

RESOLUTION NO. 1114

A RESOLUTION ACCEPTING AN APPEAL AND SETTING A PUBLIC HEARING DATE AND SCOPE OF REVIEW OF DESIGN REVIEW BOARD DENIAL OF CAPITAL REALTY'S APPLICATION FOR A NEW TENANT DIRECTORY/MONUMENT SIGN IN TOWN CENTER (CASE FILE #94 SR 10)

WHEREAS, Capital Realty Corp. is the developer of a multi-phase commercial planned development known as the Town Center Market, which is a commercial complex within a greater planning area designated by the City's Zone Code 4.186, Planned Development Standards, (1)(c)(12) Town Center; and

WHEREAS, on May 27, 1994, the Wilsonville Design Review Board held a public hearing and denied a request by Heath Signs and Capital Realty to install a new tenant/monument sign which would direct traffic to the tenants located in the southwest portion of the Wilsonville Town Center, contrary to staff recommendation of approval of the sign; and

WHEREAS, Jeffrey Long, representing Heath Signs, and Don Weege of Capital Realty Corp., have filed an appeal based on the grounds that the Design Review Board erroneously interpreted and applied the City of Wilsonville Development Code in denying the appellants' application and that the Design Review Board based its decision on discussions of inapplicable criteria and speculation by Board members which occurred after the public hearing was closed; and

WHEREAS, the appeal letter was received by the City within the appeal period and was accompanied by the appropriate appeal fee.

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

1. A public hearing to consider the appeal by Mr. Long and Mr. Weege of the Design Review Board's denial of Case File #94SR10 is hereby set for June 27, 1994 and shall be de novo.
2. The public hearing will be held at Wilsonville City Hall, 30000 SW Town Center Loop East, immediately following the City Council budget public hearing.

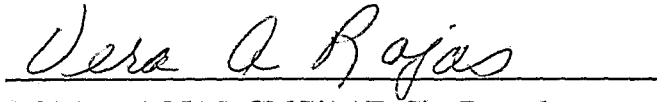
2. The City Recorder shall publish, post and mail notice of the hearing in accordance with the procedures set forth in Chapter 4 of the Wilsonville Code.
3. City staff shall prepare a record of the proceeding(s), along with a staff report and recommendation, for the Council's hearing.

ADOPTED by the Wilsonville City Council at a regular meeting thereof the 20th day of June, 1994 and filed with the Wilsonville City Recorder this date.



GERALD A. KRUMMEL, Mayor

ATTEST:



VERA A. ROJAS, CMC/AAE, City Recorder

SUMMARY of Votes:

Mayor Krummel	<u>AYE</u>
Councilor Lehan	<u>AYE</u>
Councilor Benson	<u>AYE</u>
Councilor Hawkins	<u>AYE</u>
Councilor Sempert	<u>AYE</u>

TO: Honorable Mayor, and City Council

FROM: Wayne C. Sorensen, Planning Director *Wayne*

DATE: June 20, 1994

SUBJECT: Accepting an Appeal and setting a "De Novo" Hearing regarding the Design Review Board's denial of Capital Realty's application for a new tenant directory/monument sign, Case file # 94 SR 10.

SUMMARY

The Wilsonville Design Review Board held a public hearing on May 27, 1994, to consider a request by Heath Signs and Capital Realty to install a new tenant/monument sign in the Wilsonville Town Center. Staff had recommended approval of the sign, which would direct traffic to the tenants located in the Southwest portion of the Town Center, including Royal Panda, Izzy's Pizza, Subway and three vacant sites available for lease. Following the Design Review Board's denial, Capital Realty and Heath Signs, appealed to the City Council, to schedule a "De Novo" hearing and reverse the Board's denial.

RECOMMENDATION:

Staff recommends that the Council set June 27, 1994 as the hearing date to meet the 120 day Rule. The Hearing will be held at the City Hall, 30000 S.W. Town Center Loop, and will follow the 7:00 P.M. City Council/Urban Renewal Agency Meeting.



