

AFFIDAVIT OF POSTING ORDINANCE #62

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 Monday, the 7th day of June, 1976, I caused to be posted copies of the attached Ordinance No. 62, an ordinance relating to the Willamette River Greenway Plan; providing for Greenway conditional use permits: establishing procedures: providing for notice and hearings: providing for penalties for violations: and providing an effective date in the following three public and conspicuous places of the City, to wit:

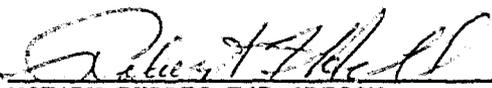
- 1) Wilsonville Post Office
- 2) Lowries Food Market
- 3) Kopper Kitchen

The notices remained posted for more than five (5) consecutive days prior to the time for final reading and passage of the Ordinance on the 14th day of June, 1976.

Dated at Wilsonville, State of Oregon, this 7th day of June, 1976.


DEANNA J. THOM City Recorder

Subscribed and sworn to before me this 26th day of April, 1976


NOTARY PUBLIC FOR OREGON

My Commission expires: 11-11-78

ORDINANCE NO. 62

AN ORDINANCE RELATING TO THE WILLAMETTE RIVER GREENWAY PLAN;
PROVIDING FOR GREENWAY CONDITIONAL USE PERMITS: ESTABLISHING PRO-
CEDURES: PROVIDING FOR NOTICE AND HEARINGS: PROVIDING FOR PENALTIES
FOR VIOLATIONS: AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the Willamette River Greenway as established by the
1967 and 1973 Oregon Legislative Assemblies included land in the City of
Wilsonville, and the Land Conservation and Development Commission (LCDC)
has issued an order purporting to require the City to adopt revised green-
way boundaries and conditional use procedures; now, therefore,

THE CITY OF WILSONVILLE ORDAINS AS FOLLOWS:

Section 1: DEFINITIONS. The definition of terms in this Ordinance (unless otherwise specified) shall be the same as defined in the Order of LCDC adopting the preliminary Willamette River Greenway Plan dated December 6, 1975.

Section 2: GREENWAY BOUNDARIES. The Willamette River Greenway Boundaries in the City of Wilsonville shall be 150' from the ordinary low water mark of the Willamette River as located by the City of Wilsonville, except that all dedicated parks which are located on the Willamette River shall be included in the Greenway in their entirety. The boundaries as now established shall remain until changed by amendment of this Ordinance.

Section 3: PERMITTED USES. Farm, residential, industrial and other uses of land within the Greenway Boundaries existing on December 6, 1975, shall be permitted to continue unless prohibited by State Statute or LCDC Order validly issued under the authority of State Statute. No intensification, change of use, or development for commercial, manufacturing, industrial or Subdivision purposes within the Greenway Boundaries shall be permitted in either rural or urban areas unless a Greenway Conditional Use Permit is granted.

Section 4: GREENWAY CONDITIONAL USE AND PROCEDURES. A Greenway Conditional Use Permit may be granted by the Wilsonville City Planning Commission on application therefor and after notice and hearing as provided by Section 6 of this Ordinance. A Greenway Conditional Use Permit may

permit intensification, change of use or development of properties within the Greenway Boundaries provided that the intensification, change of use or development is not contrary to any other State law or City Ordinance. Prior to granting a Greenway Conditional Use Permit, the Planning Commission shall make the following findings:

- (a) That the land had been committed to an urban use before December 6, 1975. In determining whether the land was committed to a commercial, recreational, industrial, port, residential or other similar urban use, the economic, developmental and locational factors shall be considered including such factors as the Lower Willamette River Management Plan, the Comprehensive Plan, zoning and similar plans or policies. In determining whether a commitment to an urban use has occurred on particular lands, the nature and character of other urban uses in the vicinity of the property in question shall be considered, as well as the capability of the land to fulfill the purpose of the Greenway Statute. In any case such commitment will be deemed to have occurred if a permit for the change of use was granted as of December 6, 1975, and under which permit substantial construction has been undertaken by July 1, 1976. Other lands which are not determined to be committed to urban use as provided above and which are in a natural or recreational condition on December 6, 1975, shall not be deemed committed to urban use.

Upon finding that land has been committed to an urban use, then the intensification, change of use or development shall, as far as this Ordinance is concerned, be permitted when findings in subparagraph (1) below have also been satisfied:

- (1) That the intensification, change of use, or development will provide maximum practicable and reasonable landscaping, aesthetic enhancement, open space or vegetation between the activity and the river.
- (b) That the land within urban areas has not been committed to urban uses as determined under (a) above, or that the land is within rural areas. Upon such a finding then the intensification, change of use or development shall, as far as this Ordinance is concerned be permitted when findings in subparagraphs (1) and (2) below have also been satisfied.
 - (1) The intensification, change of use, or development is compatible with the scenic, natural, historical, recreational character of the Greenway; and
 - (2) The intensification, change of use, or development will provide the maximum practicable and reasonable landscaping, aesthetic enhancement, open space or vegetation between the activity and the river.

Section 5: FILING OF GREENWAY CONDITIONAL USE APPLICATIONS AND FILING FEE. An application for a Greenway Conditional Use Permit shall be filed with the Wilsonville City Planning Commission in the office of the Wilsonville City Recorder on forms to be furnished by the Recorder. A permit fee of \$100 shall accompany each application, and an application shall not be received for filing until the fee is paid. Upon filing of the application, the City Recorder shall within five (5) days forward the application and all material which may accompany it to the Chairman of the Wilsonville Planning Commission.

