

RESOLUTION NO. 1690

A RESOLUTION APPROVING ASSESSMENT, LIEN AND INSTALLMENT PAYMENTS OF TENANT IMPROVEMENT SYSTEMS DEVELOPMENT CHARGES FOR THE OLD TOWN VILLAGE COMMERCIAL PROJECT ON BOONES FERRY ROAD, AND REPEALING RESOLUTION NO. 1685.

WHEREAS, Tim and Melodee Knapp have constructed a 12,500 square foot commercial project named Old Town Village in the City of Wilsonville on Boones Ferry Road and 5th Street; and

WHEREAS, the Old Town Village project has been designed to meet the design standards and theme of the Old Town urban renewal area and assures continuity and compatibility of design for prospective redevelopment of Old Town; and

WHEREAS, construction of this project assists the City in providing for development of Old Town in accordance with the West Side Planning and a citizen developed design theme for Old Town and the Boones Ferry Road entryway to the Willamette River and the historic Boones Ferry Landing; and

WHEREAS, Tim and Melodee Knapp have requested that the payment of the systems development charges for the tenant improvements in the amount of \$30,000 be allowed by installment payments over a ten-year period; and

WHEREAS, Tim and Melodee Knapp presented to the City documentation that the fair market value of the property after current mortgages, taxes and any financial fees, is well in excess of two times the principal sum of \$30,000; and

WHEREAS, ORS 223.205 to 223.775 provides a financing and assessment scheme for public improvements and includes application to "[a] system development charge designed to finance the construction extension or enlargement of a street, community water supply, storm sewer or sewage or disposal system * * * " (ORS 223.208(1)(a) and that "* * * the financing of systems development or finance charges under this section may, at the option of the governing body, be a second lien or real property, which lien shall be inferior only to the mortgage or other security interest held by the lender of the owner's purchase money * * * " (ORS 223.208(2)).

WHEREAS, W.C. 3.210 to 3.294 provides procedures for local improvements and special assessments and W.C. 3.246(4) provides:

"Nothing contained in this section shall preclude the Council from using other means of financing improvements, including federal and state grants-in-aid, sewer charges or fees, revenue bonds, general obligation bonds, or other legal means of financing. If other means of financing are used, the Council may levy special assessments according to benefits derived to cover any remaining cost. *(Added by Ordinance #350, May 15, 1989)*"

WHEREAS, Ordinance No. 386, regarding system development charges, provides in Art. VII, Section 4:

"A systems development charge shall be paid in cash when due, or in lieu thereof, the City Manager may accept the delivery of a written agreement to pay if the written agreement is secured by collateral satisfactory to the City Manager or his/her designee. The collateral may consist of mortgage or trust deeds of real property, or an agreement secured by surety bond issued by a corporation licensed by a State law to give such undertakings, or by cash deposit, letter of credit, or other like security acceptable to the City Manager."

WHEREAS, Article VII, Section 5 of Ordinance No. 386 provides for payment of the systems development charges in installments as provided by resolution of the Council; and

WHEREAS, the City needs to collect installment payments at an interest rate sufficient to cover the City's cost of borrowing money and the cost of administering the collection by installment payments; and

WHEREAS, the City Manager, through the City's finance director, has reported that a second lien to secure the amount of an assessment in the principal sum of \$30,000 together with interest at 7.5% per annum, inclusive of a 1% per annum administration fee, for a term of ten years provides satisfactory collateral; and

WHEREAS, contemporaneously herewith, the City's Urban Renewal Agency is proposing to make the \$30,000 loan to the City subject to the City using such loan as assessment financing, placing a second lien security of the Knapp's Old Town Village property, and abiding by such other terms and conditions as set forth in the Agency's authorizing Resolution No. 69; and

WHEREAS, Tim Knapp and Melodee Knapp have indicated that their construction funding includes possible early repayment of the loan for systems development charges; and

WHEREAS, Tim Knapp and Melodee Knapp would like the option to pay the systems development charges by lump sum soon after construction is completed if available funds permit.

