

RESOLUTION NO. 986

A RESOLUTION SETTING A PUBLIC HEARING DATE FOR AN APPEAL OF THE PLANNING COMMISSION'S APPROVAL OF STAGE II SITE DEVELOPMENT PLANS FOR THREE SINGLE-FAMILY RESIDENCES IN CHARBONNEAU - APPEAL FILED BY MR. RICHARD H. ALLAN, ATTORNEY FOR THE APPELLANTS.

WHEREAS, the Wilsonville Planning Commission approved a request by Willamette Valley Homes to site three single-family residences on variable property "A" of the Village Center Condominium plat (Charbonneau) at its regular meeting held on March 8, 1993; and

WHEREAS, Richard H. Allan, Attorney for the Appellants, filed a Notice of Appeal on March 23, 1993, and requested a de novo hearing before the City Council; and,

WHEREAS, Mr. Allan's 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. Richard H. Allan of the Planning Commission's decision regarding Case file No. 92 PC 25 is hereby set for May 3, 1993, and shall be heard de novo.
2. The City Recorder shall publish, post and mail notice of the hearing in accordance with the procedures for land use hearings 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 of the 5th day of April, 1993, and filed with the Wilsonville City Recorder this date.



GERALD A. KRUMMEL, Mayor

ATTEST:

Vera A. Rojas

VERA A. ROJAS, CMC/AAE, City Recorder

SUMMARY of Votes:

Mayor Krummel AYE

Councilor Van Eck AYE

Councilor Carter AYE

Councilor Hawkins AYE

Councilor Lehan AYE



City of
WILSONVILLE
IN OREGON

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

Project Name: Willamette Valley Homes File No: 92PC25

Applicant/Owner: RTC/The Benj. Franklin #7166 "Willamette Factors, Inc"

Proposed Action: Site Development Plans, Major Land Partition
Revision to Stage I Master Plan

Property Description:

Map No: 24CD Tax Lot No: 8000A Site Size: 30,314 sq ft

Address: _____

Location: Charbonneau Village Center

On March 8, 1993 at the meeting of the Planning Commission
the following decision was made on the above-referenced proposed development
action:

 Approval xx Approval with Conditions Denied

This decision has been finalized in written form and placed on file in the City records at the Wilsonville City Annex this 10th day of March, 1993 and is available for public inspection. The date of filing is the date of the decision. Any appeal must be filed with the Planning Department by 5:00 p.m. on March 23, 1993

 Written decision in attached

 xx Written decision is on file and available for inspection and/or copying

This action, if approved, will expire on March 8, 1995 unless development commences prior to the expiration date.

For further information, please contact the Wilsonville Planning Department at Community Development Building, 8445 S.W. Elligsen Rd. or phone 682-4960.

FILED 3-10-93 *jh*

**PLANNING COMMISSION
RESOLUTION NO. 92PC25**

**A RESOLUTION ADOPTING FINDINGS AND CONDITIONS OF APPROVAL
APPROVING AN AMENDMENT TO THE VILLAGE AT WILSONVILLE
MASTER PLAN, STAGE II SITE DEVELOPMENT PLANS AND A MAJOR
LAND PARTITION . WILLAMETTE VALLEY HOMES APPLICANT. THE
PROPERTY IS DESCRIBED AS TAX VARIABLE PROPERTY "A" OF THE
CHARBONNEAU VILLAGE CENTER CONDOMINIUM PLAT.**

WHEREAS, an application, together with planning exhibits for the above-captioned development, has been submitted in accordance with the procedures set forth in Section 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 filed with application No. 92PC25.

WHEREAS, said planning exhibits and staff report were duly considered by the Planning Commission at a regularly scheduled meeting conducted on March 8, 1993, at which time said exhibits, together with findings and public testimony, were entered into the public record, and

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

WHEREAS, interested parties, if any, have had an opportunity to be heard on the subject.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Wilsonville does hereby adopt the staff report along with the findings, recommendations and Conditions of Approval contained therein. The Wilsonville Planning Director is hereby authorized to approve:

Revision to Stage I Master Plan
Site Development Plans
Major Land Partition

consistent with said recommendations once the prescribed appeal period has expired.

