

MINUTES

City of Brookings

SPECIAL COUNCIL MEETING

Brookings City Hall Council Chambers

898 Elk Drive, Brookings Oregon

Wednesday July 16, 2008 7:00pm

Call to Order

Mayor Anderson called the meeting to order at 7:03pm.

Roll Call

Council Present: Mayor Larry Anderson, Councilors Hedenskog, Gordon, Kitchen and Pieper; a quorum present.

Staff Present: City Manager Gary Milliman, Planning Director Dianne Morris, Senior Planner Donna Colby-Hanks and City Recorder Joyce Heffington.

Other: Curry Coastal Pilot Reporter Kurt Madar and approximately 32 public

Resolution

City Manager Milliman reviewed the staff report regarding the City's application for Oregon Department of Transportation funding for its Downtown Brookings Sidewalk and Infill Project.

Councilor Hedenskog moved, a second followed and Council voted unanimously to adopt Resolution 08-R-903, a resolution designating the City Manager as the authorized representative for the City of Brookings in its application to the Oregon Department of Transportation Bicycle and Pedestrian Program for funding of the Downtown Brookings Sidewalk and Infill Project.

Public Hearing

The public hearing was opened at 7:08pm in the of File No. APP-1-08, an appeal of the Planning Commission's denial for the request of an extension of time for 2 years for an approved Master Plan of Development, known as Lone Ranch Master Plan, a 553 acre parcel located on the easterly side of Highway 101 and north of Carpenterville Road; Assessor's Map 40-14 & Index; Tax lots 2400, 2401, and a portion of 2402; U.S. Borax, Applicant and Appellant; Burton Weast, Representative; File MPD-1-04 Extension. The criteria to decide this matter is found in Chapter 17.70.120, Effective Period of Master Plan of Development (MPoD) Approval, and Chapter 17.152, Appeal to the City Council, of the Brookings Municipal Code.

Ex parte was declared as follows:

Mayor Anderson:

- Made a site visit for the college's ground breaking ceremony.
- Attended a Council workshop on March 3rd to meet the new dean of the college, Jason Wood, and answer questions, primarily about sewage treatment.
- Attended a meeting initiated by Congressman Wayne Krieger at which the idea of locating a hospital on the site was introduced.
- Attended a meeting, at the City Manager's request, to review the status of projects and encourage coordination of infrastructure development.

Dave Gordon attended the meeting with Congressman Krieger.

Ron Hedenskog performed a survey of the property a few years ago.

Dave Kitchen made a number of site visits with the permission of Borax and the City, and attended the Krieger meeting, but left prior to the start of any discussion.

Conflicts of interest were declared as follows:

Dave Kitchen declared the following conflict of interest, as previously submitted by letter to Council:

“I am writing this letter to inform you of an actual Conflict of Interest I have with the upcoming City Council meeting on July 16, 2008. My company, DK Builders, has been retained by Curry General Hospital to consult and manage a new project at the Borax Lone Ranch project. Curry General Hospital has initiated a letter of intent to purchase approximately 12 acres from the Borax/Rio Tinto Company. I therefore will not be able to participate in any discussion or vote on any issues concerning the Lone Ranch Project.”

Council's jurisdiction:

There were no objections to the Council's jurisdiction to hear the matter.

Staff's testimony:

Planning Director Morris listed the various exhibits, citing into the record Exhibit F (Advance Packet #1), Exhibit G (Advance Packet #2) and Exhibit H, a packet handed out to Council prior to the meeting and containing those documents received after the distribution of the last packet.

Morris then reviewed the staff report recommending that Council overturn the Planning Commission's decision to deny the request for an extension of time for the Lone Ranch Master Plan and grant the request for a two year extension. Morris outlined the criteria to be used when deciding to approve or deny the requested extension and presented staff's response to the various concerns raised in written testimony.

Applicant's testimony:

Burton Weast, representative for the applicant, 148B Avenue, Suite 100, Lake Oswego, provided a breakdown of the work that had been done on the project over the past three years and generally stated that: a great deal of money and time had been spent and work had been accomplished; turnover in the City's Mayor and City Manager positions delayed any real progress toward completing an off-site agreement until City Manager Milliman assumed his position; until the court decision, Borax and the college thought they had until August 2009 to complete the Detailed Development Plan; the master plan provision allowing a possible extension of time was there to "...deal with these unforeseen circumstances or delays.”

Tim Ramis, 2 Centerpoint, #600, Lake Oswego, attorney for the applicant, generally stated that the Brookings Municipal Code provides the City Council the authority to grant an extension of 2 years in the case that the conditions have not changed and that, in his review of the testimony, there are three possible interpretations of the term “conditions,” which he (generally) described as follows:

- 1) Conditions as they relate to changes in the physical property.
- 2) Conditions as they relate to the findings used to support the approved master plan.
- 3) Conditions as they relate to any conceivable change, regardless of whether or not that change related to the rationale used to approve the original master plan.

Ramis generally stated that: while either of the first two interpretations are reasonable, the third, offered by CRAIG and Chasar, was not; he did not believe that the intent of the Brookings Municipal Code, when allowing for an extension, was to have the applicant completely re-do the master plan.

Ramis requested that Council grant the requested extension relying upon staff's recommendation so that the project, along with the college's application, can proceed.

Speaking in support of reversing the Planning Commission's decision:

Jason Wood, 815 Old County Road, invited the audience to visit current college facilities and generally stated that he was in support of the project on behalf of the college and offered to answer any questions from Council.

Cherie Mitchell, 423 Buena Vista Loop, complimented Borax on their plan and their donation of land to the college and community and generally stated that: the project was important to the college; she saw no change to the plans; putting in the infrastructure to support the development, the college; the hospital at the same time would be of great financial benefit to the community.

