

RESOLUTION NO. 2049

RESOLUTION INTERPRETING COMPREHENSIVE PLAN CONCURRENCY POLICY IMPLEMENTING MEASURES 3.1.2.d AND 3.1.2 e.

WHEREAS, in order for a Stage II development plan application to meet the burden of establishing that there is adequate transportation capacity to safely accommodate the traffic generated by the proposed development, an applicant must prove that the traffic generated from the development will operate at the most probable used arterial or collector intersections at Level of Service (LOS) D or better, WC 4.140 (.09) J. 2; and

WHEREAS, the City recognized that a policy of concurrency between development and the provision of adequate infrastructure capacity facilities was needed as the length of timing to fund, design and construct infrastructure often lagged the market demand for development and that development itself often could assist in the needed funding through exactions and system development charges and credits. Therefore, the City provides a concurrency policy to allow development to be approved and constructed provided the adequate infrastructure to meet LOS D standards at purely locally controlled probable used intersections is planned and funded with a two-year period of time and four years within state controlled interstate interchange ramp intersections. Comprehensive Plan Policy 3.1.2 et seq; W. C. 4.140(.09)(J)(.2) The use of this concurrency policy is limited if a serious danger to life and safety were presented by allowing the development to proceed without the infrastructure; and

WHEREAS, the interchange ramp intersections with Interstate 5 and Wilsonville Road (an arterial) now are operating in excess of LOS D and thus traffic generated by proposed development in geographic proximity of, and using these intersections, would fail to meet the LOS D standard; and

WHEREAS, the City does not have authority and control over these intersections even though they affect Wilsonville Road travel and therefore any construction to provide added capacity must be with the approval of the Oregon Department of Transportation (ODOT) in coordination with the Federal Highway Administration (FHA); and

WHEREAS, the City has been negotiating with ODOT on the elements of capacity improvements to the ramps and the reconfiguring of lanes and reconstruction of the vertical

curve underneath the I-5 bridging of Wilsonville Road and other improvements as well as right of way matters and engineering design, together with a City share of funding; and

WHEREAS, heretofore necessary elements to accomplish the above were too time distant to consider anything but either denials of applications, a Public Facilities Transportation Strategy, or a full moratorium on development; and

WHEREAS, the City's Comprehensive Plan, Implementation Measures to the Plan's Concurrency Policy provides as follows:

"3.1.2.c. Where a shortage of facilities/services exists or is anticipated in the near future, and other alternatives are not feasible to correct the deficiency, the City shall take steps to implement a moratorium on development activity or to manage growth through a public facilities strategy, as provided by statute. In the event that state laws provide other alternatives to address shortages of facilities/ services, the City will consider those alternatives as well."

"3.1.2.d. As an alternative to denying a development application that otherwise meets all applicable standards and criteria, the City shall impose reasonable conditions of approval on development, in terms of adequate services/facilities."

"3.1.2.e. When development is proposed in areas of the City where full urban services/facilities are not yet available, development approval shall be conditioned on the provision of adequate facilities and services to serve the subject property. Where the development can reasonably proceed in phases prior to the availability of full urban services/facilities, such development may be permitted. However, the use of on-site sewage and private water systems shall only be approved where permitted by City ordinance"; and

WHEREAS, the provisions of Implementing Measures 3.1.2 d and e are in accordance with the requirements of ORS 197.522, which provides that a local government shall impose reasonable conditions on the application for development approval to make the proposed activity consistent with the Comprehensive Plan and applicable land use regulations and that a local government may deny an application that cannot be made consistent through reasonable conditions of approval; and

WHEREAS, there are elements in place or about to be put into place to reasonably believe it is probable that the City and ODOT will have an executed Cooperative Improvement Intergovernmental Agreement (IGA) within the next year that would provide a plan and funding to construct sufficient capacity to trigger the City's four-year interchange concurrency policy; thus allowing development applications to proceed through to Stage II approval conditioned after

any development pulling building permits on the Cooperative IGA between the City and ODOT is in place; and

WHEREAS, the elements referenced in the above recital are:

- The Urban Renewal staff is proposing at the direction of the City Council and Urban Renewal Agency Board a substantial amendment of The Year 2000 Plan to allow for the necessary funding to participate in the capacity improvements necessary to Wilsonville Road in conjunction with the Interstate 5 improvements recited above, which proposed amendment has been designed to maintain the current cap on increment;
- Facilitated negotiations in mediation under state statute with the impacted Fred Meyer development and threatened litigation could be concluded subject to allowing their pending development planning applications to be amended as negotiated and to proceed subject to the same condition and a development agreement regarding, among other things, the improvements and shared funding of the Wilsonville Road and Boones Ferry Road intersection, which is a concurrent capacity improvement to operate with the nearby intersection ramps and lane configurations and vertical curve correction;
- A Memorandum of Understanding has been prepared to present to ODOT in keeping with negotiations to allow for some advanced right of way surveying and design and to outline the parties understanding of the proposed scope of the project in order to facilitate both the IGA and a timely progression of the project;
- The City has been advised that an IGA through further negotiations, drafting, review by the Oregon Department of Justice, and final ODOT approval is a six to nine month process;
- The Comprehensive Plan provides the City Council may determine to increase the LOS D standard in keeping with other urban standards within the Metro area to LOS E in the area of Wilsonville Road and the I-5 interchange;

and that it is reasonable to believe that all of the above can be accomplished within a year's period of time even considering that some of these matters are interrelated and codependent upon each other; and

WHEREAS, based on traffic engineering reports provided by DKS Engineering and reviewed and reported upon by the City's engineering and community development staff, and the completion of Boeckman Road extension in 2008, taken together with all the above recited improvements, trip capacity should be sufficient to develop the immediate area inclusive, but not limited to, that of the proposed Fred Meyer property, the Jack Kohl Old Town property, the Joe Angel property, the Ward Lazerquick property, the Dan Reeves property north of Wilsonville Road, and J.C. Reeves Corporation property south of Wilsonville Road.

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

1. The above recitals are incorporated herein as if fully set forth as findings of the City Council.
2. The City Council concludes that it is a reasonable interpretation of Implementing Measures 3.1.2 d and e that the measures would be met by conditioning a Stage II development application approval upon a Cooperative Improvement Intergovernmental Agreement between the City and ODOT being in place before building permits may be issued given the probability such Agreement will be in place within one year and that the application would otherwise be denied for lack of adequate transportation capacity as measured by not meeting LOS D or, even if amended to LOS E by the City Council, through the intersections of Wilsonville Road and Boones Ferry Road or Wilsonville Road and the I-5 interchange ramps.
3. Staff is directed to implement the above recited elements of The Year 2000 Plan and the MOU as may be approved by the City Council as conditions precedent to the IGA and to negotiate the final Cooperative Improvement Intergovernmental Agreement for City Council approval.
4. This Resolution shall take affect upon adoption.

ADOPTED by the Wilsonville City Council at a regular meeting thereof this 7th day of May, 2007, and filed with the Wilsonville City Recorder this date.



CHARLOTTE LEHAN, MAYOR

ATTEST:



Sandra C. King, MMC, City Recorder

SUMMARY OF VOTES:

Mayor Lehan	<u>Yes</u>
Councilor Kirk	<u>Yes</u>
Councilor Knapp	<u>Yes</u>
Councilor Ripple	<u>Yes</u>
Councilor Núñez	<u>Excused</u>