

**AFFIDAVIT OF POSTING  
ORDINANCE CB-0-119-89**


STATE OF OREGON                    )  
  )  
COUNTIES OF CLACKAMAS        )  
  )  
  )  
  )  
CITY OF WILSONVILLE            )

I, the undersigned, City Recorder of the City of Wilsonville, State of Oregon, being first duly sworn on oath depose and say:

On the 10th day of May, 1989, I caused to be posted copies of the attached Ordinance CB-O-119-89, an Ordinance vacating a dedicated public utility easement in the City of Wilsonville, Clackamas County, Oregon, in the following four public and conspicuous places of the City, to wit:

- WILSONVILLE CITY HALL
- WILSONVILLE POST OFFICE
- LOWRIE'S FOOD MARKET
- KOPPER KITCHEN

The ordinance remained posted for more than five (5) consecutive days prior to the time for said public hearing on the 15th day of May, 1989.

  
\_\_\_\_\_  
VERA A. ROJAS, City Recorder

Subscribed and sworn to before me  
this 16<sup>th</sup> day of May, 1989.

  
\_\_\_\_\_  
NOTARY PUBLIC, STATE OF OREGON

My Commission expires: 8-23-89

AFFIDAVIT OF POSTING  
ORDINANCE CB-0-119-89

STATE OF OREGON )  
 )  
COUNTIES OF CLACKAMAS )  
AND WASHINGTON )  
 )  
CITY OF WILSONVILLE )

I, the undersigned, City Recorder of the City of Wilsonville, State of Oregon, being first duly sworn on oath depose and say:

On the 26th day of April, 1989, I caused to be posted copies of the attached Ordinance CB-O-119-89, an Ordinance vacating a dedicated public utility easement in the City of Wilsonville, Clackamas County, Oregon, in the following four public and conspicuous places of the City, to wit:


WILSONVILLE CITY HALL

WILSONVILLE POST OFFICE

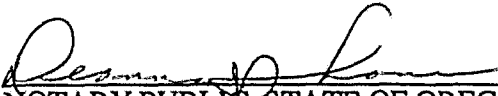
LOWRIE'S FOOD MARKET

KOPPER KITCHEN

The ordinance remained posted for more than five (5) consecutive days prior to the time for said public hearing on the 1st day of May, 1989.

  
VERA A. ROJAS, City Recorder

Subscribed and sworn to before me  
this 16<sup>th</sup> day of May, 1989.

  
NOTARY PUBLIC, STATE OF OREGON

My Commission expires: 8-22-89

**ORDINANCE NO. 351**

**AN ORDINANCE VACATING A DEDICATED PUBLIC UTILITY EASEMENT IN THE CITY OF WILSONVILLE, CLACKAMAS COUNTY, OREGON**

WHEREAS, it appears to the City Council of Wilsonville, Oregon, that on April 3, 1989, Resolution No. 710 was duly adopted initiating action on its own motion pursuant to ORS 271.080 to and including ORS 271.230, for the vacation of a utility easement with the Town Center, and that the City Recorder caused notice to be given by posting and publication as required by law, and the proof of said posting and publication is on file with the City Records, and that the matter of said vacation together with a hearing of any objections or claims to be heard and considered concerning said vacation would be heard and considered at 7:30 p.m. on Monday, May 1, 1989, in the Council Chambers at City Hall, 30000 SW Town Center Loop E., Wilsonville, Oregon, and said hearing having been held, and that said vacation is in the public interest, that the requisite consents to said vacation have been duly filed herein and that all expenses and assessments in connection therewith have been paid.

NOW, THEREFORE, THE CITY OF WILSONVILLE ORDAINS AS FOLLOWS:

That the following described public utility easement within the corporate limits of the City of Wilsonville, Clackamas County, Oregon, to-wit:

"Across and under a 60 foot wide parcel of land in the west one-half (1/2) of the southwest one-quarter (1/4) of Section 13, Township 3 South, Range 1 West, Willamette Meridian, City of Wilsonville, Clackamas County, Oregon, and lying 30 feet on each side of center line, said center line described as follows:

"Beginning at a point on the west line of said Section 13 that is S. 0 degrees 03'01" W. 907.218 feet from the west one-quarter (1/4) corner of said Section 13; thence N. 89 degrees 25'33" E.

364.280 feet to the west line of that tract of land described in Fee No. 82-9422 of the Clackamas County Deed Records.”

be and the same is hereby vacated subject to the following conditions:

1. The easements proposed to be granted to the City by the applicant and recommended by the Planning Commission are substituted therefore; and the vacation shall take effect upon the granting and recording of such easement by the applicant.
2. Any relocation of utilities associated herewith shall be at the applicant's expense and without cost either to the City or to the properties immediately to the east.

SUBMITTED to the Wilsonville City Council and read the first time at a regular meeting thereof on the 1st day of May, 1989 and scheduled for second second reading at a regular meeting thereof on the 15th day of May, 1989, commencing at the hour of 7:30 o'clock p.m. at the Wilsonville City Hall, and continued to a special meeting schedule for May 24, 1989, at 6:30 o'clock p.m. at the Wilsonville City Hall.

Vera A. Rojas  
VERA A. ROJAS, City Recorder

ENACTED by the City Council on the 24th day of May, 1989, by the following votes: YEAS: 3 NAYS: 0.

Vera A. Rojas  
VERA A. ROJAS, City Recorder

DATED and signed by the Mayor this 25<sup>th</sup> day of May, 1989.

John M. Ludlow  
JOHN M. LUDLOW, Mayor

SUMMARY of Votes:

Mayor Ludlow ABSENT  
 Councilor Chandler AYE  
 Councilor Clarke AYE  
 Councilor Dant ABSENT  
 Councilor Edwards AYE

PLANNING COMMISSION  
RESOLUTION NO. 89PC20

A RESOLUTION ADOPTING FINDINGS IN SUPPORT OF  
THE PLANNING COMMISSION'S RECOMMENDATION  
THAT THE CITY COUNCIL APPROVE MTW PARTNERS'  
REQUEST TO VACATE A UTILITY EASEMENT LOCATED  
ON TAX LOT 400, T3S-R1W, SECTION 13.

WHEREAS, MTW Partners, represented by Mark J. Greenfield, has requested that the City vacate a 60-foot wide public utility easement located on Tax Lot 400; and

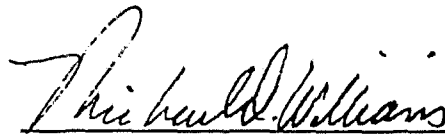
WHEREAS, the current location of the 60-foot wide utility easement would prohibit MTW Partners from implementing a proposed development plan for the subject property; and

WHEREAS, the Planning Commission held a public hearing on April 10, 1989, at which time the Commission accepted oral and written testimony, which together with findings and exhibits, were entered into the public record; and

WHEREAS, the Commission heard from interested parties, including staff and the applicant, and has duly considered the subject.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Wilsonville does hereby adopt the findings attached hereto as Exhibit A, together with the conclusions and recommendations contained therein and further requests that the Wilsonville City Council vacate the utility easement consistent with said findings and recommendations.

ADOPTED by the Planning Commission of the City of Wilsonville at a regular meeting thereof this 10th day of April, 1989, and filed with the Planning Secretary this same day.

  
\_\_\_\_\_  
Chairman, Planning Commission

Attest:  
  
\_\_\_\_\_  
Judge Swinson

FILED   
4-18-89

IN THE MATTER OF THE VACATION OF AN )  
EASEMENT FOR TAX LOT 400, T3S-R1W, ) FINDINGS OF FACT AND  
SECTION 13 - MTW PARTNERS, APPLICANT ) RECOMMENDATION

Findings of Fact:

1. On April 10, 1989, following public notice by publication and posting, this matter came before the Planning Commission for public hearing, pursuant to Resolution No. 710 of the City Council of the City of Wilsonville. The City Council initiated this matter at the request of applicant MTW Partners.
2. Applicant requests the vacation of the following-described easement:

"Across and under a 60-foot wide parcel of land in the west one-half (1/2) of the southwest one-quarter (1/4) of Section 13, Township 3 South, Range 1 West, Willamette Meridian, City of Wilsonville, Clackamas County, Oregon, and lying 30 feet on each side of center line, said center line described as follows:

"Beginning at a point on the west line of said Section 13 that is S. 0 degrees 03'01" W. 907.218 feet from the west one-quarter (1/4) corner of said Section 13; thence N. 89 degrees 25'33" E. 364.280 feet to the west line of that tract of land described in Fee No. 82-9422 of the Clackamas County Deed Records."
3. The easement applicant seeks vacated is described as a public utility easement. By its express terms, the easement is for power, electric, natural gas, cable, telephone and pedestrian purposes. The easement does not purport to be for roadway purposes, and the Commission finds and concludes that the easement was not granted for street or roadway purposes.
4. The easement sought to be vacated is 60 feet wide. The Commission finds and concludes that a 60-foot width is not necessary for public utility or pedestrian purposes. The Commission finds that a 60-foot width may be appropriate for roadway purposes. However, the language of the easement contains no reference to roadways and neither the Comprehensive Plan map nor any other officially adopted City document identifies a roadway at this location within the Town Center, except as may be incurred from an A and B classification local street as shown on the Master Street System and Functional Classification document attached to the Comprehensive Plan. The Commission is unclear as to the reasons why the easement granted was 60 feet wide, but it concludes that a 60-foot wide easement at this location serves no public purpose and has no basis in any officially adopted City document. However, a lesser size may appropriately serve a public purpose albeit it may also be relocated in part and shall still serve the public purpose.

5. A sanitary sewer line has been placed across the applicant's property along the easement proposed for vacation. The applicant proposes to relocate a portion of this sanitary sewer line. However, the eastern termination point of the sewer line would remain at its present location and remain available to serve the properties to the east. The applicant proposes to grant the City a new easement for sanitary sewer purposes. The Commission further concludes that, because the termination point of the sanitary sewer line will remain in its current location, the relocation of a portion of that sanitary sewer line will have no adverse effect on the adjoining properties.
6. The applicant proposes to grant to the City a second easement to the south of the proposed easement for sanitary sewer purposes. The applicant proposes to grant this easement for storm sewer, power, natural gas, electric, telephone and cable purposes.
7. The Commission heard and believes testimony from the applicant that the existing easement would prevent the planned development of Town Center Apartments. The Commission heard and believes testimony that the location of the easement proposed for vacation divides the applicant's property and hinders its development in an economic manner. The Commission finds that the development, as proposed, serves the public interest, and concludes that vacation is necessary to allow such development. The Commission also finds and concludes that the retention of the 60-foot wide easement and its extension onto the Clackamas Community Foundation property would cut through that property. The Clackamas Community Foundation has filed a notarized document supporting the proposed vacation.
8. The Commission finds that the easement proposed to be vacated is not identified on the pedestrian access map in the Comprehensive Plan. The Commission finds no official City document requiring pedestrian access through the applicant's property at this location. The Commission concludes that an easement for pedestrian access serves no public purpose at this location.

