

**RESOLUTION NO. 1228**

**A RESOLUTION DENYING THE APPEAL TO THE WILSONVILLE CITY COUNCIL OF PLANNING COMMISSION RESOLUTION NO. 95PC21, FOX CENTER, IRAJ NIKZI, APPLICANT.**

WHEREAS, on November 8, 1995, upon due notice and public hearing before the Wilsonville City Council, the appeal to the Wilsonville City Council of Planning Commission Resolution No. 95PC21, conditions No. 4 and 12, Fox Center, Iraj Nikzi, Applicant, was duly heard, *de novo* on the appealed conditions 4 and 12, a record of the Planning Commission hearings was duly forwarded to and reviewed by the City Council, applicant was represented by Attorney Jack Orchard, evidence, exhibits and arguments were presented by the applicant, staff submitted written exhibits, findings, arguments and testimony, and an opportunity was provided for testimony and exhibits to be presented by those opposing the appeal and applicant was given an opportunity to rebut the opposition; and

WHEREAS, the City Council having been fully and duly advised in these premises,

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

1. The City Council hereby adopts the findings, conditions and conclusions (Revised October 9, 1995) of the Planning Commission in 95PC21, together with the additional modifications as set forth hereinafter.

2. Planning Commissioner Coppersmith's recitation of findings set forth in the record of the October 9, 1995, minutes of the Planning Commission hearing is adopted as follows: "Neighborhood commercial centers are planned to enhance and as a minimum fit in with the surrounding neighborhoods and provide for the peaceful enjoyment of the residents of the surrounding neighborhoods.

3. The record reflects that neighbors testified that they had a right to the peaceful enjoyment of their residences, that their deeds reflected a neighborhood commercial use and that over 200 neighbors signed petitions saying they would not

support a 24-hour-a-day commercial operation and convenience store, but would find certain conditions if placed on the use and scale compatible with the peaceful use of their residential uses. Testimony supported association of 24-hour convenience stores with late night/early morning congregation of youths and young adults in the parking lot, loud playing radios and cars' engine noise and spill-over into the residential neighborhood, littering in the neighborhood, safety concerns of alcohol accessibility and driving upon the very narrow neighborhood streets at the late night/early morning hours. It is reasonable to anticipate that some or all of these affects could occur with applicant's proposed convenience store if not mitigated. Even the applicant's witness from the Plaid Pantry Stores testified it had stores which did not operate on a 24-hour basis.


4. The memorandum opinion of November 1, 1995, of the City Attorney has been reviewed and made part of the record of these proceedings. Findings and conclusions, inclusive of those enumerated (1) through (4) are hereby adopted and incorporated by reference. A copy of the memorandum is marked "Exhibit 1" and attached to this resolution.

5. A copy of the engineer's report, dated November 8, 1995, has been made part of the record of these proceedings. The findings and conclusions, inclusive of those enumerated 1 through 6, are hereby adopted and incorporated herein. A copy of the engineer's report is marked "Exhibit 2" and attached to this resolution.

6. The application, 95PC21, is deemed approved with conditions upon the decision of the City Council becoming final, inclusive of any appeal, with condition #4 being modified to read, "daily and week end hours of operation for owners and tenants of retail operations in Fox Center is limited to 6 a.m. to 10 p.m., based on noise and neighborhood compatibility." If there is no appeal, then this decision shall be deemed final upon adoption of this resolution.


7. The term 'off-set' in Condition 8 of the Planning Commission Conditions of Approval is modified to read "if the fence can be retained an off-set sidewalk shall occur, and if the fence cannot be retained, the sidewalk shall be curbside."

ADOPTED by the City Council of the City of Wilsonville at a regular meeting thereof on the 8th day of November, 1995.



GERALD A. KRUMMEL, Mayor

ATTEST:

  
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SANDRA C. KING, City Recorder

SUMMARY OF VOTES:

Mayor Krummel	<u>No</u>
Councilor Hawkins	<u>Yes</u>
Councilor Leahy	<u>Yes</u>
Councilor Leo	<u>Yes</u>
Councilor Lehan	<u>Yes</u>

City of  
**WILSONVILLE**  
In OREGON

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**MEMORANDUM**

TO: Honorable Mayor and City Councilors  
FROM: Michael E. Kohlhoff, City Attorney  
DATE: November 1, 1995  
RE: Fox Center Appeal: Condition #4

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The applicant has filed a notice of appeal from a Planning Commission determination on the Fox Center application. One of the conditions appealed is Condition No. 4 citing that it "provides that the hours of operation are limited to 7:00 a.m. to 10:00 p.m. based on noise and neighborhood compatibility". The notice of appeal states: "The Planning Commission failed to make findings identifying the source of its authority to impose a condition limiting the hours of operation of businesses in the development." The notice of appeal recites that the applicant's proposal is "a permitted retail business use in PDC zone pursuant to Wilsonville Zoning Code 4.133(2)(a) and, therefore, compatibility with surrounding uses is not an approval criterion."