ADOPTED by the Planning Commission of the City of Wilsonville at a regular meeting thereof this 8th day of March, 1993, and filed with the Planning Secretary on

March 10, 1993

Attest:

Sally Hartill
Sally Hartill, Planning Secretary

Cam Van
Chairperson
Wilsonville Planning Commission

92PC25

WILLAMETTE VALLEY HOMES

**STAGE I MASTER PLAN,
STAGE II, SITE DEVELOPMENT PLANS
AND
MAJOR LAND PARTITION**

CONDITIONS OF APPROVAL AS

**AMENDED AND ADOPTED BY THE
PLANNING COMMISSION**

The following Conditions of Approval are hereby adopted to assure completion of the project in compliance with the Comprehensive Plan, Zoning and Site Development Regulations.

1. Develop the site, i.e., buildings, parking and drives, in substantial compliance with the approved Stage II Development Plans. It is realized that minor revisions in the development will occur prior to and during the construction phase. Minor site development revisions may be reviewed by the Planning Director under a Class I administrative review.
2. This Planning Commission action approves a maximum of three (3) single family houses.
3. If gates are to be included, provisions must be made for emergency access. This shall be coordinated through the appropriate emergency service providers, i.e., Tualatin Rural Fire and Rescue District.
4. The applicant shall conform with all requirements of the Tualatin Rural Fire District, including, but not limited to, circulation and location of fire hydrants.
5. The proposed private driveway / road serving the project houses shall remain private and not dedicated as a public road. This condition will not apply if the driveways or private roads are brought up to Public Works Standards and accepted by the City.
6. Final construction plans will be reviewed and approved by the Planning Director, City Engineer and the Building Official prior to any construction.
7. Obtain a final plat approval for the residential units from the City of Wilsonville, prior to the sale or conveyance of any of the residential units.
8. The applicant shall waive right of remonstrance against any local improvement district that may be formed to provide public improvements to serve the subject site.
9. The developer shall construct two (2) parking spaces adjacent to Parcel A in asphalt concrete with concrete curbs in standard size parking spaces at (9' x 18'). Grant an easement to the Village Center Condominium Association for the adjoining four (4) parking spaces to be built by others. Said parking shall be common to the adjoining Village Center parking area.

10. This approval grants waivers to increase the maximum building to parcel coverage as listed below:

Parcel A: 30% or 5% net increase
Parcel B: 45% or 15% net increase
Parcel C: 45% or 20 % net increase

The comments that follow concern the public improvements to the subject site. However, the applicant is required to meet all requirements of the Building Permit process.

11. All final plans shall be submitted on a 24" x 36" format. A title page will be required with a space left in the lower right-hand corner for an 8-1/2" x 11" information sheet to be provided by the City and to be affixed to the final as-built plans before acceptance. The applicant shall provide 3 mil mylar as-builts to the City. Said as-builts must be submitted and approved by the City before the final punch list inspection will be performed by the City.
12. Storm sewer system shall be designed to pass a 25-year frequency storm.
13. Final utility design shall be designed to meet the following general format:
- A. Composite utility plan shall be part of the final plan set.
 - B. Utilities not in the street area shall provide maintenance access acceptable to the City and shall be centered in a 15-foot easement to be conveyed to the City of Wilsonville.
 - C. Final design of the public utilities shall be approved at the time of the City's issuance of a Public Works construction permit.
 - D. All on and off site utilities shall comply with the State of Oregon and the City of Wilsonville requirements and Codes.
 - E. All cul-de-sacs shall have a minimum 45-foot radius to the face of the curb to allow for adequate turning radius.
 - F. Final design plans shall identify locations for street lighting, gas service, power lines, telephone lines, cable television, street trees and mailbox clusters.
14. All survey monuments on the subject site shall be protected. If destroyed by the site construction, the applicant shall retain a professional land surveyor to replace the monuments and file a copy of the record survey with the City.
15. The applicant shall submit a composite utility plan showing all existing utilities and how all residential units will be connected to these utilities.
16. The applicant shall vacate existing 15-foot pipeline easement that traverses the southeast corner of the site and relocate existing 12-inch water main within a new 15-foot pipeline easement that borders the east and south property lines of the subject site prior to occupancy.

