

Approved May 11, 1994

MINUTES

Joint Public Hearing
Eugene City Council
Lane County Board of Commissioners
Eugene City Council Chamber--City Hall

February 8, 1994
7:30 p.m.

EUGENE COUNCILORS PRESENT: Kaye Robinette, Shawn Boles, Bobby Green, Kevin Hornbuckle, Barbara Keller, Nancy Nathanson.

ABSENT: Mayor Ruth Bascom, Paul Nicholson, Randy MacDonald.

COMMISSIONERS PRESENT: Steve Cornacchia, Ellie Dumdi, Marie Frazier, Jack Roberts, Jerry Rust.

The joint public hearing of February 8, 1994, of the Lane County Board of Commissioners was called to order by Chair Jerry Rust.

The joint public hearing of February 8, 1994, of the Eugene City Council was called to order by President Kaye Robinette.

I. PUBLIC HEARING: REQUEST FOR AN AMENDMENT TO THE METROPOLITAN AREA GENERAL PLAN WITH CONCURRENT ZONE CHANGE

Mr. Robinette introduced the item and Commissioner Rust read the Board Ordinance PA 1054 into the record.

C. CB 4485--An ordinance amending the Eugene-Springfield Metropolitan Area general Plan Diagram redesignating property south of Theona Street to light-medium industrial.

Final Order Z 93-37--A final order rezoning property north of Theona Street to 1-2/SR/UL.

1. Declaration of conflicts of interest or ex parte contacts.

Mr. Robinette described the public hearing process, saying that staff would present first, followed by a twenty minute presentation by the applicant, and then the members of the general public, in support and opposition, would receive three minutes each to give testimony.

Mr. Cornacchia said that the applicant contacted the Board of Commissioners, and him specifically, regarding the processing of a minor amendment and requested that the County Commissioners initiate the amendment. Mr.

Cornacchia said that he had conversations with Mr. Orem and Mr. Evans. He said that all the discussions were process related and that the merits of the request had not been discussed.

Ms. Dumdi said that she had an ex parte contact with Mr. Evans. She said that she received letters from the residents of the area adjacent to Jerry's Home Improvement Center.

Mr. Rust entered two letters into the record.

2. Staff Presentation

Cathy Czerniak, Eugene Planning and Development Department, presented the staff report and summarized the criteria that the elected officials use to make decisions on Metro Plan amendments and zone change requests.

She said that the recommendation before the Joint Elected Officials came from the Lane County Planning Commission and the Eugene Planning Commission and was detailed in section two of the packet, entitled: Planning Commissions' Recommendation and Decision. She said that the commissions recommended that the applicant's request be adopted with modification as noted in the packet. She pointed out the area west of Jerry's and south of Theona Street that was shaded on the map. She noted the area was approximately 13 acres and that it was recommended for redesignation from low-density residential to light-medium industrial.

Ms. Czerniak said that the commissions recommended a concurrent rezoning of the hatched area on the map. She said that the rezoning would exclude tax lots 2000, 2100, 2300, and 2400 until the owners of those lots jointly decided to pursue industrial development. She said that all other parcels south of the designated area and those on the west side of Wilbur Avenue would remain designated and zoned for low-density residential development. She said that those properties could not be rezoned in the future without an amendment to the Metro Plan.

Ms. Czerniak said that the recommendation provided opportunities for the area. She listed them as: 1) the area proposed for industrial designation was oriented at the north edge of the residential area near existing industrial uses; 2) the residential area was reoriented away from Beltline and industrial uses; 3) the recommended configuration would increase the likelihood that the residential area would develop to an urban level of density, as anticipated for the area which was inside the urban growth boundary; 4) the site review criteria recommended by the planning commissions would provide significant buffering between the industrial area and the residential area; 5) the recommended configuration would maintain the low impact uses adjacent to the urban growth boundary; and 6) the recommended configuration would put the burden for improvements to Theona on the industrial property owners.