**Issue No. 1: Is compatibility with surrounding uses an approval criteria for the applicant's proposal?**

**Answer:** Yes. It is a neighborhood commercial center within a Planned Development Residential Zone, and 4.133(1)(g) specifically provides for this approval standard. Even if prior Zoning Ordinance 23 applies, compatibility is an approval criteria. Even if it's viewed as in a Planned Commercial Zone, WC 4.136(1)(c)4 provides the Planning Commission shall limit uses to those which it does not find objectionable by reason of several factors including noise. Under any circumstances, the planned development regulations are a conditional use regulatory system. Therefore, 4.133(2)(a) is merely descriptive of allowed uses when read *in pari materia* with the other provisions of the planned development regulations.

**Issue No. 2: Did the Planning Commission make adequate findings?**

**Answer:** No. The record and the Planning Commission's discussion of the basis for their decision supports the decision factually and the criteria were noticed appropriately. However, the adequacy of the findings needs to be better developed based on the record.

**Rationale:** The applicant relies on the zone map which has "PDC" designated over the subject site. These initials are generally understood to represent "Planned Development Commercial". This has led the current planning staff to view the zone as Planned Development Commercial.

The initial findings in this staff report support this view. However, the actual official decisions of the Planning Commission designated the zone as a planned residential development, Willamette Village, with the subject site as a mixed use commercial lot. Subsequently, the Fox Chase residential plan was permitted in replacement of the residential portion of the Willamette Village plan, but the commercial mixed use was not changed. Testimony at the last Planning Commission hearing by the current developer of the final phase of the residential development confirms his understanding that the commercial lot was part of a mixed use planned residential development and he developed with the understanding the lot was neighborhood commercial. The history is important to trace to understand the source of the applicable zoning of the lot and the authority for use of conditions in its planned development review, rather than a review as a permitted use.

The Planning Commission's Resolution, Willamette Village Final Approval (Stage III) Phase A, was adopted July 10, 1978, under the then applicable Zoning Ordinance No. 23. The Resolution provides that only a partial final approval was given to the commercial portion of Phase A (the subject site) and that it would need to be returned to the Planning Commission for final approval. The Planning Commission, in its resolution, also pointed out the conditions of the then Design Review Ordinance 38 would also have to be met.

In 1981, the Wilsonville Code was adopted, inclusive of Chapter 4, Planning. A replacement table designated Planned Development Residential (PDR) for Planned Development Regulation - Residential Development. See WC 4.110(3). The criteria of the three stage approval under Zoning Order No. 23, Planned Development of preliminary application, approval preliminary application approval and final approval is maintained under the current requirements for a preapplication review, a stage I master plan approval and a stage II, site plan approval inclusive of building plans and evaluations. Thus, the applicant is properly before the Planning Commission for stage II approval for a planned development permit. Planned development regulations apply. It is a conditional use regulatory system. Under the replacement zone table set forth in WC 4.110, the applicable planned development regulation is WC 4.133(1) Planning Development Residential: (g) Neighborhood Commercial Centers limited to the provisions of goods and services primarily for the convenience of and supported by local residences . . . ."

As set forth in the then Zoning Ordinance No. 23, Section 12.01 Purpose, Article 12, Planned Development Regulations, was to encourage large tract comprehensive planning and "to provide flexibility in the application of certain regulations in a manner consistent with the general provisions of the zoning regulations, thereby promoting a harmonious variety of uses, the economy of shared services and facilities, compatibility of surrounding areas, and the creation of attractive, healthful, efficient and stable environments for living, shopping or working." (Emphasis added.)

Section 1202 1.A. provided for the establishment of Planned Residential Development in residential zones and 12.02 1.B. for Combination Commercial-Residential developments in residential or commercial zones which are planned and developed consistent with the purpose and objectives of this article.

