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CITY OF MERCER ISLAND
Planning Commission

PUBLIC MEETING

December 5, 1979

MINUTES

Present: Planning Commission
C.P. Gregory
S. Fry
L. Copass
D. Clancy
J. Nelson

Staff
J. Bacon
D. Guillen
P. Meck-Emery
A. Wallace

Others



Not Present:
R. Keever
V.C. Bryant

The meeting was called to order by Vice-Chairperson Clancy at 7:30 p.m. in the School Administration Building. The last two sentences of paragraph 3 on page 1 were corrected to read: "He stated that traffic would be less, noise less, duration of use less, number of daily trips would be less. Finally, in a single-family proposal access would most probably be required to enter onto S.E. 40th St." The sentence at the end of the second paragraph on page 2 was changed to read: "Commissioner Fry questioned whether alternate security systems other than lights could be explored and stated a strong desire to see no security lighting at all." The minutes were approved as amended.

COMMUNICATIONS:

Mr. Guillen stated that Staff had received a letter from the Kirkland Planning Department suggesting that a joint meeting be arranged to share ideas about eastside community planning.

The receipt of a letter from Hen-Pin Kiang regarding the Dorsey semi-private waterfront tract was acknowledged.

PUBLIC HEARING:

- CONDITIONAL USE PERMIT
Herzl-Ner Tamid Synagogue
Resubmission

Mr. Guillen summarized the action which had taken place to date. He explained that the applicant had appealed the Planning Commission decision to the City Council, and that the City Council had remanded the issue back to the Planning Commission to be considered within a different context. The City Council, he went on to say, had asked the Planning Commission to consider the application in terms of additions appurtenant to the use of a church or synagogue.

Mr. Guillen described the new proposal, which included a new caretakers residence with public lavatory facilities, and an asphalt play area to be located adjacent to the existing parking lot. He added that no grading would be required for the asphalt area. He said in Staff's opinion the impact on the neighbors would be minimal. Mr. Guillen stressed that Exhibit B was the plan under consideration by the Planning Commission.

Commissioner Copass noted that the landscaping which had previously been planned as a buffer between the play areas to the north and the residential area to the south had been deleted from the plans. Mr. Guillen responded that the need for the buffer had been eliminated because there would be minimal changes to the site.

Commissioner Clancy noted that Exhibit B did not include a plant list. Mr. Guillen replied that low-growing shrubs were planned which would not benefit the neighbors. Staff did not feel that adherence to the landscape plan was critical in this case, and thus bonding was not required.

Commissioner Copass asked about the provision of a fence and who would be responsible for maintenance. Mr. Guillen responded that the proposed plan would serve to pull the activities toward the Temple and maintenance of the existing fence was not an indispensable part of the limited request on behalf of the Herzl.

Mr. Guillen went on to say that letters and a site plan had been sent to all parties of record and that the Showalters had been the only neighbors to respond. The Showalters, he said, had expressed concern that the asphalt play area might become an extension of the parking lot.

Commissioner Gregory asked why the existing Madrona tree was to be removed. The reply was that the tree was leaning and was not expected to survive.

Commissioner Nelson emphasized her feeling that use of the existing pilings for mooring should be expressly prohibited.

Julius Skolnik, president of Temple Herzl, addressed the Commission. He explained that the caretaker's residence had been oriented toward the Temple so that the caretaker could perform security functions. He stated that they would expect to maintain the fence which had been added to the plans. He went on to say that they had no intention of using the play area for parking and would in fact install posts that would prevent the passage of automobiles which could, however, be removed to allow maintenance vehicles onto the property.

Commissioner Copass said she felt comfortable with the resubmission. Commissioner Clancy said he felt the new submission exhibited substantial improvement and felt the fact that it was no longer classified as a non-commercial recreational tract helped eliminate a major problem. He went on to say that the fact that no neighbors were present seemed to indicate that their concerns had been satisfied.

In response to Commissioner Clancy's inquiry, Mr. Guillen stated that the existing pilings represented less than 50% of the original dock and therefore, a permit for new construction would be required to make any changes.

Commissioner Gregory said he felt the barriers contemplated to prevent automobiles from entering the asphalt play area should be included on Exhibit B and become a condition of the Conditional Use Permit. Mr. Guillen modified Exhibit B to incorporate removable vehicle barriers on the west side of the asphalt play area.

Motion: Commissioner Fry moved that the Planning Commission recommend to the City Council that the Conditional Use Permit request by the Herzl-Ner Tamid Conservative Congregation be approved as submitted on December 5, 1979, as depicted in Exhibit B, as modified, in that it meets the required showings in Section 19.02 of the Zoning Code. The motion was seconded by Commissioner Gregory and passed unanimously.

PUBLIC HEARING

- HEARING EXAMINER ORDINANCE

Mr. Wallace presented a brief chronology of events leading to the creation of the Draft Hearing Examiner Ordinance. He explained that the Hearing Examiner system had been in effect since January 1, 1978, and was based on Resolution 742. He went on to say that the new ordinance clarified Resolution 742 and was more comprehensive and inclusive, making reference to other documents unnecessary. He added that Resolution 742 had been expanded to include in the Ordinance some administrative sections. He gave as an example the section of the draft ordinance which put a time limitation on variances. Mr. Wallace stated that the draft ordinance had direct bearing on the Zoning Code only in Section 18 of the Zoning Code, relating to the granting of variances, and that the draft ordinance merely elaborated on that section of the Zoning Code.