#### Recommendation

The Commission determines that the easements proposed by the applicant would serve the utility needs of the public and adjoining landowners as well as or better than the easement proposed to be vacated. Accordingly, the Commission recommends approval of the proposed vacation, such vacation to take effect at such time as the applicant grants and records the two easements described above.

MTW Easement  
file

MITCHELL, LANG & SMITH

ATTORNEYS AT LAW

2000 ONE MAIN PLACE  
101 S.W. MAIN STREET  
PORTLAND, OREGON 97204

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RANDALL A. WILEY  
PATRICK D. GILROY, JR.\*  
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ELIZABETH A. SAMSON  
CANDACE H. WEATHERBY  
KATHLEEN L. BICKERS\*  
RICHARD A. WYMAN  
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TERRY M. WEINER\*  
MARK J. GREENFIELD  
CHARLES D. HARMS  
MICHAEL D. HEPBURN†  
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PEGGY HENNESSY\*  
MARY KYLE MCCURDY†  
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MICHAEL R. MITTGET

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‡MEMBER WASHINGTON  
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§MEMBER OREGON AND  
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April 21, 1989

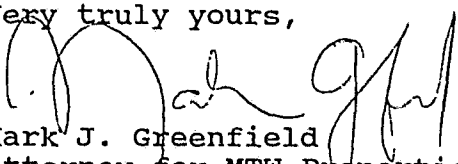
Wayne Sorenson  
Planning Director  
City Hall  
P. O. Box 220  
Wilsonville, OR 97070

Re: MTW Properties -- Request for Easement Vacation  
Our File No. 700/38096-0

Dear Wayne:

Enclosed is a notarized document, signed by George Vlahos and Donald F. Mala, consenting to the proposed public utility easement vacation on my clients' property. Please place this document in the appropriate file.

Very truly yours,

  
Mark J. Greenfield  
Attorney for MTW Properties

MJG:cc  
Enclosure  
cc: Mark Hinton



We, the undersigned owners of abutting property, hereby consent to the above-described public utility easement vacation:

The Wilsonville Project, an Oregon Partnership

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Clackamas Community College Foundation

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

? John R. Grossman

Date: \_\_\_\_\_

\* \* Pacific Plaza Center  
By: Donald F. Mala  
Title: Donald F. Mala, Attorney in Fact  
Date: April 7, 1989

\* \* \* George Vlahos  
Date: 4-4-89

STATE OF OREGON )  
 ) ss.  
County of Clackamas )

\* \* On this 7th day of April, 1989, before me, personally appeared Donald F. Mala, who being duly sworn is the Attorney in Fact (Title) of Pacific Plaza Center (Name of Business), and acknowledged the foregoing instrument to be his voluntary act and deed.

James A. Schubert  
Notary Public for Oregon  
My commission expires: 9-20-92

STATE OF OREGON )  
 ) ss.  
County of \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 1989, before me, personally appeared \_\_\_\_\_, who being duly sworn is the \_\_\_\_\_ (Title) of \_\_\_\_\_ (Name of Business),

and acknowledged the foregoing instrument to be \_\_\_\_\_ voluntary act and deed.

\_\_\_\_\_  
Notary Public for Oregon  
My commission expires: \_\_\_\_\_

STATE OF OREGON )  
 )  
County of \_\_\_\_\_ ) ss.


On this \_\_\_\_ day of \_\_\_\_\_, 1989, before me, personally appeared \_\_\_\_\_, who being duly sworn is the \_\_\_\_\_ (Title) of \_\_\_\_\_ (Name of Business), and acknowledged the foregoing instrument to be \_\_\_\_\_ voluntary act and deed.

\_\_\_\_\_  
Notary Public for Oregon  
My commission expires: \_\_\_\_\_

STATE OF OREGON )  
 )  
County of Clackamas ) ss.

\*\*\*

On this 4 day of APRIL, 1989, before me, personally appeared George Vlahos, who being duly sworn, acknowledged the foregoing instrument to be his voluntary act and deed.

  
\_\_\_\_\_  
Notary Public for Oregon  
My commission expires: 9-23-92

?

STATE OF OREGON )  
 )  
County of \_\_\_\_\_ ) ss.

On this \_\_\_\_ day of \_\_\_\_\_, 1989, before me, personally appeared \_\_\_\_\_, who being duly sworn, acknowledged the foregoing instrument to be \_\_\_\_\_ voluntary act and deed.

\_\_\_\_\_  
Notary Public for Oregon  
My commission expires: \_\_\_\_\_

STATE OF OREGON                    )  
  )    ss.  
County of \_\_\_\_\_ )

On this \_\_\_\_ day of \_\_\_\_\_, 1989, before me, personally  
appeared \_\_\_\_\_ and \_\_\_\_\_,  
who being duly sworn, each for himself and not one for the other  
did say that the former is the \_\_\_\_\_  
president and that the latter is the \_\_\_\_\_ secretary  
of \_\_\_\_\_ a corporation, and  
that the seal affixed to the foregoing instrument was signed and  
sealed in behalf of said corporation by authority of its board of  
directors; and each of them acknowledged said instrument to be  
its voluntary act and deed.

\_\_\_\_\_  
Notary Public for Oregon  
My commission expires: \_\_\_\_\_

EXCERPT FROM PLANNING COMMISSION MEETING OF APRIL 10, 1989:

**MTW PARTNERS - Request to vacate a utility/roadway easement located on Tax Lot 400, T3S-R1W, Section 13 - Town Center Park Apartments site**

Chairman Williams Okay, the next item on the public hearing agenda is a request to vacate a utility road easement on a section of property in the Town Center.

Wayne Sorensen We have received - at the last meeting - you reviewed a development plan by MTW Partners which was a request to locate an apartment complex called Town Center Park generally located on Tax Lot 400 which is the property owned by George Vlahos in the Town Center. Since that time, at that hearing, our legal counsel, Mr. Kohlhoff, raised the question of some prior access agreements that were part of LID 5 and whether or not they affected this particular piece of property.

Chairman Williams That was a Condition of Approval, wasn't it? I thought it was, it was something like that.

Sorensen It was to be examined. And as a result of looking closer at the development, we found a couple of things. One was there is a sewer line located on the property within an existing 60-foot easement. The sewer line is placed in such a manner so that it prevents implementation of the applicant's Development Plan. I'll go into that a little bit more. Generally, the easement 60 feet wide traverses the southern portion of the parcel. Upon confirmation of the fact that the sewer line and sewer easement did exist, the applicant then petitioned City Council to vacate that line. City Council did, in fact, entertain that and it's a part of your packet. There's a Resolution that's attached. The Resolution that's included into your packet is unsigned, but it was passed by the City Council at the last meeting and that Resolution sets a hearing date for May 1, 1989, in Council Chambers to consider the vacation of -

Chairman Williams They didn't act on the merits of it - they just simply set it for hearing.

Sorensen

Right, they're setting it for a hearing. Prior to that time, it's being brought before the hearing body - the Planning Commission - so that you can forward a recommendation to the City Council. And I have just received from the applicant's attorney, Mr. Greenfield, a number of documents. The first document is a public utility easement that describes the easement. Part of the contention of the applicant will be during his presentation is that this is for a public utilities easement and is not a roadway per se. And along with that the applicant has prepared for the Commission findings of fact and a recommendation. This is being brought before the Commission on rather short notice and staff really hasn't had a chance to have a good review of that.

Chairman Williams

Just so we get this right, I'm going to open the public hearing retroactively to when you started talking. Okay, this is the - I guess one of the problems I have with it, I also have Mr. Altman's letter at least in the package of the material that was sent to me under date of March 24, 1989, which -

Sorensen

That's correct. Mr. Altman's letter was submitted to us after the Planning Commission hearing last time and the reason it's included in your packet. It's a little bit out of place. It should have been towards the end in back of Mr. Hinton's letter. Mr. Altman's letter is included because of item no. 2 wherein he asked that appropriate provisions for access to storm drainage and sanitary sewer lines as needed to serve the Wilsonville project and then he goes into some detail to that. Mr. Altman is representing clients located to the east generally that is the Terry Tolls property and I have an additional exhibit submitted by Mr. Altman submitted in the form of written testimony that I have just received.

There are other issues associated with Town Center that some members of the audience may wish to speak to tonight. I spoke with Bob Dant previously and Mr. Dant will try to be at this meeting. He's probably on his way right now. He's supposed to arrive in Portland at 7:30 p.m. and Mr. Dant is concerned about larger issues concerning Town Center as a whole. Those are the open space access and which plan is in effect and he was to have

those brought up under Commissioner's Concerns and he did that at my request.

Chairman Williams

Okay. Why don't we start with a - who's going to have the staff report? Or was that it?

Sorensen

That was the staff report.

Chairman Williams

Okay, the applicant - Mr. Greenfield -

Mark Greenfield

Chairman Williams, members of the Planning Commission, I'm Mark Greenfield. I'm an attorney. My address is 101 S.W. Main Street, Suite 2000, Portland, Oregon, and I'm here representing the applicant MTW Partners. With me tonight and following me in this presentation are Mike Wornack and Mark Hinton of the - who are the applicants, and their architect, Layne Asplund. The issue before you is a proposed vacation of a 60-foot wide public utility easement on the applicant's property. As Wayne indicated to you, this is something that we discovered at the time of the Planning Commission approval of the Stage I Master Plan and zone change and it was brought to our attention by the City Attorney. After the hearing on the zone change proposal, I was mailed some documents by Mr. Kohlhoff and reviewed them and noted that there were two easements in 1985 which the property owner George Vlahos granted to the City. The two of them dealt - were a response to a closure of Parkway here and they dealt with Tax Lot 200 and the intent was to provide access to that Tax Lot. And one of the accesses comes in over here. The other came alongside and involved the west 30 feet of our property. Now, that was clearly an easement for roadway purposes when you read the documents and you read the supporting Resolutions of the City that approved that. However, there was also a second easement which I believe is - the white line is intended to represent - which is a 60-foot wide easement and you have in front of you a document which I have provided that indicates the purpose of that easement. It's called a public utility easement and if you look at the paragraph that has number one on it, it indicates that this was granted for the purpose of constructing, building, patrolling, replacing and maintaining thereon a sidewalk and public utilities easement along said right-of-way for the conveyance of pedestrian, power, electric, natural gas, telephone or cable. And there is

nothing in this document to indicate that this was ever intended for roadway purposes. We believe that this is, in fact, an easement that is strictly a public utilities easement and not a roadway easement and we believe that there is support for that in the Comprehensive Plan. What we seek to vacate is that easement and we also would propose to replace it with two other easements that, in fact, provide more than what the current easement authorizes. There is a sanitary sewer line that cuts across the property along this white line. What we actually would do is relocate only a portion of that easement - if you extend this yellow line here all the way to the west, you would have the sewer line where it currently is. Because we are proposing houses in this area, we will propose the relocation with this angle to turn here so that the termination of the sewer line will still be in the same place and, consequently, the properties which benefit from that to the east will still have the same benefit. There would be no adverse impact on those properties. However, we are talking about a 15-foot wide easement instead of a 60-foot wide easement here. We are also proposing to grant to the City another 15-foot wide easement down here which would be for storm sewer and the other utility purposes which are noticed in the original easement. That means power, electric, natural gas, telephone and cable. We are not proposing an easement for pedestrians because we don't think that is consistent with the Comprehensive Plan and we don't think that is appropriate at this location and the applicants will explain to you the reasons.