Section 12.05 General Standards and Requirements -- permitted building and uses, provided 1. Planned residential Developments I. A. Commercial services, supported mainly from (the, sic) Planned Unit Development.

The Willamette Village was an application for a planned residential development with a commercial lot. The planned development regulations allowed for the flexibility of having commercial uses which were in harmony with residential uses, compatible with the surrounding areas, and created as attractive, healthful and stable environment. This was not changed by the substituted Fox Chase residential plan.

Moreover, commercial use could only be that which is supported mainly from the residential development, is compatible with the surrounding area and creates attractive, healthful, efficient and stable environments for living, shopping and working.

Under the current code, WC 4.130 Planned Development regulations -- Purposes -- provides: ". . . the creation of an attractive, healthful, efficient and stable environment for living, shopping or working." This mirrors the purpose statement under Zoning Ordinance No. 23. Likewise, the same types of criteria are also present in the current neighborhood commercial in planned development residential. WC 4.133(1)(g) provides: "Neighborhood Commercial centers limited to provision of goods and services primarily for the convenience of and supported by local residents, provided . . . 2) such centers are of a scale compatible with the surrounding residential uses, and 3) such centers shall be compatible with surrounding residential uses."

The planned development regulations are found in WC 4.130 - 4.140. While under the planned development commercial regulations, retail uses, goods and services are described as a permitted use in planned development commercial, WC 4.133(2)(a), other planned development regulations still apply. Under 4.136 Planned Development Regulations -- Development Standards, section (1)(c) 1) and 4) provide:

"(1) The following shall constitute the minimum development standards to be met by the uses of a planned development:

\* \* \*

(c) Any commercial use shall be subject to the applicable provisions of this Code and to the following:

1) Planned Development Commercial shall be planned in the form of centers or complexes as follows:

- a) The Town Center
- b) Service Centers
- c) Office Complexes
- d) Neighborhood Commercial

\* \* \*

4) Uses shall be limited to those which are not objectionable as determined by the Planning Commission by reason of factors such as odor, dust, smoke, cinders, gas, fumes, noise, vibration, refuse matter or water carried wastes." (Emphasis added.)

The applicant seeks a planned development permit for a proposed complex featuring a convenience store market with 24-hour-a-day operation. Under the definition section of the Code, 4.001(50) provides: "**Neighborhood Commercial**: A planned development commercial center or complex of commercial uses to provide for the daily convenience, needs for goods and services of nearby residential areas. Typical uses include grocery; hardware and drug stores; barber and beauty stores; banks; laundry and dry cleaning; and professional offices. Motor vehicle service stations are not permitted." This is keeping with and implements the Comprehensive Plan and its text as to commercial centers and neighborhood commercial recited in the findings of the adopted staff report in the record.

Under 4.139 Planned Development Regulations -- Planned Development Permit (3) Final Approval (Stage Two) provides:

“(g) Upon receipt of the final development plan, the Planning Commission shall examine such plan and determine:

- (1) Whether it conforms in all substantial respects to all applicable criteria and standards; and
- (2) Whether it conforms in all substantial respects to the preliminary approval; or
- (3) Require such changes in the proposed development or impose such conditions of approval as are in its judgment necessary to ensure conformity to the applicable criteria and standards.” (Emphasis added.)

The commercial lot was initially approved for uses compatible with residential development as a part of the development. The initial approval under the prior zoning Ordinance 23 is based on the same purposes and criteria of harmony with residential uses and neighborhood compatibility as is currently reflected in planned development regulation purposes and in particular the standards for neighborhood commercial within planned development residential. The record reflects that neighbors testified that they had a right to the peaceful enjoyment of their residences, that their deeds reflected a neighborhood commercial use and that over 200 neighbors signed petitions saying they would not support a 24-hour-a-day commercial operation and convenience store, but would find certain conditions if placed on the use and scale compatible with the peaceful use of their residential uses. Conditions of buffering, scale, lighting were addressed. Testimony supported association of 24-hour convenience stores with late night - early morning congregation of youths and young adults in the parking lot, loud playing radios and cars' engine noise and spill-over into the residential neighborhood, littering in the neighborhood, safety concerns of alcohol accessibility and driving upon the very narrow neighborhood streets at the late night/early morning hours. Even the applicant's witness from the Plaid Pantry Stores testified it had stores which did not operate on a 24-hour basis, albeit the hours were 6:00 a.m. to 12:00 midnight. A condition was imposed to mitigate the disadvantages while permitting the convenience store use, by limiting the hours of operation to 7:00 a.m. to 10:00 p.m. daily.