Ms. Czerniak reported that the packet contained staff notes, minutes, and findings which detailed how the request was consistent with both the Metro Plan and with statewide goals. Ms. Czerniak also noted that written testimony

in support of and in opposition to the request was included in the packet.

3. Public Testimony from applicant

Mr. Robinette reminded the audience that if they wished to speak they needed to fill out the request-to-speak forms.

Ellen Wojahn, President of the Eugene Planning Commission, spoke about the application, saying that the planning commission did not take amendments to the Metro plan lightly. She said that the application received careful and critical review by the commission and that by a 5:1 vote it was approved because the commission believed that it met the established criteria. Ms. Wojahn said given the proposed site review criteria, the commission believed that the impact of the proposed expansion on the neighborhood would be mitigated. She continued, saying that the commission believed that the development could correct some of the traffic flow problems in the area. Ms. Wojahn said that the commission examined whether or not the proposed expansion ran contrary to goal 12, or the Transportation Rule Implementation Project (TRIP) requirements. She reported that the majority of the Planning Commission believed that it was not in conflict with goal 12 and that it was an appropriate use of the land.

Dennis Orem, 2819 Spring Boulevard, President of Jerry's Home Improvement Center and a general partner in GMD investments, testified in support of the proposed Metro Plan amendment and concurrent rezoning. Mr. Orem testified that his father, Jerry Orem, founded Jerry's Home Improvement in 1961. He continued to give a brief history of Jerry's, highlighting that in 1988, Jerry's purchased what he called the Elizabeth Street property. He said that it was a portion of that property that they were requesting to have rezoned. Mr. Orem continued, saying that Jerry's goal has been to make home improvement affordable to everyone and in order to maintain that goal and to compete with the multi-billion dollar corporations, Jerry's needed to expand. Mr. Orem testified that with the expansion, Jerry's would be able to provide more comfortable shopping for the customer, more products, and more "how-to" clinics.

Mr. Orem said that through the plan amendment process, he received input from the City of Eugene staff, land use consultants, engineers, and neighbors and that Jerry's had modified its plans many times to try and meet the needs of all involved. He said that he believed that the Planning Commissions' recommendation met the needs of the all parties involved.

Mike Evans, 1071 Harlow Road, a planning consultant representing Jerry's and GMD investments, said that the requested amendment was consistent with economic policies one and two of the Metro Plan. Those policies called for the support of existing and new businesses which utilize the local labor force. He stated that policy five of the economic element required that provisions be made to allow for existing industries to expand. He stated that the primary motive for the expansion was that Jerry's was operating at 40 percent over capacity. He reported that Jerry's had been concerned with the issues raised by the neighbors and that it was important, to Jerry's, to

maintain the neighborhood identity throughout the expansion process. Mr. Evans said that Jerry's had agreed that once the expansion was completed that would be the limit of industrial land that Jerry's would request in that area. Mr. Evans, referring to an orange map he distributed, pointed out that the request for industrial designation and rezoning stopped at a drainage channel and included only about half the property owned by Jerry's. That configuration provided a natural buffer between the industrial area and the neighborhood development to the south. He said that there would be no access to Jerry's off Wilbur Avenue.

Mr. Evans addressed the issue of traffic by saying that an existing access point off of Theona Street, near Highway 99, would be closed. He said that Jerry's proposed that Theona Street would be widened into three lanes to allow a left turn lane, the approach to Highway 99 would be improved, and a flow pattern would exist through Jerry's parking area.

Addressing the issue of noise, Mr. Evans said that Mr. Orem hired an acoustical engineer to reduce the decibel level at Jerry's and the level had already been reduced by 15 decibels, which reduced the energy output to three percent of what it had been.

Mr. Evans noted that the commission recommended stiff site review conditions that would carry over to another user if Jerry's was to fail.

Mr. Evans said that, in regard to goal 12 of the Metro Plan, Jerry's had a meeting with Lane Transit District (LTD) to solicit the possibility of LTD providing transit to Jerry's. Mr. Evans referred to a letter written by Ms. Loobey with LTD which said that because Jerry's deals in bulky items, that LTD did not consider the business to be conducive to mass transit usage. Mr. Evans said that LTD was doing an analysis of providing bus service to the airport area and could be able to provide service to Jerry's in the future as part of serving the airport area. He said that Jerry's had also looked into providing a delivery service which could alleviate some of the traffic in that area.