Section 6: NOTICE AND HEARING. Upon receipt of an application for a Greenway Conditional Use Permit, the Chairman of the Planning Commission shall schedule a time for a least one (1) public hearing, and give immediate written notice of the application and hearing to DOT by certified mail, return receipt requested, and written notice by regular mail to the owners of contiguous property and to any individual or group requesting such notice, and by publication of such notice in at least one (1) publication of a newspaper having a general circulation in the City. The notice shall be given and published not less than ten (10) days prior to the hearing, and the hearing shall be held before the Wilsonville City Planning Commission within thirty (30) days after the date of the receipt of the application by its Chairman. The hearing may be postponed from time to time, but not exceeding sixty (60) days if the Planning Commission determines a need for more information, or because witnesses are unavailable for previously scheduled hearings, or for any other good cause. Within thirty (30) days after the hearing, the Planning Commission shall make its decision in writing and notify the applicant and furnish notice of its actions to the applicant, DOT and the Wilsonville City Council.

Section 7: DENIAL OR ALLOWANCE OF PERMIT; CONDITIONS MAY BE IMPOSED ON PERMIT. The Planning Commission shall, after hearing, either allow the application for a Greenway Conditional Use Permit or deny it in whole or in part, or may allow it with conditions imposed on the Permit, and the Planning Commission's actions in any case shall be such as to carry out the purpose and intent of this Ordinance. If a Permit is allowed in whole or in part, or which conditions in either case, it shall be issued over the signature of the Chairman of the Planning Commission and attested by its Secretary.

Section 8: REVOCATION OF PERMIT. A Permit as issued by the Planning Commission for a Greenway Conditional Use may be revoked by the Planning Commission at any time on written notice to the applicant and, if different, to the owner of the property if any condition imposed on the Permit is not carried out, or if appears that actions being taken pursuant to the Permit are not in accordance with the true intent and meaning of the Permit and the Willamette River Greenway.

Section 9: APPEAL OF PLANNING COMMISSION ACTION. Any final action of the Wilsonville City Planning Commission with regards to an application for a Willamette River Greenway Permit may be appealed to the Wilsonville City Council by any aggrieved party by filing written notice of such appeal and the reasons therefor with the Wilsonville City Recorder within ten (10) days after such final action of the Planning Commission. Upon an appeal to the Council, it shall consider such matter on the record made before the planning Commission and at either a regular or special meeting of the Council called for such purpose, but without further public hearing. All persons and DOT to whom notice was given of the public hearing before the Planning Commission shall be notified in writing by regular mail of the scheduled time for Council action on the appeal, and all of them to whom such notice is given shall be afforded an opportunity to appear and be heard on the matter before the Council. The decision and Order of the Council shall be final, subject only to a review by a Court of competent jurisdiction.

Section 10: PENALTIES AND INJUNCTIVE RELIEF. Any willful violation of any provision of this Ordinance, or of any condition imposed on a Greenway Conditional Use Permit, shall be punished upon conviction in the Wilsonville Municipal Court as a Class B misdemeanor. Furthermore, the City may, on majority vote of the Common Council, direct the City Attorney to institute and prosecute in the State Courts in the name of the City any suit or action that may be appropriate and necessary to enjoin the defendant(s) in such suit or action from violation of this Ordinance or of the terms and conditions of any Greenway Conditional Use Permit that was issued and is or was violated. In such suit or action, the City if it prevails shall be entitled to recover its costs and expenses incurred in such suit or action, and also a reasonable attorney's fee that may be allowed by the trial Court and also by the appellate Court on appeal.

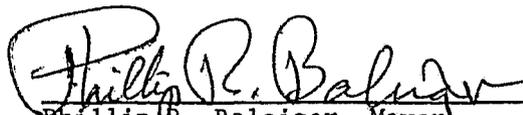
Section 11: VIOLATIONS CONTINUOUS. Whenever in this Ordinance an act is prohibited or is made or declared to be unlawful or an offense, or the doing of an act is required or the failure to do an act is declared to be unlawful or an offense, each day a violations continues shall constitute a separate offense.

Section 12: SEVERABILITY. Each Section, Subsection or other portion of this Ordinance shall be severable; the invalidity of any Section, Subsection or other portion shall not invalidate the remainder.

Section 13: ACCESS AND TAKING. Nothing in this Ordinance shall create or imply any right of physical access or scenic easements to lands within the Greenway boundaries, and nothing in this Ordinance shall permit any taking of such lands without fair and equitable compensation for such taking.

Section 14: EFFECTIVE DATE. This Ordinance shall take effect immediately upon its final passage by the Council.

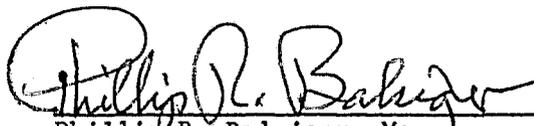
Passed on first reading of the Wilsonville City Council at a regular meeting thereof on the 3rd day of May, 1976; ordered posted as provided by the Wilsonville City Charter; and to come up for final reading and action of the Wilsonville City Council at a regular meeting thereof to be held on the 14th day of June, 1976, at the hour of 8:00 p.m. at the Wilsonville Grade School.


Phillip R. Balsiger, Mayor

ATTEST:


Deanna J. Thom, City Recorder

Passed on final reading of the Wilsonville City Council at a regular meeting thereof held on the 14th day of June, 1976, by the following vote: Yeas 5. Nays 0.


Phillip R. Balsiger, Mayor

ATTEST:


Deanna J. Thom, City Recorder