I have included in this document several other documents. You will notice if you turn about five pages in, actually six pages in, you will see a map that says Master Street System and Functional Classification. You will notice that there are no roads identified for this particular area to go through this property. Also, if you turn back a page where it says Pathway Master Plan, you will notice that there are no pedestrian pathways identified for this particular area. We tried to figure out why a 60-foot wide easement was granted initially and it was difficult because there was nothing in the Comprehensive Plan to indicate it. The best we could come up with is that there was

an unofficial drawing that seemed to be a concept that was never approved by the City. For an easement to go through our property and through the adjacent property to the east, it kind of curls like this and around over to the Clackamas Community College property and it stopped there. So if it was intended for internal circulation, it doesn't make sense because it didn't go all the way around. If it was intended for some other sort of access, again, it wasn't particularly too wide - it was necessary to why it had to be that wide, for example, if it was for pedestrian purposes. We would note there are alternatives to getting to the trees if that was the intent, but it's not clear what the intent was. The only thing that was clear is that that one single map was never adopted and now it doesn't make sense. In fact, the last page of this handout is a copy of a document we received today and we got it faxed to us, so the original is in the mail and we'll be delivering that to you from Clackamas Community College supporting the proposal to vacate this property on the grounds that it would be very difficult for them to develop their property in an economic way because they've got a 60-foot wide road continuing roadway or easement or whatever it is continuing on through their property and coming right in the middle. So consequently, they support us and I believe they have a representative here tonight who may speak for them. We believe it is appropriate and correct for the applicant to provide to the City easements for public utilities. As I have indicated, we do not intend, we do not ask to be relieved of that responsibility. Moreover, we would expand the easement specifically to include sanitary sewer and storm sewer which are not mentioned in this document. As I have indicated, we propose two easements to be provided in lieu of the one that would be vacated and we would ask the Planning Commission to approve the vacation concurrent to take effect at the time that the two easements which we grant are granted and dedicated to the City. So it would take place concurrently. I have shown the locations of the proposed easements and you will hear a little more detail on the feasibility of that from Layne Asplund.



I have indicated to you that we did research the documents. We also spoke with staff quite a bit. We met with staff on a couple of occasions trying to find out more history about this 1985 document and why the easement was for 60 feet and we could not - we could only speculate as to the reason. It simply is not clear exactly why a 60-foot wide easement was granted. It may have been for purposes of internal access. But as I have indicated, that never received official City approval. What our concern is, and you will hear about this shortly, is that if the easement remains where it is right now, it makes it economically very difficult and perhaps impossible for us to develop our property economically. Mike Warnick is here and he will discuss that. We would ask, because the test for vacating an easement is whether or not it is in the public purpose, we would ask that you make a determination that this particular - that the vacation is in the public interest and, consequently, we would ask that you approve it. We note that, if you determine that the easement is an easement for public utilities and not an easement for roadway, then it is not necessary statutorily to obtain a consent from adjacent land-owners. However, my understanding is that we know that we have the consent from Clackamas Community College. My understanding is that property owners to the west of this site and within 200 feet of the easement proposed to be vacated, also support the vacation and I understand you have a letter from Mr. Altman who indicates, I guess I'd refer to this as a conditional support, and I'll discuss this a little bit later on, but it does not appear to be something that is opposed by the property owners. In fact, I think generally both the Wilsonville Project and Clackamas Community College would just as soon not see that easement there and the impact that easement could have on their properties. With that, I would like at this time to introduce Mike Warnick to speak about the impacts on the applicant and on his proposed development if the easement is not vacated.

Mike Warnick

Hello. I'm Mike Warnick and I'm managing general partner of the MTW Partnership. My other partner, Mark Hinton, is here also this evening. I think one of the first things that I wanted to address is

the impact on the site if the proposed 60-foot wide easement is not vacated. Looking at the site, you can see that the 60-foot easement, or I should say 30 feet from the center line on either side, runs essentially right through the center of the property and given our density, our layout and our recreation building, we have come up with an alternative plan to provide the utilities necessary for this site and the contiguous site without interfering with our proposed plan. I think Mark also indicated in his opening remarks that if the proposed vacation of the easement is not passed, the extension of the easement to the Clackamas Community College property breaks their parcel down into two relatively small parcels, and based on their submittal, would provide a much less open space feeling to their campus environment that they are trying to obtain. Later on, Bob Dant is going to be discussing the extension of the Parkway issue which from the north part of the loop through the center of the property down to the open space area. And I think what we're trying to obtain is pedestrian access to the open space and we've come up with a cul-de-sac design coming through the top of the loop Parkway extension and we have agreed to construct the road full width to the center of the property. Pedestrians could come here and still access the open space. So even if the easement through the center of the property was to be pedestrian to get to the open space, they could still have access to this direction.

I think, finally, it is important to understand the timeliness of the decision. We've made progress in submitting working drawings based on our construction schedule for the winter months and process in terms of approvals would like to reach a timely accord on the matter as well. I'd like to introduce Layne Asplund, who is our project architect, who will be able to discuss the specific engineering aspects of the sanitary and sewer lines as well. Thank you. I'm Layne Asplund, address is 3630 N.E. 99th Street in Vancouver, Washington, architect working with the owners on the project. I think the different descriptions have been covered quite well and so I'll just look at the technical or engineering standpoint of the process that we're talking of. At this point, we have the existing manhole

Layne Asplund

that's on the east side of the property and the existing line running in this direction. We're looking at creating an easement that would allow access to that line until we get into our internal circulation pattern on the project and we would turn south and back over to the main sewer line. This sewer line has approximately a 10-foot invert - it's about ten feet deep in the ground. We would not be changing that and we would not be altering this. We'd be using the existing line and keeping that for future service so the property over here would have the exact same tie-in as they have at this time. And then on the south side of our building between the units and the existing fir trees that are on the south edge is where the other easement line would be located. The main concern and interest on this utility easement line is the sewer, or the storm drain could be installed at that point and, actually with the storm drain installation at this point, we are at a lower elevation on the topography of the ground so that it would render a better access than this point does at this time.

Chairman Williams Layne, let me ask you this - has the Engineering Department signed off on putting the S curve in the sewer line?

Asplund They have not, no. We've brought a proposal in the package and the main concern, as I hear it so far, that when we come in with our engineering drawings, does that have to meet the criteria with the engineering department.

Chairman Williams You don't know now whether it will or won't. I'm just curious as to whether or not they haven't had enough time to do it or they're thinking about or they don't know or they're going to say no.

Sorensen We had a chance to meet with the applicant before they devised this plan and they met with City Engineer and myself and other City officials to see if such a plan would be feasible and at that time it was pointed out to the applicant that they could do something like what they're doing for the sewer easement, and they also - we also pointed out to them that their sanitary sewer not be located in the same easement. On a preliminary basis, I reviewed this with Mr. Drinkwater this afternoon and he can engineer around that if they relocate the line like that, it would work.

Asplund

The thing is, right now, our slope is from here to here and what we'd be doing is having the same slope going in the east-west direction and this sewer line is sloping down this way and so this would repeat the same slope so it would still be dropping the same distance and the same lineal footage. We would have to put in a couple more manholes so we would accomplish that.

Sorensen

That's an eight-inch sewer line, isn't it?

Asplund

This one is eight-inch across.

Sorensen

I think there's a 15 or - a 15-inch sewer line in the -

Asplund

Any other questions or -

Chairman Williams

Is there anyone else who would like to speak as a proponent - George?

George Vlahos

It's been a long time - George Vlahos - 31326 S.W. Parkway, Wilsonville, Oregon. I see in there the reason for the easement. You know, I can't give you a reason why I signed it. Really. I think when Larry decided, or the City decided to run that sewer across the property - we came up with a 20-footer. So, if you read the records, I don't know, Mike, how long it was before papers were prepared before I signed them, but it was a long time, I don't know, a year, a year and a half, after the line was in. And then I signed it and the funny thing on the way to the bank too, the sewer line was in and then I signed the easement. It was kind of a backward deal, I guess. Anyway, I think somewhere along the line, there was a conflict between 20 and 60 feet. Had I'd seen 60 when I signed it, you know I'm not one to read the fine print anyway, I wouldn't have signed it. But anyway, the 60-foot was news to me when I read it here a while back. But anyway, that's about the name of the story, otherwise, I wouldn't have signed a 60-foot easement, and besides, I'm always - where are we at here - right here, I don't know - 50 or 60 feet here for this intersection and 30 feet down here and now 60 here. I'd appreciate it if we could vacate this 60 here so I can get on with the property here. Really, it doesn't benefit residential property. If it was commercial, maybe it might have benefitted - maybe we had that in mind - I don't know. I really can't tell you what Larry had in mind. All I had in mind was 20 feet for a sewer easement. That's about all I've got to say.

Helen Burns Are all those trees on your piece of property? Does your property go down to that line, the south end of that line?

Vlahos All the trees are in blue there. There's I think 14 on mine.

Burns I'm trying to figure out where the south boundary of your property is.

Chairman Williams Is there anyone else who would like to testify? Opponent? Proponent?

Ben Altman I'll straddle the fence. Ben Altman, Altman Urban Solutions, 700 S.W. Taylor, Suite 305, Portland 97205, and I am representing both the Wilsonville project and the Clackamas Community College. Mr. Greenfield indicated earlier that the college has signed an agreement supporting the vacation and that it would, if continued, it certainly only provides in our mind utility access and any idea of a roadway through there is not supported by either of my clients. I've provided you with some written testimony that for the Wilsonville project is more of a qualified support for the vacation and is based on our understanding of the rules that are in operation within the Town Center, comparing the Comprehensive Plan and the Town Center Master Plan. What our understanding is is that the primary circulation and I refer to the Master Plan. Our understanding with the Comprehensive Plan and the Town Center Master Plan is that the Town Center Loop Road has always been, and in our minds still is, the primary arterial circulation for traffic through the Town Center area between Parkway Avenue and Wilsonville Road. That's shown on this Master Plan and highlighted in yellow. Also shown on there in pink is some internal access that's scattered around the various points off the Loop Road. Some of them looping through to other connections and some not. That was always understood to us to mean that there would be some forms of internal circulation, but not a major public street extending through the Town Center. Mr. Greenfield, also, in his discussion, alluded to prior actions that begin to create an access coming south off of Parkway Avenue into the center of the Town Center area adjacent, the western boundary of the applicant's property and the eastern boundary of the property to the west. That access was created in our understanding as a negotiated settlement for the vacation of Parkway Avenue under LID

5 and its intent was to serve generally the areas that are at the north of the Town Center and specifically Lots 200, 201 and 400. 400 being the subject property for the applicant. That's our understanding for circulation. We don't see that that action that was taken before to create the extension of Parkway Avenue was significantly different in terms of its function to serve those properties at the north end what the Master Plan shows.