17. The applicant shall provide evidence that existing 6-inch sanitary sewer has the capacity to pass additional flow contributed by the subject development.
18. The applicant shall provide a 20' access driveway serving the three residential units to the east for fire department apparatus access.
19. Storm drain plans shall be submitted to the City Engineer for final review and approval.
20. All setbacks for the proposed buildings shall be referred to the Design Review Board for final review and approval.

BALL, JANIK & NOVACK
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RICHARD H. ALLAN

March 23, 1993

BY MESSENGER

Mr. Wayne Sorenson
Planning Director
City of Wilsonville
Community Development Building
8445 S.W. Elligsen Road
Wilsonville, OR 97070



Re: Notice of Appeal
File No. 92PC25

Dear Mr. Sorenson:

This letter serves as Notice of Appeal of the decision of the Planning Commission in File No. 92PC25 approving an application for major land partition, site development plans for three single-family residences, and an amendment to Stage I, The Village at Wilsonville Master Plan. This appeal is filed on behalf of Charbonneau Village Condominium Association, Charbonneau Country Club, Arbor Lake Homeowners Association, Fairway Village Homeowners Association, Fountain Lakes Homeowners Association, Village Greens Homeowners Association, County Club Estates Homeowners Association, Edgewater Homeowners Association, and Louvonne Homeowners Association. On behalf of each of these appellants, I request that the City Council review the Planning Commission's decision de novo, in accordance with Section 4.017(6) of the Wilsonville Development Code. De novo review is appropriate for two reasons: (1) representatives of appellants were not given adequate time to present their arguments and make a record against the proposal before the Planning Commission; and (2) the applicant presented a new site development plan at the Planning Commission hearing, which prejudiced opponents' ability to argue the merits and develop the record.

Appellants request that the Council reverse the decision of the Planning Commission and deny the application of Willamette Valley Homes in File No. 92PC25. The grounds of appeal are as follows:

Mr. Wayne Sorenson
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1. The Proposal Conflicts With the Goals of The Village at Wilsonville Master Plan.

The Village Center includes the only commercially-zoned property at Charbonneau. The proposal approved by the Planning Commission unwisely sacrifices the potential for commercial development that would meet the social and economic needs of the entire community to provide three additional residences. The proposed development removes Variable Property "A" from the limited pool of available commercial property, and exacerbates existing parking problems in the process.

Moreover, given the limited parking currently available, residential development of Variable Property "A" prevents the expansion of parking to support commercial development of Variable Property "B." Variable Property "B" has a concrete pad and utilities; residents of Charbonneau want the property developed for a health/exercise facility. That commercial development is unlikely to occur if Variable Property "A" is converted to residential use. This conflicts with goals of The Village at Wilsonville Master Plan regarding "recreation amenities" and "Village Center as a focus." Conversion of the property to residential use also violates the following objectives of the Comprehensive Plan: Objective 4.1.1 ("encourage commercial uses which are compatible with the residential nature of the community, and are complementary to or supportive of industrial development in the city"); Objective 4.1.3 ("encourage a rate of commercial development consistent with serving the needs of residents of the city and adjacent rural and agricultural lands"); Objective 4.3.7 ("coordinate housing development with the social and economic needs of the community").

2. Variable Property "A" is an Inappropriate and Unsuitable Location for Residential Development

In particular, the residence on Parcel A will be only 30 feet from a large restaurant. Residential development at this location invites conflict with the pre-existing commercial uses. This violates Objective 4.3.1 of the Comprehensive Plan: "Establish residential areas that are safe, convenient, healthful, and attractive places to live, while encouraging variety through the use of clusters and planned developments."