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

1. The City Council adopts the above recitals as findings and incorporates them by reference in support of this resolution.

2. The City Council hereby approves SDC financing from the City's Urban Renewal Agency for payment of the systems development charges for tenant occupancy of the Old Town Village Commercial project in the principal amount of \$30,000 with repayment to the Agency in accordance with the terms and conditions of the authorizing Urban Renewal Resolution No. 69, subject to the following conditions acceptable to the Knapps:

- 2.1. The amount of \$30,000 principal together with interest of 7.5% per annum from the date this resolution is adopted shall be assessed against the property described below for system development charges for tenant occupancy of the Old Town Village Commercial project and shall be a lien against the subject property, which shall be duly recorded in the City's Lien Docket in accordance with WC 3.258(1). Interest shall be computed on the basis of 365-day year or 366-day year as applicable and actual days elapsed;
- 2.2. That Tim Knapp and Melodee Knapp shall acknowledge and accept the assessment and lien securing obligation to pay the City shall be placed against their property under the terms and conditions of this resolution;
- 2.3. The subject property is described as follows: Tax lots 3S-1W-23DB, Nos. 102, 102A and 103 in the City of Wilsonville, Clackamas County, Oregon, commonly known as 30623, 30625, and 30775 SW Boones Ferry Road;

- 2.4. The payment of the \$30,000 principal together with interest of 7.5% per annum from January 18, 2001, shall be paid in equal semi-annual installments over a term of ten years of \$2,089.16 commencing six months from the date of this resolution, i.e., the first installment would be due July 18, 2001, and the next on January 18, 2002, et. seq. until fully paid;
- 2.5. If any payment is more than ten days late, a late fee of \$100.00 shall be charged. If any payment is 30 days in arrears, then the City may consider the principal balance and any accrued interest fully due and payable and proceed with any lawful remedy including, but not limited to, enforcement of collection of the assessment by foreclosure of the lien by advertisement and sale. The City shall be entitled to its costs, disbursements and reasonable attorney fees in any action, proceeding or appeal to collect the sums due and owing the City; and
- 2.6. Payments will be credited to the appropriate systems development charge accounts at the time of their collection and the payments to City shall be promptly transferred by the City to the Urban Renewal Agency in repayment of its financing to the City less the allowed 1% per annum administration charge. Early repayment of the assessment is allowed provided any repayment sums shall first be applied to any accrued interest, any fees or costs outstanding then to principal and any such early repayment shall be promptly transferred to the Urban Renewal Agency in repayment of its financing to the City less the aforesaid administration charge; and
- 2.7. This assessment lien of the City shall be superior and prior to all other liens or encumbrances on property insofar as state law permits, save and except the Knapp's mortgage to Liberty Bank, its successors or assigns; and
- 2.8. Upon payment in full, the City shall remove the assessment lien from its document as having been satisfied; and

2.9. Nothing in this resolution is intended to prevent the City from foreclosing by advertisement and sale or entering a bid on the property offered at a foreclosure sale or to limit the City's remedies as cumulative.

3. Any deposits, funds, fees previously paid by the Knapps to the City in the approximate sum of \$20,000 shall be returned.

4. Resolution No. 1685 is repealed.

The invalidity of any section clause, sentence or provision of this resolution shall not affect the validity of any other part or section of this resolution that can be given effect without such invalid part.

ADOPTED by the Wilsonville City Council at a regular meeting thereof this 18th day of January, 2001, and filed with the Wilsonville City Recorder this date.



CHARLOTTE LEHAN, Mayor

ATTEST:



Sandra C. King, City Recorder, CMC

SUMMARY OF VOTES:

Mayor Lehan	<u>Excused</u>
Councilor Helser	<u>Yes</u>
Councilor Barton	<u>Yes</u>
Councilor Kirk	<u>Yes</u>
Councilor Holt	<u>Yes</u>