As pointed out in Anderson v. Peden, 30 Or App 1063, 1068-69, 569 P2d 633 (1977), the specificity of standards and criteria needs to be put in context. “By providing that a use will only be allowed conditionally in a given zone, a local government finds that there is a possible public need for that use in that zone, and simultaneously finds the introduction of that use into that zone may have disadvantages over advantages. \* \* \* The specificity problem focuses on notification of how local government will calculate specific advantages. \* \* \* But the very nature of a conditional use in land-use planning makes detailed and specific standards impossible. The granting or denial of a conditional use is a highly discretionary act. Important and relevant considerations may vary from one neighborhood to another, from one year to another.” The court then went on to focus on the adequacy of the findings. See also, BCT Partnership v. City of Portland, 130 Or App 271, 881 P2d 176 (1994). Wilsonville's whole planned development regulatory scheme is one that allows for mixed uses and planned development but provides for conditions to mitigate disadvantages in the planning stages.

The recited standards of harmony with residential uses or compatibility with the established neighborhood are traditionally used standards and in the latter case were found to even meet a constitutional challenge for vagueness in Anderson v. Peden, supra at 1073. The introduction of commercial mixed use with residential while meeting a public need can also have disadvantages which outweigh its advantages unless mitigated by conditions as testified to by the residents.

The applicant has also appealed the adequacy of the findings. Initially, findings were proposed by staff. Due to the confusion associated with the PDC designation on the zoning map and the leaving of the Planning Director and the replacement with new staff, some of the proposed findings are not in complete accord with the historical underpinnings of this opinion and it is recommended they be modified in light of this opinion. The adequacy of the specific findings based on the record need to be clarified and given more detail. One example is Commissioner Coppersmith's proposed conditions in the minutes of October 9, 1995, which incorporated findings which appear to be incorporated by Commissioner Irvine's approval motion, but were omitted in the City Attorney's shorthand review of the conditions and should be included as findings. The October 9, 1995, minutes recite that Coppersmith stated: "#4 should read, 'neighborhood commercial centers are planned to enhance and at a minimum fit in with the surrounding neighborhoods and provide for the peaceful enjoyment of the residents of the surrounding neighborhoods. The hours of operations of all tenants of Fox Center must be limited to 7:00 a.m. to 10:00 p.m. daily.'"

The Minutes reflect the following:

"Commissioner Irvine moved to approve 95PC21 with staff's conditions of approval, with additions amendments to conditions made by Commissioner Coppersmith and modified by Council (sic) were applicable." (Emphasis added.)

The minutes then reflect that Attorney Kohlhoff (Counsel) reviewed the amended conditions as follows:

" \* \* \* Condition #4. Daily and weekend hours of operation for owners and tenants in Fox Center is limited to 7:00 a.m. to 10:00 p.m. based on noise and neighborhood compatibility." (Emphasis added.)

Thus, Counsel provided a modification in the last sentence only of Coppersmith's statement of condition and not a deletion of his first sentence finding.

Additional details for these findings, as well as making additional findings, are recommended:

(1) The Zoning for the applicant's lot is Planned Development Residential with a designation planned development commercial to be planned as a neighborhood commercial complex as part of a mixed use development.

(2) The planned development regulations, 4.130-4.140, are a regulatory conditional use system. They provide for mixed uses and planned development in meeting the public need, but also provide the Planning Commission with the authority to reasonably condition projects so as to mitigate disadvantages when they would outweigh advantages of mixed use developments.

(3) Even if the zoning were Planned Development Commercial, both the Comprehensive Plan and the implementing provisions call for such commercial to be planned as centers or complexes, and neighborhood commercial is the complex or center which applies to this application. Applicant seeks, appropriately, a planned development site permit and WC 4.139(3)(g), as well as the other planned development regulations taken as a whole, clearly provide the authority for conditioning planned development. Applicant's interpretation of 4.133(2)(a) as providing an outright permit use with no ability by the Planning Commission to condition planned development site permits or to condition the development to mitigate the impacts of neighborhood commercial and convenience store use on the peaceful enjoyment of the residents is found contrary to the intent, purposes and plain language of the Planned



Development Regulations, currently and under the prior planned development regulations of Zoning Ordinance No. 23.

