST:



SECRETARY

cc

CATHOLIC CHURCH PROPERTY

WE ARE ASKING FOR A ZONE CHANGE FROM RH TO CG IN ORDER TO UTILIZE THE EXISTING CHURCH BUILDINGS AND DEVELOP OFFICES AND RETAIL OUTLETS ON THE REST OF THE PROPERTY. YOU WILL APPRECIATE THE FACT THAT IT IS IMPOSSIBLE TO PROJECT THE EXACT USAGE OF THE PROPERTY UNTIL THERE IS A ZONE CHANGE IN ORDER FOR US TO SOLICIT FOR INPUT AND SUPPORT.

IT IS A WELL PUBLICIZED FACT THAT BROOKINGS IS IN DIRE NEED OF THIS TYPE DEVELOPEMENT AND THAT THIS LOCATION IS IDEALLY SUITED FOR A ZONE CHANGE AS MOST OF THE SURROUNDING PROPERTIES ARE USED COMMERCIALLY IN SOME WAY.

WE ARE LOOKING FORWARD TO A FAVORABLE DECISION. THANK YOU

WE HAVE BEEN APPROCHED WITH A FEW SUGGESTIONS OR POSSIBLE LEASES

ANTIQUUE FURNITURE
ART GALLERY
DOG GROOMING
REAL ESTATE OFFICE
INSURANCE OFFICE
COUNTY OFFICE AND COURT ROOM

FINDING OF FACTS

Does request generally conform to the Comprehensive Plan?

Is there a shortage of housing? Of the type suggested?

YES

What does marketing data show relating to price ranges suggested in proposal?

What are facts concerning the area need for diversity of housing types?

Has there been changes in the area population that would suggest modifications to the Comprehensive Plan to meet those changes and needs of the population?

YES

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

NO

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

VERY LITTLE

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

YES

What site controls will be enforced by the City?

- (a) Site Review?
- (b) Geologist Report?
- (c) Architectural Review?
- (d) General Esthetics Assessment of the area?

Will specific restrictions be listed that must be met prior to final approval by City?

Cancelled No. 1
8500
8500
8402

See Map 41 13 5 C A

CANCELLED T.L.S.
1421
1422
1423
1424
1425
1426

41 13 5 C B
BROOKINGS



SCALE 1:2400



See Map 41 13 6 D A

See Map 41 13 5 C C

To: City Council

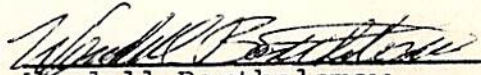
September 1, 1978

From: Planning Commission

At their regular meeting, August 29, 1978, the Planning Commission discussed ordinance establishing hearings procedures and submit the following:

To recommend that the seven (7) items under Burden of Proof be submitted in writing and signed by proponent.

By:


Wendell Bartholomew,
Building Official

cc

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING HEARINGS PROCEDURES.

THE CITY OF BROOKINGS ORDAINS AS FOLLOWS:

Whereas, the City of Brookings finds that it is in the best interest of this City,

The following rules for the conduct of quasi judicial hearings held by the City Council or Planning Commission in accordance with the zoning ordinances of the City of Brookings.

Planning Commission members and Council members will hereinafter be referred to as Panel Members.

Section 1. Nature and Conduct of Hearing.

- A. Interested parties are entitled to an opportunity to be heard, to present and rebut evidence to a tribunal which is impartial, to have the proceedings recorded, and to have a decision based on evidence.
- B. No person shall be disorderly, abusive or disruptive of the orderly conduct of the hearing.
- C. No person shall speak without obtaining permission from the presiding officer at the first opportunity.
- D. No person shall testify without first receiving recognition from the presiding officer and stating his full name and residence address.
- E. No person shall present irrelevant, immaterial or repetitious testimony or evidence.
- F. There shall be no audience demonstrations, such as applause, cheering, display of signs, or other

conduct disruptive of the hearing. Such conduct may be cause for immediate termination of the hearing by the Panel.

- G. The presiding officer and Panel members may question and cross-examine any person who testifies.

Section 2. Challenge for Bias, Prejudgment, or Personal Interest.

- A. Any proponent or opponent of a proposal to be heard by the Panel may challenge the qualification of any Panel member to participate in such hearing and decision. Such challenge must state facts in writing, by affidavit, relied upon by the submitting party relating to a member's bias, prejudgment, personal interest, or other facts from which the party has concluded that the member will not participate and make a decision in an impartial manner.
1. Such written challenge must be delivered by personal service to the Chairman of the Panel and the Panel member whose qualification is challenged not less than 48 hours preceding the time set for public hearing.
 2. Such challenge shall be incorporated into the record of the hearing.
- B. No Panel member shall participate in a hearing or a decision on a proposal when he:
1. Is a party to or has a direct personal or pecuniary interest in the proposal;
 2. Is related to the proponent or opponent;
 3. Is in business with the proponent or opponent; or
 4. For any other reason, has determined that he cannot participate in the hearing and decision in an impartial manner.

Section 3. Presiding Officer.

- A. The Chairman of the Panel shall be the presiding officer at all hearings unless the Panel designates one of its members, or any other officer, employee, or person to act as presiding officer. A presiding officer, if not a member of the Panel, shall have no vote on the question in determination of the matter, but shall have authority to:
1. Regulate the course and decorum of the hearing;
 2. Dispose of procedural requests or similar matters;
 3. Rule on offers of proof and relevancy of evidence and testimony; and
 4. Take such other action appropriate for conduct commensurate with the nature of the hearing.
 5. Impose time limits on those appearing before the Panel.

