

**RESOLUTION NO. 996**

**A RESOLUTION AND ORDER OF THE WILSONVILLE CITY COUNCIL WHICH REVERSES A PLANNING COMMISSION DECISION; ADOPTS ADDITIONAL FINDINGS; MODIFIES A PREVIOUS CONDITION OF APPROVAL TO ALLOW AUTOMOTIVE CAR WASHES WITHIN TOWN CENTER MARKET; APPROVES STAGE I AND STAGE II DEVELOPMENT PLANS FOR A DRIVE-THROUGH CAR WASH ON PAD NO. 2; AND CHANGES THE OVERLAY ZONE FROM FF (FAST FOOD) TO SC (SERVICE COMMERCIAL) FOR PAD NO. 2; CAPITAL REALTY CORPORATION, APPELLANT; PLANNING CASE FILE NO. 93 PC 02.**

WHEREAS, Pacific Car Wash (i.e. Mr. Dennis Thompson) filed an application with the City of Wilsonville to site a automatic drive-through car wash on Pad No. 2 of Capital Realty Corporation's development identified as **WILSONVILLE TOWN CENTER**; and

WHEREAS, the Wilsonville Planning Commission, after providing the appropriate public notices, held a public hearing on January 11, 1993, to gather and accept evidence, exhibits and testimony regarding Pacific Car Wash's site development plans; and

WHEREAS; the Planning Commission, in accordance with the staff's report and recommendation, denied the Pacific Car Wash application by their Resolution No. 93PC02 which was filed with the Planning Secretary on January 14, 1993; and

WHEREAS, Ms. Kimberly J. Beach, Vice President of Capital Realty Corp., having appeared at the Commission's hearing and who testified in favor of the application at that time, filed an appeal of the Commission's decision by her letter dated January 27, 1993; and

WHEREAS, the Wilsonville City Council accepted Capital Realty's appeal by adopting Resolution No. 978 at its February 16, 1993, hearing and, in doing so, set a public hearing for April 19, 1993, to consider the appeal; and

WHEREAS, the Council, after duly considering the Planning Commission's public record and minutes of the proceedings and weighing the additional evidence and testimony presented to them, voted to **APPROVE** Capital Realty's appeal and, in doing

so, reversed the Planning Commission's decision to deny.

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

1. The City Council finds that Pad 2 currently is designated as Fast Food (FF) and that the applicant requests a change to Service Commercial (SC) to allow a car wash to be located on the pad. Additionally, the Council finds that Condition of Approval No. 3 of Case file no. 89 PC 50 (Stage I Master Plan for Wilsonville Town Center) prohibits "...automotive wash centers.." within Town Center Market and that this condition would have to be amended and modified before a car wash facility could be sited on Pad 2. This finding is intended to replace Finding 1 of the Planning Staff Report which is revoked by the Council.

2. The Council finds that the proposed design for the car washing operation consistent with Subsection 4.136 (2) which requires that businesses be conducted wholly within an enclosed building within a Planned Development Commercial (PDC) zone. The Council finds that the Design Review Board should review the Applicant's design plans for conformity with the sketches presented to Council. The Council finds that Capital Realty and Pacific Car Wash has presented an attractive plan to screen the vacuums with landscaping and an enclosure of the type that was displayed on the drawings submitted to the Council by Capital Realty. However, the Council notes that the submitted vacuum area plans are not consistent with the wholly enclosed requirement. Furthermore, nothing herein is intended to limit the Design Review Board from exercising their authority to ensure full compliance with Section 4.421 (Criteria in Standards and Application of Design Standards) of the Wilsonville Code (WC) and, specifically, with Section 4.136 (2) in this case. This finding is intended to replace Finding 5 of the Staff Report.

3. The Council finds that an automatic car wash is comparable to a self-service car wash and that the FF overlay zone for Pad 2 would need to be changed to a SC overlay zone before any car wash, no matter what type, could be sited on that Pad. This requires a modification to the Town Center Market Master Plan and, additionally, requires amendment of Condition No. 3 of Case file no. 89 PC 50 which, as stated before, prohibits car wash facilities within the Town Center Market. The Council finds that the applicant requested to site a specific use (i.e. a car wash) at this location (Pad 2) and, in doing so, provided full and proper notice to all involved and/or concerned parties that they were, in fact, requesting the City to take all necessary action(s) needed to accomplish

this goal. The Council finds that no party was damaged, injured or legally prejudiced because of the non-disclosure or omission of Condition No. 3 (89 PC 50) at the Planning Commission hearing, in fact, the Commission's denial was based on other available evidence and testimony. This finding upholds and supplements Finding 8 of the Staff Report.

4. The Council finds that, based on the applicant's letter and testimony, that there is not an abundance of other SC land available within the interior of Town Center Loop. Finding 8 of the Staff Report is incorrect in this matter and the applicant is correct in stating that this is an appropriate site for this use. This finding is intended to replace Finding 12 of the Staff Report which is hereby revoked.

5. The Council finds that the proposed design of the car wash can be made to be compatible with the surrounding architecture of Town Center and that the Design Review Board will review the final sketches and drawings for compliance with Section 4.400 (Purpose) of the WC which requires that Site Development Plans maintain a high quality visual environment and protect and enhance the City's appeal, among other things. The architecture need not be "austere" or retain an image that does not positively reflect on Town Center as stated in the Staff's finding. This finding is intended to replace Finding 13 of the Staff Report which is hereby revoked.

6. The Council finds that the location, design and use is consistent with Ordinance No. 254 (Wilsonville Town Center Master Plan) and, specifically, with the SC overlay zone. This use is consistent with the Commercial designation as set forth on the Comprehensive Plan map in that this is clearly a commercial use and not a public, industrial or residential use. Consistent with the modification to the Master Plan, as requested by the applicant, this use would comply with the Town Center Master Plan when the overlay zone for Pad 2 is changed from FF TO SC. This finding replaces Finding 14 of the Staff Report.