(4) The applicant's commercial lot is virtually a small island surrounded by residential uses, an adjacent church and Wood Middle School. The primarily impacted, surrounding residential neighborhoods are those of Fox Chase and Rivergreen and secondarily Morey's Landing and Hazelwood. The residents' testimony as to the potential use effects and noise interference with the peaceful enjoyment of their residences, especially in Fox Chase and Rivergreen, is found to be persuasive. The testimony of applicant and his witnesses as to policing and enforcement, while of some weight, does not outweigh the testimony of the residents, their recitation of common experiences with 24-hour convenience store operations, the difficulty with after-the-fact policing, and the common sense of using preventative, mitigation conditions to ensure compatibility with surrounding residential uses.

(5) Since Plaid Pantry Stores are able to successfully operate some stores without 24-hour operations, the need to operate 24-hours daily to maintain an economically viable use has not been persuasively established by the applicant, especially in light of the disadvantages to the neighborhood residents from around-the-clock operation and the additional statements of 200 persons of non-patronage.

mek:dp

Exhibit 2

City of  
**WILSONVILLE**  
In OREGON

**ENGINEERING DEPARTMENT**  
**STAFF REPORT & RECOMMENDATION**

30000 SW Town Center Loop E  
Wilsonville, Oregon 97070  
FAX (503) 682-1015  
(503) 682-1011

**DATE:** NOVEMBER 8, 1995

**TO:** HONORABLE MAYOR &  
CITY COUNCILORS

**FROM:** MICHAEL A. STONE, PE  
CITY ENGINEER

**SUBJECT:** APPEAL OF CONDITION #12 (PF13) FOR THE  
PROPOSED FOX CENTER DEVELOPMENT (95PC21)

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**SUMMARY**

On behalf of the applicant Mr. Iraj Nikzi, Mr. Jack Orchard has filed an appeal to the City Council of a condition of approval for the above referenced application relating to the requirement for the construction of public improvements along Wilsonville Road in conjunction with the proposed project.

**RECOMMENDATION**

Staff respectfully recommends the approval of additional findings in support of Condition #12 (PF13) as shown on the attached Exhibit 'A'. If the City Council adopts these additional findings, the Staff recommends that Condition #12 (PF13) be retained as originally proposed.

**BACKGROUND**

Mr. Jack Orchard has requested that the City Council reconsider (2) conditions of approval for the proposed Fox Center development filed under PC9521. Specifically, the condition of approval that will be addressed here relates to the construction of public improvements along Wilsonville Road in conjunction with the added traffic that will be generated by the proposed development and its effects on the operation of the intersection of Wilsonville Road and Willamette Way East.

Condition #12 (PF13) requests that the developer(s) deposit funds for the construction of street improvements along Wilsonville Road. The City has in the past requested that the estimated costs of the improvements be deposited with the City in situations where the exact horizontal and vertical alignment of the roadway section to be reconstructed has not been adequately determined. This request pertains to the section of the road and its improvement in accordance with the applicable section of the City's Transportation Master Plan (TMP).

If the developer elects to comply with the City's request, the deposited amount is made with the City and a credit is given to the developer against the City's street system development charges (SDC) for the street section that is in excess of 24 feet in width.

**EXHIBIT 'A'**  
**FINDINGS FOR FOX CENTER DEVELOPMENT**  
**(IMPROVEMENT OF WILSONVILLE ROAD)**

**Condition #12**

1. Resolution No. 944 requires the completion of a Traffic Impact Analysis (TIA) prepared by a traffic engineer retained by the City, at the Developers expense, to address the specific impacts of the traffic generated by the development on the City's transportation system.
2. At the request of Staff, DKS Associates, Inc., has completed a TIA for the Fox Center development dated April 27, 1995. The report estimates that the total number of trips generated by the Fox Center development is 1,022 trips per day or approximately 255,000 week day trips per year. It further estimates that the trips generated by the project during the p.m. peak hour are 160 trips per hour or 41,600 per year during the week day p.m. peak hour. Subsequent modification of the plan by the applicant and eliminating the residential elements of the proposal *could* slightly reduce these figures.
3. The TMP for Wilsonville Road adjacent to the proposed development identifies the road as a Section "E" which is a minor arterial with 3 to 5 lanes and would allow for (2) 12-foot travel lanes, (2) 6-foot bike lanes, and a 14 foot center lane in the narrowest configuration. In the wider configuration it would allow for (4) 12-foot travel lanes and a center turn lane. The break down as to which configuration to use is based on traffic volumes and where the volume is forecast to be in excess of 15,000 vehicles per day, then the 4-lane plus left turn lanes cross section should be utilized. This information comes from the July 1991, TMP, specifically pages 49, 50 and 54. Since the TMP does not identify the 24 hour traffic projections for Wilsonville Road in this vicinity and since the traffic report indicates that the level of services are better than Level of Service "D", it was determined that *full* improvement of the road to 2010 conditions was not necessary at this time.