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3. The Setback and Lot Coverage Waivers for the Proposed Development are Inconsistent With the Development Code, the Comprehensive Plan, and the Master Plan

The Planning Commission required that "Applicant shall provide a 20-foot access driveway serving the three residential units to the east for fire department apparatus access." See Condition 18. That access driveway necessarily will occupy the front yard of the three residential units. Although it is termed an "access driveway," the appearance will be no different than a home abutting a public street with a zero front yard setback. This is completely inconsistent with all other residential development at Charbonneau. There are no other homes at Charbonneau built "to the curb." The "zero setback" violates the planned development regulations, in particular, Section 4.130(1), which provides that it is the purpose of the planned development regulations "to produce a comprehensive development equal to or better than that resulting from traditional lot land use development." Residential units with no front yard in a development in which all other residences have front yards is not an improvement on "traditional lot land use development." The only way the applicant could get three residential units on the property, and provide access, is to eliminate the front yard. That is an unacceptable result.

The staff report indicated that the lot coverage for Parcel B would be 45 percent, a 15 percent net increase over the maximum. The lot coverage for Parcel C also would be 45 percent, a 20 percent net increase over the maximum for that lot. As substantial as these increases are, they failed to take into account the existence of the private access road. That road occupies the front yards of both Parcels B and C, eliminating a substantial portion of the buildable lot. The actual lot coverages (eliminating the portion of the lot occupied by the access road) are closer to 58 percent of the remaining lot area. Such high lot coverages do not produce a development "equal to or better than that resulting from traditional lot land use development."

4. The Access Road Cannot Satisfy Code Requirements and the Conditions of Approval

Condition of Approval 13(E) requires that "all cul-de-sacs shall have a minimum 45-foot radius to the face of the curb to allow for adequate turning radius." The access road provides neither a cul-de-sac nor a "hammerhead" to allow turning for vehicles, including emergency vehicles. The access road, at more than 150 feet in length, does not meet fire department access

Mr. Wayne Sorenson
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requirements. Moreover, the access road, as it enters Parcel A, turns 180 degrees, with a radius that appears to be substantially less than 45 feet. This access is inadequate, particularly for emergency vehicles.

5. For the Reasons Discussed Above, the Proposed Development Does Not Comply With Section 4.139(4)(A), Which Requires That "The Location, Design, Size, and Uses, Both Separately and as a Whole, Are Consistent With The Comprehensive Plan, and With Any Other Applicable Plan, Development Map or Ordinance Adopted by the City Council"
6. The Proposed Development Does Not Comply With Section 4.139(4)(C), Which Requires That "The Location, Design, Size, and Uses Are Such That The Residence or Establishments to be Accommodated Will be Adequately Served by Existing or Immediately Planned Facilities and Services"

In particular, the applicants failed to show that they have an easement or can obtain easements from surrounding property owners for certain utilities (telephone, cable television, and possibly electric) and for storm drainage. Surrounding property owners have expressed their unwillingness to provide the required easement.

7. The Proposed Development Violates Objective 4.3.8 of the Comprehensive Plan, Which Requires that "New Housing Developments . . . Pay an Equitable Share of the Costs of Required Capital Improvements for Public Services"

In this case, the Planning Commission allowed the applicants to inequitably shift the cost of developing parking spaces from the developer to unnamed "others". Condition of Approval No. 9 requires that the developer construct two parking spaces, and grant an easement to the Village Center Condominium Association for the adjoining four parking spaces "to be built by others." The developer should be required to develop all of the parking spaces, because the residences will increase the pressure on the very limited supply of parking within the village center.

BALL, JANIK & NOVACK

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For the reasons stated above, appellants request that the City Council grant a de novo hearing, and reverse the decision of the Planning Commission.

Sincerely,

A handwritten signature in black ink that reads "Richard H. Allan" with a horizontal line at the end.

Richard H. Allan

RHA:sek
b:/rha/sek/Charbonneau/ws.323

cc: Mr. Alex Passovoy

BALL, JANIK & NOVACK

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DATE

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PAY
TO THE
ORDER
OF

City of Wilsonville

Cathy L Wagner

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