Wiedemann May I ask - that lower pink line up there in the upper section -

Sorensen The orange line is the easement.

Altman This orange line right here is the easement we're discussing.

Chairman Williams Where's the south property line?

Wiedemann Has this just been put on it? On the map? What is that on? The original -

Altman It was colored in just to show where it's located relative to the other access points. Lot 400 - the applicant's property - is highlighted in red on this map. Orange indicates location of the subject easement.

Chairman Williams The only reason that it's confusing is because as I recollect last time about where your orange line was was where we thought the property line was.

Kohlhoff That's correct.

Sorensen There is, on the back of your pamphlet, a survey map that shows where the easement is located, but the problem with that - it shows it on the survey, but it didn't identify it on any of the Town Center Master Plan or on the Comprehensive Plan where that was. I'd like to note that there is a considerable difference between the Master Plan and the Comprehensive Plan where things are located. Areawise.

Kohlhoff Okay, now that's Exhibit A and what plan is that? The City Center Plan. You said - you called it Comprehensive Plan - that's not the Comprehensive Plan. Is that the Comprehensive Plan that is on the floor?

Sorensen No.

Kohlhoff Okay, I understand the Comprehensive Plan for the City. I'm just saying as part of the Comprehensive Plan. The Comprehensive Plan does not show any internal circulation within the City Center

Plan, correct? And we adopted, by Ordinance, City Center Plan, correct?

Sorensen You adopted the City Center plan by Ordinance and you modified it by Ordinance.

Kohlhoff Okay, and what we're looking at is the final modified City Center Plan. Is that Exhibit A?

Sorensen That's Exhibit A.

Wiedemann Well, I'm still concerned about that pink line up there which is a roadway. Why are we saying there's no internal roadways when that is definitely an internal roadway plan up there?

Altman Well, that's one of the confusing parts about this whole issue. As I pointed out before, this concept of creating access through the north area apparently - is apparent to serve these properties in here and provide access down to the lower portion in here.

Wiedemann And that was the Center being developed with the trees and a real center for the Town Center Loop. Well then, why have we modified the Plan to allow a roadway to go down the west side of that property?

Altman That's the issue that I'm focusing on that raises some concerns about the implementation of the Plan and what direction we are going and why my client is stating that it's - we support this if we understand it. My understanding is that the change in circulation of extending a roadway directly aligned with Parkway Avenue into the north end of Town Center was done without specific reference to this Master Plan, but as a negotiated settlement in terms of implementing the construction of the Loop Road under LID 5 and the resulting vacation of Parkway Avenue, the old Parkway Avenue through here. It was replacing access lost to Tax Lot 200 down in this southwestern portion over in here.

Chairman Williams Ben, what I think it looks to me like is the Master Street System and functional classification plan that Mark distributed says that it doesn't, and I assume that's part of our Comprehensive Plan, says that it doesn't include A and B type streets because they're something less than collectors which are presumably what you're showing us on there. So what you seem to be saying is it's a part of

LID 5 to get that done. We'd put another pink line in. It wouldn't necessarily show up on the Town Center.

Altman

Right, you'd put a pink line in going directly south, rather than coming in from one side or the other. We're not arguing that that was inconsistent with the Plan or not. What we're trying to get focused on is that its purpose, whether its centered on the alignment of Parkway Avenue or there's a loop coming from either side of Parkway Avenue. Its function is to access these properties and it's not to extend on through.

Chairman Williams

Now we've got to have some people jump in here.

Kohlhoff

Ben, you were the Planner for the City at the time this was negotiated out, right? At that time, if my memory serves me correctly, and I think that Wayne has something here - there was a proposed second option for internal circulation using that access - was there not?

Altman

There was never any -

Kohlhoff

But it never got adopted -

Altman

There was a concept, as I recall, that was generated out of a subcommittee of the Design Review Board or some other - and working with the Chamber Board or something. It did create an idea of a loop inside of the loop and I believe that's where this whole easement in terms of its location came from, but that particular plan never got out of subcommittee.

Sorensen

This is the loop and the loop plan. To my knowledge, I have never found any reference to this plan being adopted.

Kohlhoff

It was never adopted. What happened was a group of the property owners asked the City to take a look at this as a study because they were opposed to having all their land go for a lake or open space and so an optional study came out proposed by some of the property owners and maybe Don Mala could talk to that a little bit. It may have come out of the Young group - I'm not sure which group it came from, but they proposed having an entryway off the major and doing a reverse circular and making it grassy park blocks as opposed to a lake situation and the Comprehensive Plan I think, and didn't you on this, set up what the Comprehensive Plan showed for



open space. This is what staff has outlined as open space on the Comp Plan, correct?

Sorensen That's open space on the Town Center.

Kohlhoff I'm sorry, on the Town Center.

Sorensen That's correct.

Arland Andersen That's on the Town Center Plan, not the Comprehensive Plan.

Kohlhoff Right, but again you have City Code with Ordinances implementing the Comprehensive Plan which has set up something by adopting that map.

Chairman Williams After the Comprehensive Plan was adopted?

Kohlhoff That's right.

Altman By adopting which map, are you talking about the -

Kohlhoff The actual Code adopts the Town Center Plan.

Altman Right - the Development Code.

Kohlhoff I think the thought process that went into this thing was that you had a general plan and nothing was placed in stone as far as the circulation would go and then it was thought that at some time when the properties were developed would be the appropriate time to determine how you would want to have your internal circulation, and, of course, one of the problems that developed that way is that one of the quadrants that has developed - you have a building that's kind of shoved back and out of sight that may be difficult to reach and get to - so I think at some point in time, the Planning Commission has to make their recommendation as to where they want that internal circulation to go and where they want the location of the open space.

Chairman Williams It seems to me we're losing sight of the goalposts here for the moment. What we're faced with - the question that's in front of us now is whether or not to vacate this easement. The first question seems to me is whether or not this easement is for a road - if we decide -

Kohlhoff The City has 60 feet of easement -

Chairman Williams But if we can determine that's its in the public interest to allow an S curve if we determine that that easement is not for a road and can be done with a sewer and can be engineered right, that's one thing. If its supposedly for a road, then I think we're in deep trouble and I

don't know that we can - we may have a little trouble vacating the easement. I guess the one question that I have is - does this body determine whether or not that easement is for a roadway. I mean are we the appropriate -

Kohlhoff You can make the recommendation - you can't make a determination.

Andersen Is it a roadway to no place though? Where or what?

Altman Well, it would depend on - in our mind, it depends on whether or not - you know, what plan you are operating from - in our mind, when you operate from this plan, it would be a roadway to no particular place. It doesn't serve - it needs to -

Kohlhoff Ben, on that plan, where are the apartments located?

Altman They are located in this area right in here.

Kohlhoff No, not on that plan, are they?

Altman If this is the property line, it is.

Sorensen There are apartments on this plan that would be along the front of the lake and would include

Altman Which apartments are you talking about?

Kohlhoff The apartments that are depicted on that plan -

Altman Oh, on this plan, right. Were wrapped around the lake.

Sorensen And they would include a little bit of what was in the Stu Lindquist plan. But generally the apartments would not come north of that easement line.

Kohlhoff There's no longer that plan - the Lindquist plan is no longer viable, is that - other than the fact we adopted that Ordinance or Resolution?

Sorensen I think the Lindquist plan is very viable in that the Lindquist plan when adopted set forth specific uses which were driven by a proposed preliminary plat so there are actual areas delineated out for uses and within the Ordinance that adopted the Lindquist plan they repeal all conflicting relations of other plans. So it may be that the Lindquist plan takes precedence over everything that happened before.

Kohlhoff And this is it?

Sorensen This is it.

Chairman Williams You know, all this is real interesting and I suppose it's too bad we didn't have it at the last hearing. But it seems to me the only reason

you'd have to even look at that is if one could take this easement document and look at it and say from its face that it's ambiguous. And if I read it - the most you can get out of it is a sidewalk and maybe a place to put some utilities that we normally think of - telephone, electricity. To me it doesn't say anything about cars, golf carts, trucks - I don't think it applies.

Lew Hendershott Burns Wiedemann  
 It says sidewalk and public utilities easement -  
 That's all it says -  
 I think that though as long as was given as a 60-foot easement, I'll bet you it was planned as a road.

Andersen Altman  
 Well, you can bet, but where does it go?  
 Our concern is by who was it planned? I don't think it was conscientiously planned by the City to be a roadway unless somebody was trying to implement this plan that is not official.

Chairman Williams  
 But the only connection to a roadway is the number of feet - it's the 60 feet. And that doesn't have anything to do with the granting language in the easement as to what it can be used for - you could have a 60-foot wide sidewalk.

Burns Altman  
 What is the date of that plan?  
 The plan was amended - well, the original was 1976, but this plan was adopted by Ordinance 141 in 1980 when the Lindquist amendment came in. It amended this northeast quadrant -

Burns  
 But it seems to be the only thing that relates to this as far as a place on the map in that you have a horizontal pink stripe there that predates this 60-foot.

Andersen Chairman Williams  
 The best testimony I think I have heard to date has been George's -  
 Well, let's just make sure that the record is complete - we've had Ben testify. Is there anyone else who wants to testify? Pro? Con? Other? Opponent? Proponent? No, nobody else?