**CITY OF WILSONVILLE
CITY COUNCIL**

NOTICE OF PUBLIC HEARING

APPEAL 94SR14

Notice is hereby given that the WILSONVILLE CITY COUNCIL will hold a public hearing on MONDAY, JUNE 27, 1994, at 7:00 p.m., immediately following the City Council/Urban Renewal Agency meeting at City Hall, 30000 SW Town Center Loop West, Wilsonville, Oregon, or to such other place to which the City Council may adjourn.

The appeal, submitted by Jeffrey Long with Heath Signs and Don Weege of Capital Realty, requests that the City Council overturn the Design Review Board's denial of the installation of a new tenant directory/monument sign. The site is zoned Planned Development Commercial (PDC) and is located in Town Center, adjacent to Royal Panda, Izzy's Pizza, Subway, and vacant sites available for lease off of S.W. Wilsonville Road, and further described as T3S, RIW, Section 13, Tax Lot 501, in Wilsonville, Oregon.

The applicable criteria for this review is set forth in Sections 4.008-4.017, 4.124, and 4.151 of the Wilsonville Code. Copies of the criteria are available from the Planning Department located at 8445 S.W. Elligsen Road. All testimony and evidence shall be directed to the applicable criteria or the person providing testimony shall state which other criteria they believe applies to this application.

A complete copy of the application, including the staff report and recommendations is available for inspection seven days prior to the hearing. Copies may be provided at the cost of ten cents per page.

Inquiries pertaining to this hearing may be made by contacting Wayne Sorensen-Planning Director at 682-4960 or Vera Rojas, CMC-AAE, City Recorder at 682-1011. Public testimony, oral and written, regarding this application will be accepted at the hearing. Written statements are encouraged and may be submitted prior to the hearing date.

June 7, 1994

City of Wilsonville
8445 S.W. Elligsen Road
Wilsonville, OR 97070
Attention: Mr. Wayne Sorenson, Planning Director

**Re: Appeal of Design Review Board Decision/
94SR10 Heath Signs**

Gentlepersons:

Heath Signs ("Heath"), the Applicant in the above-referenced matter, and Capital Realty Corp. ("Capital"), the owner of the subject property (collectively, "Appellants"), hereby jointly appeal the decision of the Wilsonville Design Review Board (the "Board"), dated May 27, 1994, denying Heath's application for installation of a site directory monument sign.

1. Basis for Appeal. Appellants appeal the decision on the grounds that the Board erroneously interpreted and applied the City of Wilsonville Development Code (the "Code") in denying Appellants' application.

The applicable criteria for evaluating a sign permit application are stated in the staff report. The Board apparently adopted the staff findings without the staff recommendation of approval with conditions. Instead, the Board made the following "Finding for denial."

Finding for denial: While there is no problem with the aesthetics of the sign, the Board is troubled with the size and location of the sign. It is a likely barrier to visibility and could create a traffic safety hazard and that conditionally the existing tenants had adequate visibility both internally from the parking lot and from Wilsonville Road.

This finding does not address the applicable criteria. As far as Appellants can determine, the Board concluded, without any

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evidence, (i) that the sign could create a traffic hazard, and (ii) that in the Board's opinion, the sign is not necessary.

If there were evidence to support the Board's first finding, which there was not, the issue should be addressed by a standard condition of approval. The staff report, in fact, recommends a condition providing that, before the sign is constructed, Appellants obtain approval from the City Engineer for the location of the monument sign relative to driveway location, public easements and vision clearance.

The Board's second finding reveals that the Board fundamentally fails to understand its job. It is not up to the Board to decide whether or not an Applicant should desire a sign, the Board's job is to determine whether or not a sign that the Appellants desire meets the applicable criteria in the Code. The second finding fails to address any applicable criteria.