4. Public testimony from others supporting the application

Gerry Gaydos, 2820 Emerald Street, testified that Jerry's had created a high number of jobs over the years, and it was important to support such a business. He stressed the responsiveness of Jerry's.

J. Scott Lindstrom, 411 West 6th Avenue, a member of Jerry's management team, said that he had worked for Jerry's since 1984 and had worked his way from a part-time stock person to a full-time manager. Mr. Lindstrom stressed the number of jobs Jerry's had created.

Kent Hunsaker, 3855 Lancaster, the Superintendent of the Bethel School District, read from a letter he entered as testimony. He spoke highly of Jerry's support of the community, especially the schools.

Mike Bagley, 4050 Berrywood, the bath and kitchen department manager at

Jerry's, testified that Jerry's hired many students. He said that he believed that the expansion of Jerry's would help create more jobs.

Morgan Reiter, 1442 Grant, owner and operator of a small prefabricated home building business testified in favor of the growth industry in Eugene. He said that the recommendation was important for Eugene to support home grown businesses. He stressed the importance of change and growth.

Rick Re, 2028 Potter, vice-president and general manager of Seneca Sawmill, testified that Jerry's was simply asking for a rezoning of land that it owned, and that it was not trying to encroach on the neighbors.

5. Public testimony from those in opposition to application

David Thompson, 4440 Theona Drive, a neighbor of Jerry's, said that he believed the already bad traffic situation would only worsen with the expansion. He said that the Fire Marshal had said that there was a problem with limited access to the neighborhood. He said that if Jerry's had access on Theona Street it would create a huge bottleneck.

Carolyn Johnson, 2498 Wilbur Avenue, said that the Joint Elected Officials had received a letter from the Wilbur Avenue residents and that the first two paragraphs of the letter were wrong. She stressed that they were still not in agreement with the expansion of Jerry's. She said that the majority of the neighborhood did not support the application.

6. Questions from Joint Elected Officials

Commissioner Frazier, referring to the revised traffic flow plan in the packet, asked Mr. Thompson his opinion of it. Mr. Thompson responded by requesting that an independent traffic study be performed to evaluate the traffic situation at Theona Street. Mr. Thompson stated that even with the addition of a third lane on Theona, the traffic situation there would be a bottleneck.

Mr. Cornacchia stated that the County Commissioners' ordinance did not mention anything about site review. Ms. Czerniak responded, saying that the authority for zone changes rested with the City of Eugene. She said that site review could not be applied as part of the Metro Plan amendment.

Mr. Cornacchia mentioned that the packet contained a proposed site plan from Jerry's for the proposed expansion and questioned whether it had been approved by staff. Ms. Czerniak said that the packet contained a proposal from Jerry's, and that the staff had not reviewed it. They would review it as part of the site review process. She said that both City staff and the State Department of Transportation would have to review and approve the proposal before expansion could occur.

Ms. Keller stated that rezoning would occur prior to site review.

Mr. Cornacchia asked, during the site review process, what set of standards

would apply to required improvements? Ms. Czerniak responded that the recommended criteria from the Planning Commission would apply if they were adopted by the City Council. She noted that the proposed criteria went beyond the standard site review criteria in the City code. She said that they were tailored to that particular site, and would apply to Jerry's and any future owner of the property.

Mr. Green, referring to site review criteria number three, asked what the potential financial impact was on neighboring businesses due to the expansion of Jerry's. Ms. Czerniak said that the site review criteria linked the costs of improvements on Theona Street to Jerry's. She said that Jerry's would be responsible for financing the traffic study and the resulting improvements. Ms. Czerniak said that some state money might go to funding the improvements to the intersection, but neighboring businesses would not be responsible for any improvement costs. She stated that Jerry's development would not result in any additional costs to the neighboring businesses.