Don Mala  
 My name is Don Mala, 8755 S.W. Citizens Drive, Wilsonville.  
 And I do have a little written memo here I want to give to the Commission at the proper time. We're coming in next after this. I don't want to come in as an opponent to this - I'm actually in favor of this development. I think it's a good development and it's in the proper location. I think it may stretch the plan here a little bit as far as the location of the actual apartment buildings are concerned. But my

concern was the extension of Parkway Avenue which is now - the developer has agreed to cul-de-sac and not run it further south. And we also, back when the local improvement district no. 5 was implemented, we, the City negotiated with us and we eventually gave the access that was the Brown Road extension and the reason for that was to provide access to the Young-Andersen property, who at that point were about to the City because they were losing Parkway Avenue. And also we granted a roadway access point on the new Town Center Loop Road. And its about in this area right here. And I thought that at some time that this would come - the extension of Parkway would come down and somehow loop over here and interconnect these two to provide this interior circulation. As I indicated in my correspondence I'm going to give you - it's not my intention to come in and try to develop a something written in stone. The people I represent and we've had two meeetings now. It includes Bob Lamb and the owners of several properties that were involved in the loop road agree that this plan should be - the integrity of the plan should be maintained and when you start running City streets through the middle of it and particularly if they come down and connect with Wilsonville Road, I believe Mrs. Burns at the time was deadly against what they call strip development and that would be the first phase of implementing a strip development type of street pattern and so, basically, as I said, we're in favor of this plan. It does not envision doing that kind of a configuration for the roads. Where the road should go and this easement and so forth that's been - that George has granted, I think, as I remember it, Terry Tolls went to George and he tried to get a road pattern in compliance with the plan, but both - they finally decided that both the road through their property, which is the Wilsonville Project property, and then they couldn't get an agreement with the Kaiser Permanente people. So they abandoned it and I was unaware, and I'm sure George was from his testimony that he somehow was the only one that ended up with this 60-foot easement. So I think, from that standpoint, that road, that easement can be abandoned. I don't have any problem with that.

Chairman Williams      Okay. Is there anyone else who would like to testify? Then I'll close the public hearing .

Greenfield                Okay, do I get a chance to make some -

Chairman Williams      Sure, rebuttal? So I'll open up the rebuttal and -

Greenfield                I want to expand a little bit about these maps and maybe if I could do a drawing on that board. When we came down and looked at the documents in the City's files. This is the property. There's kind of a dotted line that cuts across here and continues on down like this and that is, if you do a 360 circle, that is the only area where we see any indication at all of a 60-foot wide easement. That's why I indicated earlier that it affects our property and the Clackamas Community property.

Sorensen                 What Mark is referring to on the documents that he reviewed is a series of drawings for LID 5 wherein if this is Parkway here, it showed a roadway coming down to this point and then this segment traversing across the property to the east. The only thing that I can see that is anything like that would be this study here which, as we've heard testimony today, was never adopted by the City. If you look at this concept plan, I don't see on this plan an extension of Parkway coming down from the north along the west side of our property as shown. And certainly if this was intended, this is not where the easement is. The easement is down here so there's no indication on the Comprehensive Plan that there was any intent to place a collector or arterial street right through the heart of our property. George Vlahos has indicated to you that he thought he was signing a 20-foot sewer easement and was surprised to discover that it was 60 feet. I think it's important then to size what we've heard from all the other people who have spoken tonight which is basically - they support this project and they support this vacation. As these maps show, and the testimony has indicated, there is no Comprehensive Plan policy that indicates there is a roadway here. We're not asking for, in effect, an amendment to the Comprehensive Plan. We're asking for a vacation of an easement to allow us to go ahead and build this project. And because of the timing of things, with this scheduled for the City Council in May, we really do need a decision today. I'd like to discuss briefly some things in Ben

propose that you find, based on that, that it would benefit the adjacent properties and because its eastern termination point remains at its current location, there would be no adverse effect on the adjoining properties.

The sixth proposed Finding indicates that the applicant would be granting to the City a second easement for storm sewer, power, natural gas, electric, telephone and cable purposes and indicates that you heard testimony, it should say, from the applicant's architect. That this proposed easement would serve the properties as well or better than the existing easement and I think we've indicated that - I think Wayne indicated that Dick Drinkwater has reviewed this and it is acceptable, is that correct?

Sorensen

He believes its within the engineering - you can engineer within the easement and make it function correctly.

Greenfield

Okay - the seventh proposed Finding reflects the fact that the existing easement prevents us from going ahead with the development as it is planned, that it would divide - it divides our property and would hinder the ability to develop it in an economic manner. It also indicates - so it indicates that in that sense it is in the public interest to vacate the easement. It also indicates that an extension of that onto the Clackamas Community property would split that property, make much of it undevelopable and that it's in the public interest for purposes of that property also to vacate that easement. The eighth proposed finding indicates that the easement is not identified on the pedestrian access map, that no official document requiring pedestrian access through the property - requires it through this property and that an easement serves no public purpose. You might want to add to that finding that the applicant will be providing a cul-de-sac on the north-south road which would provide for pedestrian access to the trees.

Finally, the ninth proposed Finding indicates that there is not need for an internal circulation that circulates around the Town Center at the existing easement location and that, in fact, where this easement is, if it remained at 60 feet it would impede the economic development of our property and also the Clackamas Community property. The recommendation that we would ask would be a favorable

Altman's letter because I think basically, his understanding of the Comp Plan and Town Center Master Plan is consistent with our understanding. He indicates that the Wilsonville Project and Clackamas Community College need utility easements to insure access and service and our proposal would continue to provide that. He indicates that the easement document, as Chairman Williams indicated, does not mention roadways or vehicular access of any kind and we agree with that. He also indicates in his letter that the wording on the public notice "utility roadway" causes additional concern and I don't think that was the language we had proposed for the notice. I think that was done out of an abundance of caution, but I would submit that there really is no roadway at that location. We have provided for you some proposed findings and I'd like to go over them real briefly to give you an opportunity to look at them. The first finding is just a general statement of having a hearing today following notice and the second one identifies the property which would be vacated. The following ones - the third one would make a determination that the easement was not granted for street or roadway purposes. Mr. Kohlhoff has indicated to you that you can make a recommendation on this matter. You can make an initial determination in the form of a recommendation and we would ask that you do so and that you find that the easement was not granted for street or roadway purposes. There is another finding in here, well, I'll get to it when - no, it's the next one which indicates that a 60 foot width is not necessary for public utilities or pedestrian purposes, and if there is no reference to roadways in the language of the easement or on the Comprehensive Plan Map or on any other officially adopted City document. None of those documents identify a roadway easement at this location. We would ask in Finding 4, as well, that you make a determination that a 60-foot wide easement at this location serves no public purpose and has no basis in any officially adopted City document.

Proposed Finding 5 deals with the sanitary sewer line and indicates that we would relocate a portion of that line, but that the eastern termination point of the sewer line would remain at its present location and remain available to serve the properties at the east. We would

recommendation to vacate the easement. We would ask that you approve it with the vacation taking effect at such time that the applicant grants and records the two alternative easements that we've discussed today.

We'd be happy to answer any more questions you may have regarding the property, either I or the applicants, otherwise, that concludes my testimony.

Chairman Williams Thank you, Mark. Is there anyone else who would like to testify? Seeing none, I will close the public hearing.

Hendershott Mike, where does that sewer go - where does it terminate and what area does it serve?

Chairman Williams How would I know? But Wayne does.

Sorensen There is a 15-inch sewer that comes through Town Center from Wilsonville Road all the way to Parkway Avenue. And this is a stub line that is an eight-inch - there's a manhole in the center of that 30-foot easement that makes it the 15 and I believe there is another manhole where it ends on the east of the property line. It's just stubbed out. We don't - we're not certain how much of this area it was intended to serve.

Andersen Not very much if it was only eight-inch.

Hendershott Okay, that 15-inch line then will go right through the middle of the lake.

Andersen What lake?

Hendershott Well, there's a lake there on the drawing.

Sorensen There's a sewer line that extends all the way from the intersection of Parkway and Town Center all the way through to Wilsonville Road. And that's in place. I think that's a part of the LID. Mike Kohlhoff might be able to clarify that.

Kohlhoff Yes, it was, and part of it was built with special pipes so we could build over it at one point. I'm not sure exactly where that's located.

Hendershott It connects then with the sewer that's in Wilsonville Road onto the plant.

Chairman Williams I've gone ahead and marked up some findings of fact and perhaps the easiest way - do you want to take the Findings of Fact and Recommendations that were provided by Mark Greenfield. I exercised some editorial license and have made some changes. I



didn't make any changes on page 1. Page 2 - the language at the top where it says in paragraph 4, where they're talking about the no easement for roadway purposes. The sentence that says "However, the language of the easement contains no reference to roadways and neither the Comprehensive Plan Map nor any officially adopted City document identifies a roadway at this location within the Town Center, I put a comma, except as may be incurred from an A and B classification local street as shown on the Master Street System and Functional Classification document attached to the Comprehensive Plan. And then I put a concluding sentence on there that says "However, the lesser size - talking about the 60 feet - may appropriately serve a public purpose, although albeit it may also be relocated in part and shall still serve the public purpose." So that if we split the easement, we still have a public purpose, even though the sum of the two is enough to 60 feet.

On paragraph five, it's talking about relocating the sewer easement and I would delete the language that says the Commission finds that such an easement would benefit the adjacent properties. I'm not so sure based upon the testimony that I've heard today, that I could agree that that would, in fact, be the case.

On paragraph 6, I would delete the last sentence about the Commission heard and believes testimonies from the applicant's engineer. I know that was, by interlineation, meant the engineer, but I'm not so sure that that - or the architect - but I'm not so sure that was the substance of the testimony.

On paragraph 7, it talks about, about 2/3 of the way down, the retention of the 60-foot easement and its extension on the Clackamas Community Foundation property would cut through that property. I'd put a period there, and render much of that property undevelopable. And I would also delete the next sentence that says "The Commission finds that an easement extension that provides the economic development of the Clackamas, etc." I'd delete that sentence as well.

I would leave eight as it is and I think I'd delete Finding 9 in its entirety. And I'm not so sure I'd take all the language in the Recommendation. But I would simply provide that the Commission

recommends that the easement be vacated and that the two easements as provided by the applicant be accepted by the City. The rest of it's pretty editorial.

Hendershott That would be the last paragraph?

Andersen That would be the last paragraph instead. They would eliminate that and just put that for the last paragraph.

Chairman Williams Now that's sort of a working draft. If anybody's got any additions or subtractions or -

Burns I'll second it. That's a motion.

Chairman Williams We may have some additions here. That could make that street legal.

Kohlhoff You need to recognize your own Code which sets forth the Wilsonville City Center Plan. You could leave the inferred there, if you want to.

Chairman Williams Excuse me.

Kohlhoff Back up here where you say "any other officially adopted City document identifies the roadway at this location within the Town Center" and you said "except as may be inferred from A and B from the adoption of the Wilsonville" - and I didn't get it all, but I think from this document that was submitted, which is the Comprehensive Plan document and from the Wilsonville City Center Master Plan adopted subsequent to the Comprehensive Plan, well, or set forth in the Comprehensive Plan. Keep the term "inferred" because I think that gives you the flexibility that it may not be exactly at that location, but -

Chairman Williams All we're saying is there's nothing that says that there's really a street there other than by inference from the A and B street classification or from this.

Kohlhoff Right.

Hendershott Of course the map that Wayne drew indicates that is a street. Now I don't think that was ever an adopted plan there.