Don Mitchell, 423 Buena Vista Loop, generally stated that the project would have a beneficial financial impact on the City and delays would impact the community's financial viability.

Peggy Goergen, 1227 Hollis Lane, generally stated that the community college's current facilities were inadequate and expressed surprise at the Planning Commission's denial of the extension since what was discussed at the hearing had already approved.

Bill McMillan, 13410 Tanbark, Chief Executive Officer of Curry Health District, addressed the district's plans to expand its services into Brookings with the Borax property being a viable site. He generally stated that the existing site lacked the potential for the necessary expansion.

Speaking in opposition of reversing the Planning Commission's decision:

Pete Chasar, 935 Marina Heights Road, generally stated that: any reversal of the Planning Commission's decision should be remanded back to the Planning Commission, as the Brookings Municipal Code does not give the City Council authority to grant an extension; a change to the plan is not the issue, but rather changes in conditions since the plan was approved in 2004 and the Planning Commission's majority decision to deny based on a change in conditions; the donation of land to the college and the addition of the clinic were being used by Borax as a "red herring" to divert attention from financial issues; approval of the request would force local citizens to take on new debt based on future growth that may or may not occur.

Catherine Wiley, 96370 Duley Creek Road and Yvonne Maitland, 15676 Ocean View Drive, jointly read from a prepared statement. Specifically, Wiley requested that certain documents previously submitted as testimony be used as the basis to deny the applicants request under MPD1-04; Maitland stated that it was, "...clear, in both the testimony and evidence, that there are significant findings which document changes in conditions including, but not limited to, the City costs, contracts, and comprehensive plan as well as those of the general public." In general, Wiley and Maitland presented a list of "precedents," asserting that staff, in dealing with the application had, among other things: exceeded its authority; displayed bias in presentation of the evidence; allowed the applicant to conduct surveys that were the City's responsibility; and understated the financial impact of the project.

Maitland also submitted written testimony that Mayor Anderson accepted into the record as Exhibit I-1.

Speaking as interested parties:

Jim Stigamire, 1744 Highway 101, Apt D311, generally stated that his concern was the protection of the Rainbow Rock Condominium's water supply.

Tim Patterson, 621 Chetco, generally stated that a denial of the extension would have a negative financial impact on the City.

Rebuttal Testimony:

Burton Weast generally stated that: Borax had been contacted by former City Manager Tom Weldon regarding the possibly donation of property to the college and that the hospital district sought out Borax; Borax had entered into negotiations with the Coos Curry Electric Cooperative; the master plan contained specific language to protect Rainbow Rock's water supply and Borax would stand by that language and continue to actively work to protect the property as well as the water supply.

Tim Ramis submitted for the record several documents, accepted by Mayor Anderson as Exhibits I-2 – 6, and generally stated that: Council, under Brookings Municipal Code Section 17.152.030, has the authority to modify or reverse any decision of the Planning Commission; much of the opposition's argument was either irrelevant, because it didn't relate to the criteria, or was factually incorrect.

Staff generally stated that: the approval of the extension does not have a financial impact because the conditions have not changed; it is staff's responsibility to make recommendations to Council based upon the criteria.

Conclusion of proceedings:

Mayor Anderson announced that the record would remain open to allow the submission of additional testimony at the request of the Oregon Shores Conservation and Catherine Wiley.

Mayor Anderson closed the public comment portion of the public hearing at 8:37pm and presented the following timeline and process to be used for submitting testimony to City Hall regarding this matter:

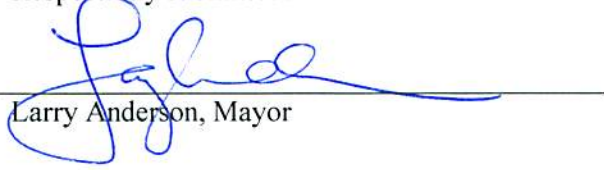
1. From Thursday, July 17th, 2008, to no later than 4:30 p.m., Wednesday, July 23rd, 2008, anyone who has participated in this hearing proceeding is allowed to submit additional written testimony and/or evidence. No additional testimony will be accepted after this time.
2. From Thursday, July 24th, 2008, to no later than 4:30 p.m., Wednesday, July 30th, 2008 anyone who has participated in this hearing may provide written rebuttal only to testimony and/or evidence submitted during the prior seven days. No new evidence will be accepted after this time.
3. From Thursday, July 31st, 2008, to no later than 4:30 p.m., Wednesday, August 6th, 2008, the applicant will be allowed to submit written argument to the testimony and/or evidence submitted during the first two seven day periods. No new evidence may be submitted during this period.

The public hearing was continued to August 21, 2008 at 7pm.

Adjournment

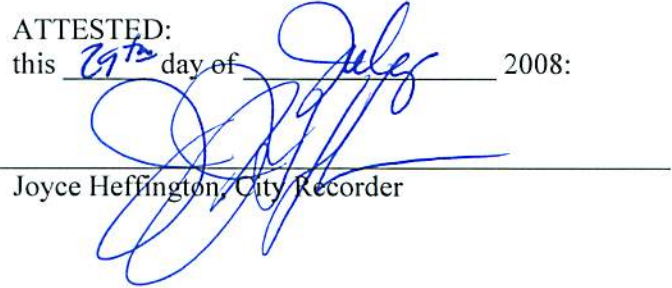
Councilor Gordon moved, a second followed and Council voted unanimously by voice vote to adjourn at 8:42pm.

Respectfully submitted:



Larry Anderson, Mayor

ATTESTED:
this 29th day of July 2008:



Joyce Heffington, City Recorder