Mr. Green, referring to site review criteria number six, asked how the City would ensure that Jerry's would not use Wilbur Avenue for employee parking or industrial uses. Ms. Czerniak said that it could be a difficult enforcement issue. She said that the City would solicit the help of the neighbors. Ms. Czerniak said that enforcement would be complaint driven.

Mr. Green, referring to goal 12, asked about the possibility of upgrading the gravel road at the end of Theona Street. Ms. Czerniak said that the gravel road was located on the urban growth boundary and extended from Theona Street to Clear Lake Road, with an exit onto Clear Lake Road very close to Highway 99. She said that it would probably not be improved given its alignment and that it was a private road. She said that it would be used as a secondary access to Theona Street.

Ms. Keller, referring to site review criteria one, asked whether the 30-foot setback from the drainage channel should be 50 feet instead. Jim Croteau, a City of Eugene Planner said that the draft Natural Resources Study required a setback from designated wetlands of 50-75 feet. He said that requirement was not yet in place, pending review by Lane County and Springfield, and the status of that drainage canal as a wetland had not been determined.

Ms. Keller stated that she would like to know if the area would be classified as a wetland. She said that if it was a wetland, then she would feel more comfortable with the 50-foot setback. Mr. Croteau said that the staff would research that question and respond to the City Council before the February 14 meeting.

Ms. Keller asked how the City would prevent Jerry's customers from parking on land that was not zoned for parking. Ms. Czerniak said that it would be a zoning violation and it would be enforced on a complaint driven basis.

Ms. Keller asked if the fire access issue could be researched during the site review process. Ms. Czerniak said that access to the neighborhood was an issue regardless of the Jerry's expansion. She said as part of the Airport

Vicinity-Highway 99 Study there would be a recommendation regarding access for the area to the south. She continued, saying that Wilbur Avenue might be connected with the Bethel area in the future. Mr. Croteau added that the City, in the site review process, could examine the feasibility of developing a secondary access route through Jerry's parking lot.

Ms. Keller asked about the possibility that Jerry's would be required to tie into a public sewer line. Ms. Czerniak said that there was currently a sanitary sewer manhole at the southern end of Wilbur Avenue that had the capacity to service that entire area. She said that site review criteria number eight was added by the Planning Commission to ensure that if Jerry's expansion plans disrupted the existing on-site sewage disposal system, connection of Jerry's to the public sewer at the south end of Wilbur Avenue would be required.

Ms. Keller asked whether TRIP regulations would apply to Jerry's proposed expansion. Ms. Czerniak said that TRIP would not apply to Jerry's proposal.

Mr. Boles asked why TRIP would not apply to that area. Ms. Czerniak responded that the area was outside the city limits and TRIP only applied within the city limits.

Ms. Keller asked if the Comprehensive Storm Water Management Plan (CSWMP) applied to the area. Ms. Czerniak replied that proposed buffering and use of the drainage channel was consistent with CSWMP, but that it did not apply to the area. She said that the drainage channel provided an avenue to deal with the storm water.

Mr. Boles asked the City staff or Jerry's neighbors for confirmation that the decibel level had been decreased. Some of the neighbors replied that they had not heard noise recently from Jerry's.

Ms. Dumdi asked for clarification about the use of the gravel road for access and egress from that area. Ms. Czerniak reiterated that the gravel road at the end of Theona Street was a private road. She said that a possible recommendation for the Airport Vicinity-Highway 99 Plan could be that a connection be developed through that neighborhood to the south to Primrose Boulevard.

Ms. Keller asked what was going to happen to the land Jerry's owned on Elizabeth Street. Ms. Czerniak said that she had a diagram of a possible re-development scenario which she handed out. She said that the vacation of Elizabeth would have to be processed by the Board of County Commissioners. She said that the properties could be reconfigured into a residential cul-de-sac, for instance.

Ms. Nathanson requested that the City staff research what ways TRIP would be applied to the expansion, if TRIP applied, and what its impact would be.

