

RESOLUTION NO. 1765

A RESOLUTION OF THE CITY OF WILSONVILLE APPROVING AN ACCORD AND AMENDMENT OF THE AGREEMENT OF JANUARY 6, 1999, BETWEEN MERIDIAN UNITED CHURCH OF CHRIST AND THE CITY OF WILSONVILLE FOR INSTALLMENT FEE PAYMENTS BY MERIDIAN UNITED CHURCH OF CHRIST TO THE CITY OF WILSONVILLE.

WHEREAS, on January 6, 1999, the Meridian United Church of Christ ("Meridian Church") entered into an Agreement with the City of Wilsonville to make installment payments for certain fees owed to the City for building expansion and associated infrastructure in the sum of \$35,775.00, together with interest at 5.5% per annum, paid in semi-annual installments of \$4,140.59; and

WHEREAS, Meridian Church's congregation divided and built a new church across the street in the county with no urban infrastructure costs involved; and

WHEREAS, due to the loss of membership, the Meridian Church has experienced difficulty in making payments, having paid \$16,562.36 in principal and interest; and

WHEREAS, Meridian Church and staff have reached an accord to modify the Agreement subject to City Council approval, to toll payments until December 1, 2003, waive late payment fees, and to adjust the principal amount of the deferred payments upward by \$1,668.89, which is equal to the compounded rate of inflation of 3.5% from the construction price index at the time of the last payment made to December 1, 2003, a copy of the calculations is marked Exhibit A, attached hereto and incorporated herein.

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

1. The City Council approves the accord recited above and the amendment of the Agreement of January 6, 1999, between the City of Wilsonville and Meridian United Church of Christ by deferring to December 1, 2003, the installment fee payments owed by Meridian United Church of Christ to the City of Wilsonville on the terms and conditions set forth in the above recitals, inclusive of the calculations in Exhibit A, waiving late fees and adjusting the balance owed by a construction price index factor of \$1,668.89.

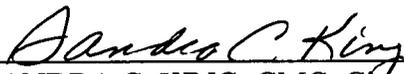
This resolution is effective upon adoption.

ADOPTED, by the City Council of the City of Wilsonville at a regular meeting thereof
on the 20th day of May, 2002.



CHARLOTTE LEHAN, Mayor

Attest:



SANDRA C. KING, CMC, City Recorder

SUMMARY OF VOTES:

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

EXHIBIT A

Mendham United Church

| | | <u>Total Adjustment to Principal</u> |
|---------------------------|--------------|--|
| Deferred payments 2001 | \$ 8,281.18 | |
| Construction index factor | 3.5% | |
| Principal adjustment | \$ 289.84 | \$ 289.84 |
| Deferred payments 2002 | \$ 8,281.18 | |
| plus prior years deferred | \$ 8,571.02 | |
| subtotal | \$ 16,852.20 | |
| Construction index factor | 3.5% | |
| principal adjustment | \$ 589.83 | \$ 589.83 |
| Deferred payments 2003 | \$ 5,107.20 | |
| plus prior years deferred | \$ 17,442.03 | |
| subtotal | \$ 22,549.23 | |
| Construction index factor | 3.5% | |
| principal adjustment | \$ 789.22 | \$ 789.22 |
| | | \$ 1,668.89 |



MEMORANDUM

To: Honorable Mayor and City Council

From: Michael E. Kohlhoff, City Attorney *MEK*

Date: May 15, 2002

Re: Resolution No. 1765, Meridian United Church of Christ

Originally, the City entered into a five-year installment payment agreement (with Meridian United Church of Christ) for fees connected with the expansion of the church. A copy of the original agreement is attached as Exhibit 1.

Apparently, a good size portion of the congregation decided to build their own church directly across Boeckman Road from Meridian United Church. They were not required to meet any urban infrastructure standards, yet enjoy all the nearby services. Consequently, Meridian United Church is having difficulty servicing both their building loan and the City's installment payments.

Staff has met with representatives of the Meridian Church, and the church representatives presented a plan whereby they should be in a position to resume payments December 1, 2003. Since the church has been dealing with the City in good faith and had a change of circumstances, staff believes that it is reasonable to toll the payments and to waive the late payments fees.

However, since the major portion of the fee was for future road improvements, staff believes the cost of construction basis upon which the fees were based, in fairness to the City, should be adjusted in return. Hence, the construction price index factor of 3.5%. Finance and Community Development believe this to be an equitable factor.