Sorensen The one on the board is reflective of Exhibit B.

Burns Exhibit B being the one on the floor. But that's the one they got together on and it was never approved.

Chairman Williams Anyone else have any other additions, deletions? Let's see, the public hearing's done. I would move, then, to adopt Mr. Green-

field's Findings of Fact and Recommendations as modified on pages 2 and 3 with the concluding Recommendation.

Burns

May I ask a question, well, just before we vote, may I ask a question because I was not here for your previous discussion. Did you all cover the open space the last time?

Kohlhoff

The issue was the open space that was not - unintelligible - because it was being passed on to the Council where the open space was represented to be in relation to the property line. At that point in time, I believe the representation was, because we were asking about it, was as recollected earlier in the testimony or comments tonight. If the property boundary, the southern property boundary was located somewhat to the north. I thought that George pointed out that the southerly property line was down at the bottom of the trees as shown on their -

Wiedemann

It is.

Burns

Okay, so then -

Wiedemann

It's 80 feet of trees.

Chairman Williams

Well, we saw another map.

Sorensen

The applicant did a tree survey and identified all principle trees and from that tree survey they propose a line for the open space be drawn approximately 80 feet north of their southerly property line. That preserves all of the Douglas firs and should preserve five of the seven deciduous trees that are on the property that are found to be significant.

Kohlhoff

Wayne, I think the issue though that came up was - that was specifically asked about - Dant was concerned about was that they showed the property line. When you look at the open space, they brought the trees - the trees were shown appropriately - but they were brought up to - the bottom was brought up to here or, if you were to move this up, this blue line would have come across somewhere like this -

Chairman Williams

Well, is that up to the City Council? So that issue is to them -

Andersen

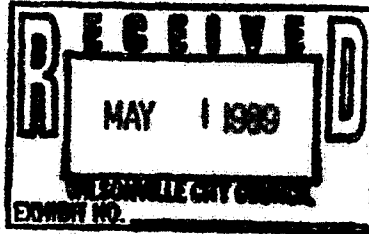
I second the motion.

Chairman Williams

Okay, it's been moved and seconded to accept the modified Findings of Fact and Recommendation, all those in favor signify by saying aye.

Burns Aye  
Hendershott Aye  
Andersen Aye  
Wiedemann Aye  
Ransom Aye  
Chairman Williams Aye - those opposed? It passes unanimously.  
Burns Well, what did you recommend to City Council?  
Chairman Williams The way it went up was that it did not appear to us that because of the way the property lines were drawn, that the open space was being impacted by the development because all of the open space that was shown as being within the property boundaries was being protected. That's a little different.  
Burns Okay. It looks like the lake is on their property, that part of their property got its feet wet in the lake.

**ALTMAN!**  
Urban Solutions



April 10, 1989

TESTIMONY TO  
WILSONVILLE PLANNING COMMISSION  
HEARING ON 89PC20, MTW PARTNERS REQUEST TO VACATE A 60 FOOT WIDE  
UTILITY EASEMENT.

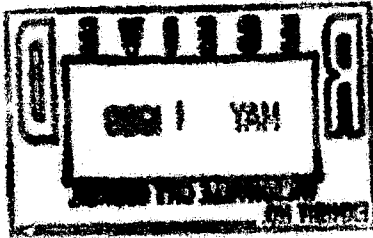
Presented by: Ben Altman  
Altman Urban Solutions  
700 S.W. Taylor, Suite 305  
Portland, Oregon 97205

Representing: The Wilsonville Project and Clackamas Community  
College.

If our understanding of the Comprehensive Plan and Town Center Master Plan is correct, then we support the requested vacation. If, however, we are not correct, or you are not sure we are correct, then we do not support vacation at this time.

1. It is our understanding that both the Comprehensive Plan and Town Center Master Plan identify the Town Center Loop Road as the major north-south arterial between Wilsonville Road and Parkway Avenue. Further the Master Plan envisions some form of internal circulation, from one area to another, but not major public streets.
2. We recognize that through the process of implementing Local Improvement District #5, a 30 foot wide access, extending the alignment of Parkway Avenue was created. This access was established to replace road frontage lost from the vacation of the old alignment of Parkway Avenue south of the new Loop Road (Ord 303) and not to create a new major street alignment. It extends about 400 feet south of the Loop, simply to provide additional access to Tax Lots 200, 201, Map 14D and Lot 400, Map 13.
3. We also understand that it is appropriate and necessary to provide utility easements to ensure access and service to all properties within the Town Center. The subject easement was created for that purpose, plus sidewalk circulation according to the Easement document.

The document does not mention roadway or vehicular access of any kind, save maintenance vehicles associated with underground utilities or sidewalks.



The width of the existing easement, at 60 feet, raises questions and concerns as to its intended purpose. This in turn, raises questions relative to the open space and internal access envisioned by the Town Center Master Plan. The wording on the public notice, "utility/roadway" causes additional concern.

4. The current easement includes a sanitary sewer line to serve the properties owned by The Wilsonville Project and Community College. It also allows for other utilities currently not in place, including storm drainage. It certainly does not need to be 60 feet wide to provide utilities.

Storm drainage is particularly important for the Wilsonville Project site, since the design of the system built by L.I.D. #5 was inadequate to fully serve the site. Therefore it is essential that alternatives be provided. The current easement or the proposed modifications to it provide such an alternative.

We believe the City is obligated to ensure adequate utility easements are provided. Further, any additional costs of serving the adjacent properties caused by changes in the location of the existing easement should be born by the applicant.

5. We do not believe this easement is for or ever should be for roadway purposes. The only conceivable reason for such internal access would be a major change in the arterial traffic flow off of the Loop Road.

Such a change would require an amendment to both the Comprehensive Plan and Town Center Master Plan. We would certainly oppose such a change.

Therefore, in conclusion, if we are correct in our understanding, we support the vacation. Otherwise we oppose it until we are assured our interests are adequately protected relative to the development of the Town Center.

April 14, 1989

SUPPLEMENTAL TESTIMONY TO  
WILSONVILLE CITY COUNCIL  
HEARING ON 89PC20, MTW PARTNERS REQUEST TO VACATE A 60 FOOT WIDE  
UTILITY EASEMENT.

Presented by: Ben Altman  
Altman Urban Solutions  
700 S.W. Taylor, Suite 305  
Portland, Oregon 97205

Representing: The Wilsonville Project and Clackamas Community  
College.

We testified before the Planning Commission in support of this vacation based on our understanding of the Comprehensive Plan and Town Center Master Plan. This testimony was presented in writing, dated April 10, 1989.

The Commission considered the Comprehensive Plan and Master Plan issues. However, My verbal testimony was interrupted by discussion relative to open space, etc. Because of this discussion, I did not have an opportunity to emphasize our concern relative to added cost of providing utilities resulting from relocation of the easement, Item 4, paragraph 3, page 2. Consequently, we do not believe the Commission gave serious consideration to this important element of our testimony.

Therefore, we are submitting this supplemental testimony and ask that the Council give consideration of this matter and attach appropriate conditions to protect our interests.

Thank you for your consideration.

1" = 200'

SEE MAP W 14A

1912	1201
1914 thru 1921	213
401, 403	203
1926	410
210	105
501	
103	
208	

C = 20'  
 A = 38° 26'  
 T = 100.33'  
 L = 173.3'

1/4 COR 29000

OLD BOBERG ST. EXT. 292-696 PUBLIC EASE. 71-19892

VACATED BY CITY ORDINANCE NO. 174

100  
7.50 Ac.  
29055

102  
0.30 Ac.

CITY  
83-17901

104  
1.15 Ac.

201  
4.78 Ac.

101  
5.26 Ac.

200  
26.36 Ac.

400 (MAP 13)  
7.63 Ac.

1923

1925

3-23

1800  
2.59 Ac.  
29495  
29525

FRONTAGE CENTERLINE  
 SOUTHBOUND CENTERLINE  
**ERSTATE HIGHWAY NO. 5 HWY.**  
 NORTHBOUND CENTERLINE

ROAD AND CENTERLINE

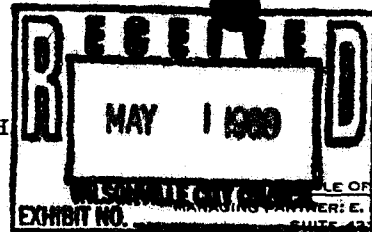
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L.P. 064

3 W. 13

3





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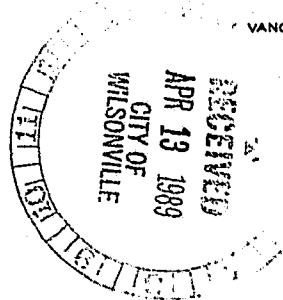
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April 12, 1989



Wayne Sorenson  
Planning Director  
City Hall  
P. O. Box 220  
Wilsonville, OR 97070

Re: Town Center Park Apartments  
Our File No. 700/38096-0

Dear Wayne:

Enclosed is the original notarized "Consent to Vacation of Easement" signed by Clackamas Community Foundation. Please place this document in your file on this matter.

You have asked my client to obtain the consent of adjacent property owners on this matter. At the hearing before the Planning Commission, the City heard testimony from several property owners, including Don Mala and George Vlahos, supporting this vacation proposal. The City also received a letter from The Wilsonville Project indicating its support, conditioned upon its interpretation of the Comprehensive Plan.

Please advise me if such indications of support are adequate for City purposes, or whether consent is needed in the form of a notarized document. A prompt reply would be appreciated.

Thank you for your cooperation.

Very truly yours,

Mark J. Greenfield  
Of Attorneys for MTW Partners

MJG:cc  
Enclosure  
cc: Mark Hinton

CONSENT TO VACATION OF EASEMENT

We, the undersigned owners of abutting property, hereby consent to the vacation of the following described easement located on Map. No. 13, Tax Lot 400, City of Wilsonville, Clackamas County, Oregon:

"Across and under a 60 foot wide parcel of land in the west one-half (1/2) of the southwest one-quarter (1/4) of Section 13, Township 3 South, Range 1 West, Willamette Meridian, City of Wilsonville, Clackamas County, Oregon, and lying 30 feet on each side of center line, said center line described as follows:

"Beginning at a point on the west line of said Section 13 that is S. 0 degrees 03'01" W. 907.218 feet from the west one-quarter (1/4) corner of said Section 13; thence N. 89 degrees 25'33" E. 364.280 feet to the west line of that tract of land described in Fee No. 82-9422 of the Clackamas County Deed Records."

Clackamas Community College Foundation

By: Kenneth M. Fosheim, President

Date: 4/10/89

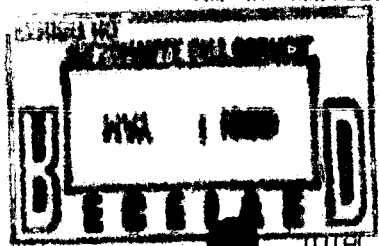
By: John S. Keyser, Secretary

Date: 4/10/89

STATE OF OREGON )  
County of Clackamas ) ss.