Wilsonville Code 4.139 (4) (c) requires the construction of certain planned facilities and services as part of the approval process, which improvements shall conform to the street standards as outlined in WC 4.167.

Paragraph 4.167 Interim Improvement Standards, subparagraph (1k), are established when the existing and short term projected traffic volumes do not warrant improvements to full Master Plan standards. In subparagraph (2a & b) they allow a half street improvement on an arterial street of 24 feet *and turn lanes 40 feet paved for 250 feet beyond the center line of intersecting streets.*

This recommendation which was in compliance with the Wilsonville City Code was accepted by the Planning Commission. We also need to look at whether this is a reasonable requirement. As stated previously, this project will generate 130 p.m. peak hour trips with the vast majority of the trips traveling on Wilsonville Road. The standard which has been used as a basis to determine the reasonableness of the half street is the minor collector street *and AASHTO "warrant" standards for the left turn lane.* In the TMP, page 49, identifies that minor collector streets should carry between 1,200 and 3,000 vehicles per day.

Although the Master Plan further indicates that developments likely to generate a high volume of traffic should be discouraged from locating on minor collectors, it was felt that this is the best standard to compare the road requirements for the Fox Center development when compared to local residential streets or major collector streets whose design criteria are listed on pages 49 and 50 of the TMP. In the absence of an adjacent arterial street which does not meet 2010 capacity or structural standards, the applicant would be expected to develop a minor collector street to carry traffic from the Fox Center development.

*Since the intersection of the residential and collector streets does not currently necessitate a left turn lane (but will after development) the applicant would be expected to develop a left turn lane to carry traffic to the Fox Center development.*

4. For further comparison, we have determined the equitable share of Wilsonville Road Improvements for Fox Center. The TMP estimates the year 2010 p.m. peak hour volume on Wilsonville Road at (670) vehicles (TMP Figure 18). Referencing the estimated (130) p.m. peak hour trips generated by the proposed development, approximately 19% of the Year 2010 trips can be attributed to the proposed development *of the estimated (130) p.m. peak hour trips approximately (45) trips or 35% will be left turns off Wilsonville Road. This represents approximately 7% of the year 2010 trip volumes.*

Because the subject development will create a demand for road improvements, it is appropriate to require the developer to pay for a proportionate share of the costs of those improvements.

Overall traffic in Wilsonville will require that Wilsonville Road be reconstructed as a minor arterial with a minimum of (4) 12-foot travel lanes, (1) 14-foot left turn lane, (2) 6-foot on street bike lanes and (2) 5-foot sidewalks as indicated on Table 5 on Table of the TMP (minor arterial).

5. The TMP estimates the cost to reconstruct the portion of Wilsonville Road from Brown Road west to the city limits *(as outlined above)* at \$2,446,000 (Table 7). Staff's estimate to reconstruct a portion of Wilsonville Road 24-feet in width fronting the proposed development (in 1991 dollars) is \$62,700 or 2.54% of the estimated cost to reconstruct Wilsonville Road to TMP standards. *The cost to construct the left turn lane is approximately the same as the 24-foot section or approximately 2.5% of the total reconstruction cost. These costs are roughly proportionate to the impacts created and benefits received by the development.*

For developments within the City the usual approach is to condition the developer to dedicate sufficient right-of-way and construct the improvements or deposit funds for the half street improvements in accordance with the TMP and then to provide SDC credits for any construction in excess of 24-feet *or as required for the left turn lane*, in recognition that this section provides sufficient capacity for the traffic generated by the proposed development. The developer(s) would meet a portion of the construction costs by dedication of this right-of-way.

6. The applicant has presented no evidence into the record indicating that the proposed development will not create the demands on Wilsonville Road as outlined above. Having the appropriate share of the improvement costs collected at the time of development eliminates some of the potential uncertainties and helps to assure that the development which creates the demand for public facilities pays its fair share of the construction of those facilities.

Respectfully submitted,

Michael A. Stone, PE  
City Engineer

MAS:dr

MS STF RERTWV FoxCon#12(PF13)