Staff recommends the deferral of payments until December 1, 2003, with a construction price index adjustment of \$1,668.89 as set forth in Resolution No. 1765.

mek:dp



AGREEMENT

The CITY OF WILSONVILLE ("City") and MERIDIAN UNITED CHURCH OF CHRIST ("Church"), parties to this agreement, do hereby agree to fully perform all duties and obligations as specified and described.

Recitals

A. City of Wilsonville is a municipal corporation formed under the laws of the State of Oregon. The City has jurisdiction and powers to review applications for development, and to charge and collect monies for impacts of a proposed development on municipal infrastructure necessary to serve development in order to protect and preserve public health, safety and welfare.

B. The Church is a religious organization and operates as a tax-exempt religious and charitable organization under laws of the State of Oregon, and whose property is in the City of Wilsonville. On August 24, 1998, the City of Wilsonville Development Review Board approved an application by the Church to expand its property within the City at its present location, as described in 98DB35, attached as Exhibit A.

C. The City approval of the expansion was conditioned on the Church paying its proportionate share of future street improvements to Boeckman Road, including a 24-foot wide concrete street with 5-foot wide sidewalk and street trees as described in 98DR35, Condition PF14. An explanation of the improvements and costs is contained in a memorandum from City Engineer Michael Stone dated October 8, 1998, and attached as Exhibit B.

D. The Church accepted all conditions of approval but objected to depositing the cost of the improvements in one payment. After discussions among the parties, and as consideration for this agreement, the Church has withdrawn its appeal of 98DR35, and

the City has refunded the appeal fee of \$300. This agreement is a full settlement and compromise of all matters disputed by the Church in regards to 98DB35.

E. Clackamas County has verified that the City of Wilsonville owns Boeckman Road to the north boundary of the road.

Agreement

1. Payment Schedule.

a. The Church agrees to pay the full amount of road improvement costs of \$35,775.00 in ten semi-annual payments, including interest at 5.5% per annum, calculated on 30/360 day basis, on June 1 and December 1, with the first payment due June 1, 1999, and the last payment due December 1, 2003, per the schedule attached as Exhibit C.

b. The church may prepay the remaining balance at any time. There is no penalty associated with prepayment. Interest shall be computed through the actual date of payment.

2. Cap. Although the actual cost of future construction of Boeckman Road may be more than the amount calculated for the Church's share, the Church's share of the cost of improving Boeckman Road shall not be greater than the amount specified in this agreement.

3. Mailing. Payments shall be mailed by first class mail or delivered to:

City of Wilsonville Finance Department
30000 SW Town Center Loop E.
Wilsonville, OR 97070

4. Penalties for Non-Payment. Any installment payment not received by the due date shall be considered late. The City may charge a penalty equal to one-half of one percent (0.5%) of the contract balance when any contract payment is more than 30 days past due. The City may charge a rebilling fee of \$25.00 per late bill

after this contract is 60 days past due. Beyond 60 days past due, the City may declare this contract in default and require payment of the entire unpaid balance, plus interest, penalties, billing charges and costs. This contract amount, and any balance thereof, inclusive of any late penalty or rebilling charges, shall be entered as a City lien on the benefited property. The City lien may be assumed when the property is transferred; however, the City may not subordinate the lien. The City may enforce its property lien by foreclosing and selling the property by advertisement and sale to collect the outstanding contract balance and all related costs.

By signing this agreement, the persons identified by their signature below do affirm that they are authorized to represent their respective organizations and enter into this agreement.

IN WITNESS WHEREOF, the undersigned City of Wilsonville and Meridian United Church of Christ have executed this agreement.

CITY: CITY OF WILSONVILLE

By Eldon A. Johansen
Eldon Johansen,
Community Development Director

1/6/99
Date

CHURCH: MERIDIAN UNITED CHURCH OF CHRIST

By [Signature]

12-30-98
Date

STATE OF OREGON)
) ss
County of Clackamas)

On this 6th day of January, 1998, before me, a notary public in and for said County and State, personally appeared Eldon Johansen, known to me to be the Community Development Director for the City of Wilsonville, whose name he subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on the day and year above written.



Sally R. Hartill
Notary Public for Oregon
My Commission Expires: 1-21-2000

STATE OF OREGON)
) ss
County of Clackamas)

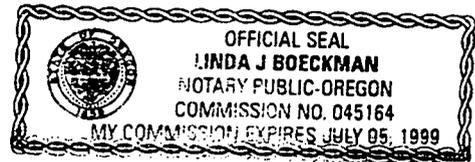
On this 30 day of December, 1998, before me, a notary public in and for said County and State, personally appeared J.A. Connolly, known to me to be the moderator of Meridian United Church of Christ, whose name he/she subscribed to the within instrument and acknowledged that he/she executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on the day and year above written.