On this 10<sup>th</sup> day of April, 1989, before me, personally appeared Kenneth M. Fosheim and John Keyser, who being duly sworn, each for himself and not one for the other did say that the former is the President president and that the latter is the Secretary secretary of Clackamas Community College Foundation a corporation, and that the seal affixed to the foregoing instrument was signed and sealed in behalf of said corporation by authority of its board of directors; and each of them acknowledged said instrument to be its voluntary act and deed.

[Signature]  
Notary Public for Oregon  
My commission expires: 11-5-93



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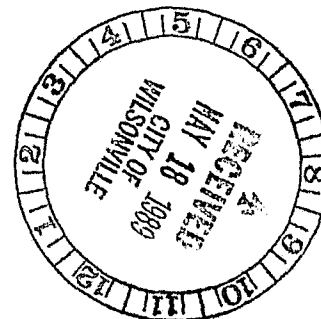
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May 17, 1989

Mr. Pete Wall  
City Manager  
City Hall  
P.O. Box 220  
Wilsonville, Oregon 97070



RE: MTW Partners -- Request for Utility Easement Vacation  
Our file no. 700/38096-0

Dear Mr. Wall:

On May 1, 1989, the City Council approved the first reading of an ordinance vacating a 60-foot wide public utility easement located on Tax Lot 400, Map No. 13. The second reading has been scheduled for May 24, 1989. My client, MTW Partners, has obtained city approval to develop the site for apartments. The vacation of the easement is important to enable the development to go forth as proposed.

Two conditions have been attached to the proposed vacation ordinance, one of which causes us considerable concern. For the reasons set forth herein, we ask that both conditions be amended, to protect the City's concerns, to provide greater certainty, and to avoid litigation and high costs to all parties involved. We ask that this letter be forwarded to the Mayor and City Council for their review prior to the May 24 meeting.

We note that the City Council, when it adopted these conditions, requested opportunity for the parties to respond. We believe that upon more careful review of the proposed language, the City Council will agree with us that the proposed conditions should be amended.

MITCHELL, LANG & SMITH

Mr. Pete Wall

May 17, 1989

Page 2

A. Condition 1.

The first condition provides that the easements proposed to be granted to the City by the applicant will be substituted for the easement to be vacated. We have no problem with this portion of the condition, but we suggest that it be supplemented with the following language:

"The vacation shall take effect upon the granting and recording of such easements by the applicant."

This proposed new language will clarify that the vacation does not take effect until the new easements have been recorded. This protects the City's interests, as well as the interests of properties potentially benefitted by the easements.

B. Condition 2.

The second proposed condition is of considerable concern to us. This condition would provide that any relocation of utilities associated with this vacation be at applicant's expense and without cost either to the City or to the properties immediately to the east. If the intent of this condition is simply that the applicant pay the costs of relocating any existing utility within applicant's property, we expect to do so. If this be the intent, then the condition should be clarified to so indicate. If the intent is that the applicant pay costs associated with connections by properties to the east, i.e. the Clackamas Community College Foundation property and The Wilsonville Project property, or with the initial location of utility lines solely to benefit such properties, then serious problems arise which the City Council needs to recognize. We are concerned because the City's proposed condition may, and the language proposed by Ben Altman clearly would, cause the problems outlined below.

Because both the intent and scope of the proposed condition are vaguely worded, the condition invites litigation. Lawsuits are not in the best interest of my clients, adjoining property owners or the City. The best way to avoid litigation is to be precise.

For reasons set forth below, references to properties immediately to the east should be eliminated from the condition and the purpose of the condition should be clarified. We recommend that the following language be substituted as Condition 2:

MITCHELL, LANG & SMITH

Mr. Pete Wall

May 17, 1989

Page 3

"Any relocation of utilities presently existing within the area to be vacated shall be solely at applicant's expense. The applicant shall bear the costs of drafting and recording the two easements to be substituted for the easement being vacated."

This language would assure that we pay the costs of relocating existing facilities, as well as the costs of preparing and recording the new easements. Such cost impositions are fair and reasonable. This language also would not require us to pay costs more reasonably assumed by adjacent property owners benefitting from our easements.

It is not fair or reasonable to require MTW partners to bear all costs associated with the provision of utilities to the Wilsonville Project or Community Foundation properties (as Mr. Altman's language could be interpreted to require). The purpose of the easement is to provide a way for adjoining properties to meet their utility needs. However, those property owners, not MTW Partners, should bear the costs of engineering, installation, materials, etc.

We note that the owner of the Clackamas Community College property, which lies adjacent to both easement locations, has made no request that we bear costs associated with extension of utility lines to or through our site. That land is undeveloped and has access to both easements. It should be enough that we make those easements available to this property. By so doing, we serve the function of assuring that utilities can be provided to that site.

The real problems arise in connection with the Wilsonville Project property. Mr. Altman has asked the City to add language to Condition 2 to the effect that connection by the Wilsonville Project to either easement would be at "no cost" to the Wilsonville Project as compared to the existing easement. This proposed language goes much too far.

We note, first, that it is unclear whether or not the Wilsonville Project retained an easement across the college's property enabling it even to reach and connect to our easements. If not, then this discussion is academic, because the Wilsonville Project would have no rights to connect to the easement in any event. Only if the Wilsonville Project retained an easement through the College's property to the northernmost of the two proposed easements would it have rights recognizable by the City. If no such easement exists, then the City should not grant that property owner any benefits associated with the easement, because such owner is not entitled to use the easement. We note, under

MITCHELL, LANG & SMITH

Mr. Pete Wall

May 17, 1989

Page 4

these circumstances, that if no easement was retained when The Wilsonville Project sold the property to Tektroniks which was later sold to the College, then it would not have had any rights to use the easement even in the absence of this easement vacation.

Under Altman's proposed language, if the Wilsonville Project has no easement, then under the proposed condition, we may have to pay the costs of acquiring an easement. That clearly is not fair. If there is no access, the problem for the Wilsonville Project is self imposed. They, not we, should bear the burden of alleviating that problem.

Moreover, under Altman's language, we could be forced to pay engineering costs, material costs, attorney fees, installation costs, and the like. Again, our responsibility with respect to adjoining properties should be limited to providing a "way", not paying the costs. We are willing to work with adjacent property owners to provide such a way as necessary.

Our understanding is that the particular problem is limited to storm sewers, not other utilities permitted within the easements. If so, then any condition which goes beyond our proposed language should restrict itself to this utility. We understand from Wayne Sorenson that drainage design was part of LID 5. MTW's predecessor contributed to the costs of that LID. Furthermore, Wayne tells us that at least a portion of the Wilsonville Project property is served by storm sewer located on Town Center Loop Road. If that be true, then perhaps storm connection between the Wilsonville Project property and the MTW site is unnecessary.

Also, if the intent of LID 5 was to provide storm sewer service to the Wilsonville Project property, then the fact that something may have gone wrong which prevents full storm sewer service to that site presents a problem that should be worked out between the City and the Wilsonville Projct. MTW Partners should not be penalized into bearing the costs of a mistake it did not cause.

We also wish to emphasize timing problems caused by Ben Altman's and the City's proposed language. Under these proposals, MTW Partners may be responsible for paying costs associated with any number of utilities, including power, electric, natural gas, cable, telephone and storm sewer, any time a property owner to the immediate east chooses to install such lines through the easement. This could result in the digging up, burying, digging up again, burying again, etc. of ground, lines and pipes. The process could continue indefinitely and cost MTW

MITCHELL, LANG & SMITH

Mr. Pete Wall

May 17, 1989

Page 5

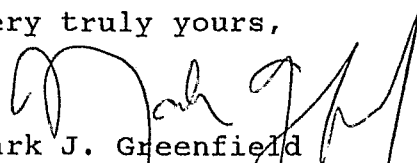
Partners tens of thousands of dollars. Such a result is clearly unfair.

In summary, we are willing and able to grant public utility easements to serve and benefit the properties to the east, but we should not be required to bear all the costs associated with the exercise of easement rights by those parties. The proposed language is too vague to indicate exactly what the City desires, thereby inviting costly litigation. The proposed language and Altman's language also are so open ended that they invite adjoining property owners to abuse the process, at considerable potential expense to MTW Partners.

Accordingly, we ask the City Council to limit the condition the approval in the manner we recommend in this letter. If the City Council considers it necessary to go beyond our proposed language, we ask that it be precise and specific in its conditions, with respect to cost, timing, and utilities, to assure all parties know up front what is required of them.

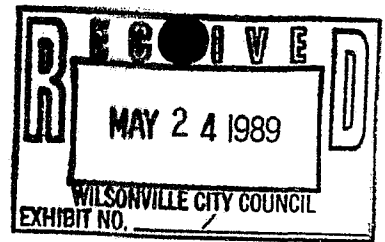
We will address these matters in greater detail at the hearing scheduled for May 24. We hope to meet with Mr. Altman prior to that time. We appreciate the City's cooperation in this matter.

Very truly yours,



Mark J. Greenfield  
Of Attorneys for Applicant

cc: Mark Hinton  
Wayne Sorenson



To: Wilsonville City Council  
From: Ben Altman, Representing Wilsonville Project  
Date: May 24, 1989

Re: Statement of Position Regarding MTW Request for  
Vacation of Utility Easement.

The following is a restatement of my client's position on the above referenced matter.

1. The easement exists for Utility purposes. It is not limited to sanitary sewer.
2. The applicants are requesting vacation of the easement to allow development of their property consistent with their approved site development plans.
4. We have been assured by Bud Roberts of KPFF Engineers that the location of the existing easement is adequate to the Wilsonville Project site with storm drainage. This is contrary to the City Engineer's statements.
5. Any modification or relocation of the current easement must be executed in a manner that provides equal or better utility service to the adjacent properties, particularly for sanitary sewer and storm drainage. Options for locating other utilities within the easement should also not be diminished by the vacation. Further, the construction costs for providing service to the site should not be arbitrarily shifted to the Adjacent property.
6. The burden of proof to demonstrate satisfactory service can be provided to the Wilsonville Project lies with the applicant. Subsequently, the City Council holds the responsibility to ensure that such proof is provided prior to execution of the vacation.

To date, they have not provided any such proof in the form of engineered solutions. They have only offered verbal concessions that service can be provided.