7. Rebuttal testimony from applicant

Mr. Evans, referring to TRIP and CSWMP, said that Jerry's worked with a civil engineer who spoke with the City staff to see what would have to be done to take care of storm water run-off. He said that she had written a letter which he gave to the Joint Elected Officials. He offered to meet with the staff within the week to discuss TRIP and CSWMP and perhaps add conditions to the site review criteria to address any concerns.

In response to Mr. Thompson's statement that the traffic situation would worsen, Mr. Evans said that there was a proposed entrance to Jerry's on Theona Street, and that traffic would indeed increase. He continued, saying that Jerry's was prepared to mitigate that traffic situation by financing the widening of Theona Street. He also said that the proposed traffic flow would allow cars to enter from Theona Street and exit onto Highway 99, thereby easing the congestion on Theona Street. He said that with the expansion there would be enough parking space so that employees would not need to park off-site. He mentioned that an access to Wilbur Avenue from Jerry's could be discussed as an option.

Mr. Evans said that Jerry's would respond appropriately to the staff's decision about the setbacks and possible wetland area. He said that Jerry's would comply with the 50-foot setbacks if necessary.

Mr. Evans said that Jerry's had agreed to suggest to its employees that they make use of the LTD car pooling service, suggesting that Jerry's might give preferential parking to car pooling employees.

Mr. Evans said that the expansion of Jerry's would include extending fire hydrants west on Theona Street, where they would be better available to serve Jerry's and the surrounding neighborhoods.

Both public hearings were closed.

8. Joint Elected Officials Discussion

Mr. Boles stated that he preferred to hold discussion after the council could see the response of the City staff after discussing the integration of CSWMP and TRIP into the proposed application.

Mr. Green agreed that he wanted to hold deliberation until after the staff responded to the council's questions about CSWMP and TRIP.

Ms. Keller stated that she wanted to hold discussion until after the staff responded to the council's questions. She said that the Eugene City Council might decide to add some site review criteria.

Ms. Nathanson said that she thought the development plan would result in a better development than was already present. She said she thought it would be more aesthetically pleasing, the traffic flow would be better, and there would be additional positive aspects such as more fire hydrants.

Mr. Roberts thanked Jerry's for their responsiveness. He said that he was concerned about the councilors' comments about TRIP and CSWMP not applying to the industrial area. He voiced concern that approval of the building and planning permits or zoning decisions by the City of Eugene in the unincorporated urban growth boundary might be used to bring into effect policies decided unilaterally by the City of Eugene for its own jurisdiction that were never discussed with the Board of County Commissioners.

Mr. Roberts said that the Jerry's Metro Plan amendment request was a test about whether or not the Joint Elected Officials believed in compact urban growth.

Ms. Dumdi said that she thought it was the duty of the community to help foster the growth of a local business that was challenging the competition of multi-billion dollar corporations. She said that she supported the rezoning and the amendment to the Metro Plan.

Mr. Cornacchia said that he thought the inclusion of TRIP and CSWMP in the regulating of the industrial area needed to be further discussed. He said he believed that the proposal for Jerry's was a win-win situation. He said that the County provided economic assistance for the development of new businesses that came into the community, and he suggested that the County should consider assisting expanding businesses and the surrounding neighborhoods. He stated his support of amending the Metro Plan.

Ms. Frazier concurred with the other commissioners and added that she supported the amendment.

Mr. Rust commended the Planning Commissions. He commented that the expansion would occur onto land currently designated for urban growth. He mentioned that the County had given up 70 acres of industrially zoned land a few years ago. By rezoning the land in the Jerry's application, the County was maintaining an adequate supply of industrial land as required by the Metro Plan. Mr. Rust said that he believed the economic policies of the Metro Plan were consistent with the application.

9. Board Action on Metro Plan Amendment

Ms. Dumdi moved, seconded by Mr. Roberts, to approve Ordinance PA 1054. Poll; all commissioners present voting aye, the ordinance was declared approved.

The meeting adjourned at 9:10 p.m.

Respectfully submitted,

Micheal Gleason
City Manager

(Recorded by Jennifer Self)/jeo08.024