2. Request for Additional Evidence Hearing. The Board based its decision on discussions of inapplicable criteria and speculation by Board members, all of which occurred after the public hearing was closed. Appellants were not given an opportunity to present evidence and testimony to counter certain assertions that the sign presents a traffic safety hazard and that existing tenants currently enjoy adequate visibility.

Section 4.017(6) lists four criteria for allowing additional evidence:

- 1) "Prejudice to the parties." There is no prejudice to the City or Appellants from the presentation of any of this evidence. This evidence goes to matters known in some form by all of the parties but that properly needs to be in the record in order to be considered by the City Council.
- 2) "Convenience or availability of evidence at the time of the initial hearing." Because these issues were not raised until the public hearing was closed, there was no reason for, or opportunity for, Appellants to present such evidence.

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3) "Surprise to opposing parties." There is no surprise to the City from any of this information. Again, it is simply a matter of putting information known to the parties involved into the record in order to have a full and fair hearing.

4) "The competency, relevancy and materiality of the proposed testimony or other evidence." All of the proposed evidence is competent, relevant and material.

Appellants request the right to present competent, relevant and material evidence to the City Council (i) countering the unsupported assertion by the Board that the sign is a likely barrier to visibility and could thus create a traffic safety hazard and, if necessary, (ii) addressing the visibility of existing tenants internally from the parking lot and externally from Wilsonville Road.

Thank you for your consideration of this matter.

Very truly yours,

CAPITAL REALTY CORP.

HEATH SIGNS

By: Don Weaga

By: Jeffrey W. Jones

CAPITAL REALTY CORP.
101 SW Main, Suite 905
Portland, OR 97204

HEATH SIGNS
4644 SE 17th
Portland, OR 97202

Jera

CITY OF WILSONVILLE
COMMUNITY DEVELOPMENT
PLANNING DEPARTMENT
(503) 682-4960

THIS FAX CONTAINS 4 PAGES, INCLUDING THIS SHEET.

TO: Mike Kohlhoff FAX # 307
FROM: PAMELA EMMONS FAX # 682-7025
DATE: 8 JUNE '94
RE APPEAL

MESSAGE:

MIKE, TODAY, DON WEEGE BROUGHT IN THE APPEAL APPLICATION AND \$500.00 FILING FEE. I HAVE ATTACHED THE VERBIAGE FOR YOU TO REVIEW. WAYNE STATED THAT THIS WILL HAVE TO GO TO THE CITY COUNCIL ON THE 20TH FOR THE HEARING DATE TO BE SET. IN ORDER TO MEET THE 120 DAY REQUIREMENT, IT WILL NEED TO BE AT THE CITY COUNCIL FOR THE PUBLIC HEARING ON THE 18TH OF JULY AS JULY 4TH IS A HOLIDAY! THE 120 DAYS WILL BE "UP" ON JULY 30TH. THEY SUBMITTED THEIR APPLICATION ON APRIL 1ST.

WOULD YOU PLEASE MAKE A COPY OF THIS AND SHARE IT WITH ARLENE AND DAVE KANNER?

THANK!

Done!

Jam

City of Wilsonville
Community Development Department
30000 S.W. Town Center Loop East
Wilsonville, Oregon 97070
(503) 682-4960
Fax 682-7025

FAX COVER SHEET

DATE: 6-10-94
TO: Vera / Mike FAX: _____
FROM: Sauy
SUBJECT: 94SR14 - Appeal / Capital Realty

NUMBER OF PAGES IN THIS TRANSMITTAL (INCLUDING COVER SHEET) 2

COMMENTS: Attached is Hearing Notice
for Appeal of DRB decision on sign
for Capital Realty - City Council - June 27th

Vera - I faxed this to the paper
since we are working under a time
element - I also will mail this one out
on Monday if you wish - Call me if not ok to
mail -

Have a good week-end

CITY COUNCIL
NOTICE OF PUBLIC HEARING
APPEAL - 94SR14

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