7. The current conditions do not provide such assurance.

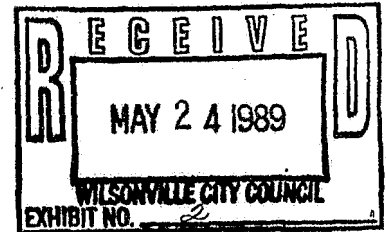


# Wallis Engineering

610 W. Mill Plain Blvd., Suite 1A  
Vancouver, WA 98660  
(206) 695-7041

April 28, 1989

Mr. Layne Asplund  
3630 N.E. 99th Street  
Vancouver, Washington 98665



Re: Proposed Town Center Park Apartment Project

Dear Layne:

I am writing in response to your questions regarding the impact that the routing of the existing sanitary sewer through the referenced project site would have upon it's capacity. By re-routing the sewer with no change in size, it's capacity would be decreased. If the additional capacity was necessary, the size of the sewer could be increased from 8-inch diameter to 10-inch diameter. A plan and profile sheet showing the proposed re-routing and assuming the line size increase, is enclosed herewith. Please note that the profile information is based upon our field survey data. Supporting capacity calculations assuming concrete pipe are as follows:

Existing 8" sewer:	Proposed 10" sewer:
Slope - 0.0176 ft/ft	Slope - 0.0083 ft/ft
Capacity - 1.60 cfs	Capacity - 2.00 cfs

Additional flow from site to proposed 10" sewer:  
Number of apartment units to sewer - 83  
Average flow per unit - 250 gpd  
Peak flow per unit - 1,250 gpd  
Total peak flow -  
 $1,250 \text{ gpd/unit} \times 83 \text{ units} = 103,750 \text{ gpd}$   
 $= 0.16 \text{ cfs}$

Excess capacity:  
 $2.00 \text{ cfs} - (1.60 \text{ cfs} + 0.16 \text{ cfs}) = 0.24 \text{ cfs}$

If there are any questions, please call me.

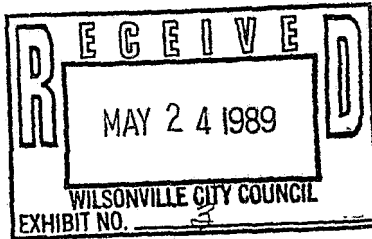
Very truly yours,

A handwritten signature in cursive script that reads "R. Wallis".

Robert C. Wallis  
WALLIS ENGINEERING

RCW:jb

cc: Hiller/Hinton Inc.



188-815

BARGAIN AND SALE DEED

Tektronix, Inc., an Oregon corporation, Grantor, conveys to Clackamas Community College Foundation, an Oregon nonprofit corporation, Grantee, the following described real property:

A tract of land in the D.C. Minkler D.L.C. in the northwest one-quarter of the southwest one-quarter of Section 13, Township 3 South, Range 1 West, W.M., in the City of Wilsonville, Clackamas County, Oregon and more particularly described as follows:

Beginning at the southwest corner of a parcel described in Contract to Republic Development Co., an Oregon Corporation, recorded on January 3, 1979 as Recorder's Fee No. 79 280; said corner also bears North 89°28'30" East 364.33 feet and South 00°00'24" West, 1195.64 feet from the west one-quarter corner of said Section 13; thence North 00°00'24" East 412.20 feet to an iron rebar; thence North 89°25'36" East 788.60 feet to an iron rebar; thence continuing North 89°25'36" East 39.49 feet to the centerline of Town Center Loop East; thence along said centerline on an 850 foot radius curve to the right, 360.84 feet along the arc, through a central angle of 24°19'23" (the long chord bears South 12°07'02" East 358.14 feet); thence South 00°03'15" West 61.30 feet to the south line of the aforementioned Republic Development Co. tract; thence South 89°25'36" West, 903.25 feet to the true point of beginning.

EXCEPTING THEREFROM that portion lying within the boundaries of Town Center Loop East Road.

for so long as said real property is used directly for public educational purposes as a community college. In the event said real property is no longer used directly for public education purposes as a community college, the interest of the Grantee, its successors and assigns, in said real property shall automatically terminate and said real property shall revert to Tektronix, Inc., its successors and assigns.

88 52872

recorded by TICOR TITLE

The real property is conveyed on the further condition that Grantee will complete phase 1 of the development of said real property (construction of a building of at least 20,000 square feet to be used for public education purposes and containing classrooms and related facilities) on or before March 1, 1993. If this condition is not so met, the interest of the Grantee, its successors and assigns, in the said real property shall automatically terminate and said real property shall revert to Tektronix, Inc., its successors and assigns.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES.

Until a change is requested, all tax statements shall be sent to the following address: 19600 S. Molalla Avenue, Oregon City, Oregon 97045.

The true consideration for this conveyance is other property conveyed by Grantee to a third party.

Dated this 15<sup>th</sup> day of December, 1988.

Accepted:

CLACKAMAS COMMUNITY  
COLLEGE FOUNDATION

By: John S. Kayson

Title: Secretary

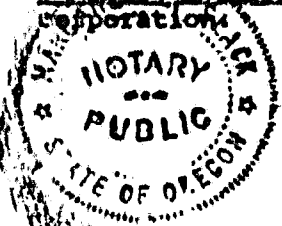
TEKTRONIX, INC.

By: Philip J. [Signature]

Title: Vice President

STATE OF OREGON )  
COUNTY OF WASHINGTON ) ss.

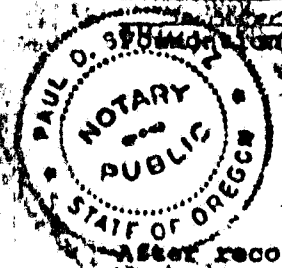
This instrument was acknowledged before me on December 15th, 1988 by Philip J. Robinson, as President of Tektronix, Inc., an Oregon corporation.



Margaret E. Slack  
Notary Public for Oregon  
My Commission Expires: 7-26-91

STATE OF OREGON )  
COUNTY OF CLACKAMAS ) ss.

This instrument was acknowledged before me on December 15th, 1988 by John S. Meyer, as President of Clackamas Community College, an Oregon nonprofit corporation.

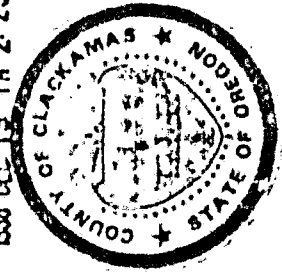


Paul D. Schubert  
Notary Public for Oregon  
My Commission Expires: 11-1-89

After recording return to:  
Tektronix, Inc.  
D/S 50-LAW  
P.O. Box 500  
Beaverton, Oregon 97077  
Attention: Mr. Ed Lewis

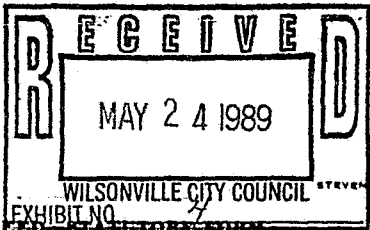
STATE OF OREGON  
County of Clackamas  
I, John F. Kauffman, County Clerk for the County of Clackamas, do hereby certify that the instrument of writing was received for recording in the records of said county on

1988 DEC 19 PM 2:23



Witness my hand and seal this 19th day of December, 1988.  
John F. Kauffman  
County Clerk  
CLACKAMAS COUNTY, OREGON  
52072

3



FORM No. 963—WARRANTY DEED—STATUTORY FORM (Individual Grantor).

WILSONVILLE CITY COUNCIL

STEVEN HESS LAW PUB. CO., PORTLAND, OR. 97204

OR

WARRANTY DEED—STATUTORY FORM  
INDIVIDUAL GRANTOR



STUART H. LINDQUIST

Grantor, conveys and warrants to THE WILSONVILLE PROJECT, a partnership consisting of DOUGLAS M. ALBERTSON, DENNIS B. BATTLES, HENRY P. VON DEM FANGE, DONALD SHEETS & TERRY N. TOLLS. Grantee, the following described real property free of encumbrances except as specifically set forth herein situated in Clackamas County, Oregon, to-wit:

as described in Exhibit A, attached hereto and incorporated herein by this reference.

(IF SPACE INSUFFICIENT, CONTINUE DESCRIPTION ON REVERSE SIDE)

The said property is free from encumbrances except easement of record and any liens or encumbrances suffered or permitted by the grantees subsequent to April 5, 1982;

The true consideration for this conveyance is \$450,000.00. (Here comply with the requirements of ORS 93.030)

Dated this 23rd day of December, 1987

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES.

Stuart H. Lindquist

STATE OF OREGON, County of Multnomah ) ss.

This instrument was acknowledged before me on December 23, 1987 by U.D.L. Stuart H. Lindquist

[Signature] Notary Public for Oregon My commission expires 8/2/89

(SEAL)

WARRANTY DEED

GRANTOR GRANTEE GRANTEE'S ADDRESS After recording return to: Wilsonville Project partners c/o T.N. Tolls 834 SW ST. Clair Ave Portland, OR 97205

SPACE RESERVED FOR RECORDER'S USE

STATE OF OREGON,

County of } ss.

I certify that the within instrument was received for record on the day of 1987 at o'clock M., and recorded in book/reel/volume No. on page or as 1st/2nd/3rd instrument/microfilm/reception No. Record of Deeds of said county.

Witness my hand and seal of County affixed.

NAME TITLE

By Deputy

87 57449

TAYL-21424  
R.31W 13 TL 00906, 00907, 00909

Title Number: 41-21424

EXHIBIT "A"

A tract of land lying in the D. C. Minkler Donation Land Claim in Section 13, Township 3 South, Range 1 West of the Willamette Meridian, in the City of Wilsonville, County of Clackamas and State of Oregon, more particularly described as follows:

Beginning at the Southwest corner of a parcel described in contract to Republic Development Co., an Oregon corporation recorded January 3, 1979 as Recorder's Fee No. 79 280, said corner also bears North 89°28'30" East 364.33 feet and South 0°00'10" West, 1195.54 feet from the West one-quarter of said Section 13; thence North 0°00'10" East along the West line of aforementioned Republic tract, 920.54 feet to a point in the center of a proposed roadway; thence along the center of said proposed roadway North 89°28'30" East 42.21 feet; thence along a 850.00 feet radius curve to the right (the long chord of which bears South 45°14'55" East 1207.87 feet) 1343.39 feet; thence South 0°01'40" West 60.87 feet to a point on the South line of the Republic tract, said point also being the Northwest corner of "Town Center Loop East" as recorded in the plat of COURTSIDE ESTATES; thence South 89°23'00" West along the said South line 900.05 feet to the point of beginning.

EXCEPTING THEREFROM the parcel described in the street dedication for Town Center Loop by instrument recorded March 28, 1986, Recorder's Fee No. 86 10081.

STATE OF OREGON  
County of Clackamas  
I, John F. Kauffman, County Clerk for the County of Clackamas, do hereby certify that the instrument of recording was received for recording in the records of said county at

MAR 28 1986

Witness my hand and seal this 28th day of March, 1986.  
John F. Kauffman  
Recording Clackamas County Clerk

87 57449

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