Section 4. Burden of Proof.

- A. The burden of proof is upon the proponent. The more drastic the change or the greater the impact of the proposal in an area, the greater is the burden upon the proponent.
- B. The following criteria and factors are deemed relevant and material and shall be considered by the Panel in reaching its decision on a proposal:
1. Conformance with the comprehensive plan and where appropriate, city zoning ordinance;
 2. The public need for the proposal;
 3. How the public need will be best served by changing the permissible use of the property concerned as compared with other available property;

4. If other areas have been previously designated for a use or development submitted in the proposal, then the necessity for introducing the proposal into an area not previously contemplated and why the property owners there should bear the burden, if any, of introducing that proposal into their area;
5. Mistake in the original comprehensive plan, if any;
6. Change in the character of the neighborhood, if any;
7. Such other factors which relate to the public need for helpful, safe, and aesthetic surroundings and conditions.

Section 5. Order of Procedure.

The presiding officer, in the conduct of the hearing shall:

- A. Commence the Hearing. Announce the nature and purpose of the hearing, and, may summarize the rules for the conduct of the hearing.
- B. Call for Abstentions. Inquire of the Panel whether any member thereof wishes to abstain from participation in the hearing. Any member then announcing his abstention shall not participate in discussion of the question, or vote on the question.
 1. Any member whose participation has been challenged by allegation of bias, prejudice, personal interest, or partiality or who has been subject to significant ex parte or pre-hearing contact from proponents or opponents may make a statement in response thereto or in explanation thereof, for the record, of his decision to abstain or not. This statement shall not be subject to cross-examination, except upon consent of that member, but shall be subject to rebuttal by the proponent or opponent, as appropriate.

- C. Objection to Jurisdiction. Inquire of the audience there are any objections to jurisdiction of the Panel to hear the matter and, if such objections are received, conduct such further inquiry as necessary to determine the question. The presiding officer shall terminate the hearing if his inquiry reveals that the Panel lacks jurisdiction. Any matter thus terminated shall, if the defect can be remedied, be rescheduled by the Panel.
- D. Staff Report. Request the representative of the Planning Department to summarize the nature of the proposal, explain any graphic or pictorial displays, which are a part of the record, summarize the staff report, summarize the findings and decision of the Planning Commission where applicable and provide such other information as may be requested by the Panel.
- E. Proponent's Case.
1. The applicant-proponent shall first be heard, on his own behalf, or by representative.
 2. Upon failure of applicant or his representative to appear at the hearing on his proposal, or upon his express waiver of presenting testimony and evidence, the Panel shall consider the written application as presenting the applicant's case.
 3. Persons in favor of the proponent's proposal shall next be heard.
- F. Cross-examination of Proponents. Allow opponents, upon recognition by the presiding officer, to submit questions to the proponents. Proponents shall be given a reasonable time to respond solely to the questions.

- G. Opponent's Case. Opponents shall be heard in the following order:
1. Neighborhood associations, special organizations groups represented by counsel or a spokesman shall be allowed by the presiding officer to first proceed.
 2. Persons who received notice of the hearing or who were entitled to receive notice of the hearing are presumed to have an interest in the proposal and shall next be heard.
 3. Persons who did not receive notice and who were not entitled to notice shall be heard.
- H. Cross-examination of Opponents. Allow proponents, upon recognition of the presiding officer, to submit questions to the opponents. Opponents shall be given a reasonable time to respond solely to the questions.
- I. Public Agencies. Allow representatives of any city, state agency, regional authority, or municipal or quasi-municipal corporation existing pursuant to law to next be heard.
- J. Rebuttal Evidence. Allow the proponent to offer rebuttal evidence and testimony, and the opponents to respond to such additional statements. The scope and extent of rebuttal shall be determined by the presiding officer.
- K. Additional rebuttal may be allowed, as appropriate by the presiding officer.
- L. Close of Hearing and Deliberation by Panel. The presiding officer shall conclude the hearing. The Panel shall either make its decision and state its decision, or may continue its deliberation to a subsequent meeting. The subsequent meeting shall

be for the purpose of continued deliberation and shall not allow for additional submission of testimony, except upon decision of the Panel, or the presiding officer.

- M. The Presiding officer may alter the order of the hearing consistent with fairness to the parties.

Section 6. Record of Proceedings.

- A. The Clerk of the Panel or a designee of the presiding officer shall be present at each hearing and shall provide that the proceedings be electronically or stenographically recorded.
- B. The presiding officer shall, where practicable, cause to be received all physical and documentary evidence presented which shall be marked to show whether presented on behalf of proponent or opponent. Such exhibits shall be retained by the Panel until after any applicable appeal period has expired at which time the exhibit shall be released upon demand to the person identified thereon.

Section 7. Findings, Conclusion and Order.

The findings, conclusion and order shall be prepared by the prevailing party or an appointee of the Panel and signed by the Panel with any changes the Panel may deem appropriate.

Section 8. Officer as Agent of Panel.

The Panel may designate any officer to perform functions on its behalf with the Board reserving unto itself the right to reverse the officer within an appropriate period, not to exceed 10 days.

Section 9. Substantial Compliance.

Substantial, not technical compliance with these rules is required.

Section 10. Amendment and Suspension of Rules.

Any rule of procedure not required by law may be amended, suspended or repealed at any time by majority vote of those Panel members present and voting.

PASSED by the Council and signed by the Mayor this _____ day of August, 1978.

Mayor

ATTEST:

City Recorder