Linda J. Boeckman
Notary Public for Oregon
My Commission Expires: July 5, 1999

APPROVED AS TO FORM
this 9 day of December, 1998.

Michael E. Kohlhoff
Michael E. Kohlhoff, City Attorney
City of Wilsonville, Oregon



NOTICE OF DECISION

City of

WILSONVILLE
in OREGON



30000 SW Town Center Loop E
Wilsonville, Oregon 97070
(503) 682-1011
(503) 682-1015 Fax
(503) 682-0843 TDD

DEVELOPMENT REVIEW BOARD

PANEL B

Exhibit A

Project Name: Meridian United Church of Christ
Case File No: : 98DB35
Applicant/Owner: Wayne Lowrie
Proposed action: Approval of a conditional use permit to allow for church expansion.
Property description: Tax Lot 5500. Section 13AA. T3S-R1W Clackamas County, OR
Location: 6750 SW Boeckman Road

On August 24, 1998, at the meeting of the Development Review Board the following decision was made on the above referenced proposed development action:

Approved

This decision has been finalized in written form and placed on file in the city records at the Wilsonville City Annex this 27th day of August, 1998, and is available for public inspection. The date of filing is the date of the decision. Any appeal(s) must be filed with the City Recorder by 5:00 p.m. on September 11, 1998.

Written decision is attached.

This action will expire on August 24, 2000 unless development commences prior to the expiration date.

For further information, please contact the Wilsonville Planning Division at the Community Development Building, 8445 SW Elligsen Road, Wilsonville, Oregon, 97070. or phone 682-4960.

Attachment: Resolution 98DB35 including
 Adopted Staff Report
 DRB Motion to approve

FILED 8-27-98 *my*

**CITY OF WILSONVILLE
DEVELOPMENT REVIEW BOARD
RESOLUTION NO. 98DB35**

A RESOLUTION ADOPTING FINDINGS AND CONDITIONS OF APPROVAL, APPROVING A CONDITIONAL USE PERMIT TO ALLOW FOR CHURCH EXPANSION. THE SITE IS LOCATED AT 6750 S.W. BOECKMAN ROAD ON TAX LOT 5500. SECTION 13AA. T3S-R1W. CLACKAMAS COUNTY, OREGON. MERIDIAN UNITED CHURCH OF CHRIST. APPLICANT.

WHEREAS, an application, together with planning exhibits for the above-captioned development, has been submitted in accordance with the procedures set forth in Sections 4.008(4) and 4.139(1), (2), and (3) of the Wilsonville Code; and

WHEREAS, the Planning Staff has prepared a report on the above-captioned subject which is attached hereto as EXHIBIT "A"; and

WHEREAS, said planning exhibits and staff report were duly considered by the Development Review Board at a regularly scheduled meeting conducted on August 24, 1998, at which time said exhibits, together with findings and public testimony, were entered into the public record; and

WHEREAS, the Board has duly considered the subject and the recommendations contained in the staff report; and

WHEREAS, all interested parties, if any, have been afforded the opportunity to be heard on the subject.

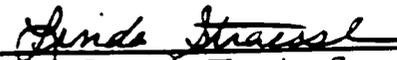
NOW, THEREFORE, BE IT RESOLVED that the Development Review Board does hereby adopt the staff report, with the findings, recommendations and Conditions of Approval contained therein (Exhibit A attached) and further authorizes the Planning Director to issue A SITE DEVELOPMENT PERMIT consistent with said recommendations.

ADOPTED by the Development Review Board of the City of Wilsonville at a regular meeting thereof this 24th day of August, 1998, and filed with the Planning Secretary on August 24, 1998.



Brian Griffin, Chair
Wilsonville Development Review Board
Panel B

Attest:



Linda Straessle, Planning Secretary

**ENGINEERING DEPARTMENT**
MEMORANDUM

Date: October 8, 1998

TO: Bob Hoffman, Current Planning Manager

FROM: Michael A. Stone, City Engineer, 

SUBJECT: *Meridian United Church Of Christ*
Additional Public Facility (PF) Findings 98 DB35

Exhibit B

Staff has prepared additional findings in support of PF14 addressing street improvements along Boeckman Road.