In response to Commissioner Fry's request, Mr. Wallace listed what he felt were some of the advantages of the Hearing Examiner system versus the hearing of variance requests before the Planning Commission. Mr. Wallace mentioned one advantage as being a more impartial hearing in accordance with the Appearance of Fairness Doctrine. Another advantage he noted was that the decision was made at a later time, after a re-examination of the notes and tapes of the hearing. Commissioner Copass said she felt that as a result of the Hearing Examiner system, the Planning Commission and Staff had become more professional in conducting Public Hearings.

Commissioner Fry said he was bothered by the lack of feedback to the Planning Commission of decisions made by the Hearing Examiner. He said he would rather that the Planning Commission hear variance requests because in his opinion the Commission was more responsive to and aware of the needs of the Community and that they were in a better position to react to real issues and to the evolving needs of the Island according to the spirit rather than to the letter of the law. Commissioner Clancy agreed that feedback regarding Hearing Examiner decisions would be desirable. Mr. Guillen suggested that it would be possible to issue an annual report on decisions made by the Hearing Examiner. Commissioner Fry said he felt this would be helpful, especially if the report was categorized so that the trends would be identifiable and the Planning Commission could then be aware if legislation needed finetuning. Mr. Bacon stated that Staff would be able to produce a semi-annual report.

Commissioner Clancy asked if Section J of the draft ordinance had been in the previous ordinance. Mr. Wallace explained that Section J was an administrative section dealing with applications which were to be reconsidered rather than classified as re-applications. Commissioner Fry asked if the Hearing Examiner could make a new decision on a resubmission without holding a new hearing. Mr. Wallace stated the examiner would need to reconvene a hearing or hold a new public hearing. Commissioner Clancy asked if most applicants felt they needed an attorney to represent them before the Hearing Examiner. Mr. Bacon replied that most applicants seemed to feel good about the way the system worked, and few chose to have legal representation.

In response to Commissioner Clancy's inquiry, Mr. Wallace said that it would be necessary for the applicant to state the basis of a request before a case could be reconsidered.

Commissioners Clancy and Fry said they would like time to look over the draft ordinance and postpone a decision until the next Planning Commission meeting. Commissioners Copass and Gregory indicated that they were ready to make a decision immediately but in order to give Commissioners Bryant and Keever a chance to vote, they would favor postponing further consideration until the next meeting.

Motion: Commissioner Nelson moved that the Planning Commission continue consideration of the Draft Hearing Examiner Ordinance until the Public Hearing scheduled for December 19, 1979. The motion was seconded by Commissioner Fry and passed unanimously.

PUBLIC HEARING

- DESIGN GUIDELINES/DESIGN COMMISSION
ORDINANCE

Ms. Meck-Emery gave a brief history of the Design Commission Ordinance and its function. She explained that the Ordinance had been enacted in 1972. A consultant had been hired in 1972 to develop a graphics and urban design plan, subsequently called the Design Guidelines, which was to offer an objective basis for evaluation of projects, while allowing the necessary flexibility in reviewing design issues. Ms. Meck-Emery explained that Commissioner Bain of the Design Commission had requested that the Design Guidelines be made a part of the Design Commission Ordinance. She went on to say that the City Attorney had drafted an ordinance which would amend the existing ordinance to incorporate the Design Guidelines.

Commissioner Hermes of the Design Commission addressed the Planning Commission. He stated that the members of the Design Commission believed the Design Guidelines were flexible enough to provide a useful tool and that they were unanimously behind the proposed ordinance.

In response to Commissioner Nelson's concern, Staff confirmed that the new ordinance had been coordinated with other pertinent ordinances.

Commissioner Fry stated that it appeared that some of the material in the Guidelines was dated and a revision would seem to be in order. Commissioner Hermes commented that the intent of the Guidelines remained the same and this is what the Design Commission used for reference.

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In response to Commissioner Gregory's inquiry as to what prompted the City Attorney to ask that the Guidelines be updated, Ms. Meck-Emery replied that he believed incorporation of the Guidelines into the Design Commission ordinance put the City in a better legal position if the Guidelines were challenged.

Commissioner Clancy asked if Staff had gone through the Guidelines to weed out factual discrepancies. Ms. Meck-Emery replied that in her experience no inconsistencies or conflicts had been discovered. Mr. Bacon emphasized that the Design Commission focused on the intent of the Guidelines.

In response to Commissioner Nelson's question, Mr. Bacon stated that incorporating the Guidelines into the Design Commission Ordinance would provide a legal buttress to support decisions made by the Design Commission. It was the consensus of the Commissioners that if the Design Commission felt the new ordinance as proposed would work for them, they would also support it.

Motion: Commissioner Gregory moved that the Planning Commission recommend to the City Council that they incorporate the Design Guidelines into the Design Commission ordinance as recommended by the City Attorney. The motion was seconded by Commissioner Fry and passed unanimously.

There being no further business, the meeting was adjourned at 9:32 p.m.

Respectfully submitted,

Marty Beck
Minutes Clerk

MB/dpg/ms