Condition PF 14

1. Resolution No. 944, paragraph 1, requires the completion of a Traffic Impact Analysis (TIA) prepared by a traffic engineer retained by the City at the developer's 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 has completed a TIA for the Meridian United Church of Christ development dated July 28, 1998, which is attached as part of the record for the referenced project. The TIA estimates the total number of weekday p.m. peak hour trips at approximately 6 per day or 1,560 per year. Based on the TIA, Staff estimates the total number of weekday trips at approximately 65 or 16,900 per year.
3. The Transportation Master Plan (TMP), dated July 1991, identifies Boeckman Road adjacent to the proposed development as Street Section "E" (Figure 20, page 54) which is a minor arterial with 3-5 lanes consisting of (2-4) 12-foot travel lanes, (2) 6-foot on street bike lanes (selected applications), and a 14-foot center left turn lane. This information is taken from the TMP, pages 47 and 53. Based on traffic counts taken and previous DKS work Staff has determined that the TMP does not accurately identify the future 24 hour traffic projections for Boeckman Road in this vicinity.

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.



Staff needs to address whether this is a reasonable requirement. As stated previously, the project would generate 6 p.m. peak hour trips traveling on Boeckman Road. The standard which has been used as a basis to determine their reasonableness of street improvements is the minor collector street. The TMP, page 51, indicates the following improvement widths:

- <15,000 vehicles per day (3) lane section
- >15,000 vehicles per day (5) lane section

4. For further comparison staff has determined the equitable share of the Boeckman Road improvements for the development. The TMP (Figure 18, page 43) estimates the year 2010 weekday p.m. peak hour volume on Boeckman Road at approximately 650 vehicles. Referencing the estimated 6 p.m. peak hour trips generated by the proposed development, approximately 2 % of the year 2010 p.m. peak hour trips can be attributed to the proposed development along Boeckman Road.

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

The TMP estimate the costs to reconstruct Boeckman Road (Canyon Creek Road to Wilsonville Road) at \$1,553,000 (Table 7, Page 52). Staff's estimate to reconstruct the portion of Boeckman Road fronting the development at \$35,775 (\$135/lineal feet X 265 lineal feet) or 2.3% of the estimated cost to reconstruct Boeckman Road to TMP standards. These costs are roughly proportionate to the impacts created and of benefits received by the proposed development.

5. The applicant has presented no evidence into the record indicating that the proposed development will not create traffic demands on Boeckman Road as outlined above.
6. Staff prepared similar street improvement deposit recommendations, which were subsequently adopted by the Development Review Board, for the following development proposals:
- Wilsonville Meadows #7-Located immediately west of the Meridian United Church of Christ site. Improvements to Boeckman Road.
 - Daitron-Located on Boones Ferry Road south of Boeckman. Improvements to Boones Ferry Road.
 - Pacific Pride-Located on Boones Ferry Road south of Boeckman. Improvements to Boones Ferry Road.

AMORTIZATION SCHEDULE FOR MERIDIAN UNITED CHURCH OF CHRIST

Note Date: Dec. 1, 1998
Duration: 10 Years
Payments: Semi-annual

Interest Rate: 5.50%

| <u>Payment Number</u> | <u>Due Date</u> | <u>Total Payment Due</u> | <u>Date Paid</u> | <u>Amount Paid</u> | <u>Principal Portion</u> | <u>Interest Portion</u> | <u>Principal Remaining</u> |
|-----------------------|----------------------|--------------------------|------------------|--------------------|--------------------------|-------------------------|----------------------------|
| | Original Assessment: | | | | | | |
| 1 | 6/1/99 | \$4,140.59 | | | \$3,156.78 | \$983.81 | \$ 35,775.00 |
| 2 | 12/1/99 | \$4,140.59 | | | \$3,243.59 | \$897.00 | \$ 32,618.22 |
| 3 | 6/1/00 | \$4,140.59 | | | \$3,332.79 | \$807.80 | \$ 29,374.64 |
| 4 | 12/1/00 | \$4,140.59 | | | \$3,424.44 | \$716.15 | \$ 26,041.85 |
| 5 | 6/1/01 | \$4,140.59 | | | \$3,518.61 | \$621.98 | \$ 22,617.41 |
| 6 | 12/1/01 | \$4,140.59 | | | \$3,615.37 | \$525.22 | \$ 19,098.80 |
| 7 | 6/1/02 | \$4,140.59 | | | \$3,714.79 | \$425.79 | \$ 15,483.43 |
| 8 | 12/1/02 | \$4,140.59 | | | \$3,816.95 | \$323.64 | \$ 11,768.64 |
| 9 | 6/1/03 | \$4,140.59 | | | \$3,921.92 | \$218.67 | \$ 7,951.69 |
| 10 | 12/1/03 | \$4,140.59 | | | \$4,029.77 | \$110.82 | \$ 4,029.77 |
| | | \$41,405.88 | | | \$35,775.00 | \$5,630.88 | |

Interest based on 30/360 day basis.

Exhibit C