7. The Council finds that Pacific Car Wash and Capital Realty can provide adequate employee parking on-site or adjacent to the site. The record shows that three (3) spaces should be adequate for employee parking; however, this detail should be reviewed by the Design Review Board under Section 4.421 (c) of the WC (Drives, Parking and Circulation) and, in this case, the applicant shall demonstrate to the Board that they have adequate on-site employee parking as required by Section 4.150 of the Code. This finding replaces Finding 20 of the Staff Report.

8. The Council finds that the applicant shall demonstrate to the Board that they fully comply with Code requirements relating to traffic circulation, queuing, and site

access WC 4.421(c). The Council will require the City's Traffic Consultant to again review the new plans submitted to the Council (this is at the Applicant's expense) for conformance with the Code requirements. The Council finds that this review shall be performed prior to setting a final hearing date for this project and that the Board is authorized to take any steps necessary to ensure compliance with the Code in this regard.

9. The Council finds that in receiving the applicant's testimony and making its findings and order, that a FF zone or overlay zone does not permit a fast food restaurant with drive-up windows unless all applicable criteria are met, including but not limited to, WC 4.421(c).

**IT IS THEREFORE ORDERED:**

1. The Commission's denial of the Pacific Car Wash is hereby reversed and the Council approves the application of Dennis Thompson to modify Ordinance No. 254 (Town Center Master Plan); to change Pad 2 from FF to SC; to delete "automotive wash centers" from Condition No. 3 (Case file 89 PC 50); and, finally, to approve Stage II Site Development Plans to allow a automatic drive-through car wash on Pad 2 in the Town Center Market.

2. The Council upholds the appeal of Capital Realty and adopts the findings set forth in this document. The Council's findings shall replace any and all conflicting findings adopted by the Commission and shall, in any event, take precedence. All other findings and conditions of the Planning Commission Resolution not otherwise in conflict herein are fully adopted by reference.

3. The applicant shall make a full and complete submittal to the Wilsonville Design Review Board demonstrating compliance with Sections 4.400 and 4.421 of the Code and, further, shall demonstrate compliance with Section 4.150 of the Code which relates to adequate parking for employees and customers.

The property subject to this Zoning Order is also subject to the Order of the City Council in respect thereto made.

ADOPTED by the City Council of the City of Wilsonville at a regular meeting thereof this 3rd day of May, 1993, and filed with the Wilsonville City Recorder this date.



GERALD KRUMMEL, Mayor

ATTEST:

*Vera A. Rojas*

VERA A. ROJAS, CMC/AAE, City Recorder

SUMMARY of Votes:

Mayor Krummel       AYE  

Councilor Van Eck     NO  

Councilor Carter      AYE  

Councilor Hawkins     NO  

Councilor Lehan       AYE



City of  
**WILSONVILLE**  
in OREGON

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**MEMORANDUM**

TO: HONORABLE MAYOR and CITY COUNCIL

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

DATE: April 30, 1993

RE: Capital Realty Appeal of 93PC02,  
Car Wash in Town Center

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At your last meeting, you voted 3-2 to authorize a car wash site proposed for the entry way to the Town Center Shopping Area of Wilsonville Road. Wayne Sorensen has drafted the Resolution and Order which I have edited.

There are four major issues which I would like to address:

- (1) Appropriateness of use. Staff has interpreted the majority determination to be based, in part, that the design presented more fully explained how the use would function in relationship to the rest of the center and, therefore, tied your determination, in part, to the design approach represented in the renderings and drawings in evidence.

A sub issue is whether the condition of preexisting Stage I prohibition of car washes could be changed without remanding to the Planning Commission since the Planning Commission did not have this issue before it to address. Since the Planning Commission denied the car wash on the merits given the then overlay zone of FF, rather than relying on a specific preexisting council imposed condition, it is highly unlikely that the Planning Commission would do other than recommend the City Council uphold its previous condition in accordance with the Plaintiff's Commission's decision. Given the City Council was fully aware that in voting 3-2 to approve, it would be changing its own imposed condition, given it had before it a letter from the only opponent at the Planning Commission regarding reliance of staff's representation that an exclusion condition existed, there was no prejudice as the issue was addressed by Council, and given the Council is the final authority, the Council is not legally required to remand the issue to the Planning Commission when the Council has determined the issue on the merits.

In advising you in this regard at the time of the hearing, I initially advised otherwise and, after review of the appeal application, changed my advice. This may have confused some councilors who voted with the majority as to whether there would be a further Planning Commission hearing. If that is the case, and it would change a vote, then any change of vote should be so clarified in making the final vote to approve the appeal based on the submitted conditions.

- (2) The zoning code requires operations to be fully enclosed in Town Center. The rationale for this is to prevent noise, odor, or substances emanating from the operations. It is also to prevent unsightliness about a structure.

Your determination is interpreted that as so far as the car wash operations are concerned, even though entry and exiting occurs through openings at each end, the washing takes place within an enclosed area and that noise, odor, and overspray is diminished. The vacuuming operation is an incidental operation, which is not fully enclosed, but attractively presented. The applicant indicated it could fully enclose this portion of its operations during testimony. It must be fully enclosed to meet the criteria, albeit entry and exiting could be through openings. The Design Review Board is the proper body to review the design of this area.

- (3) Queuing or circulation. The Planning Commission had a great deal of difficulty with this and its overflow effects on the major entry and level of service. The applicant present revised plans at the City Council to address these concerns. This is an issue which is also appropriate for the Design Review Board to address within its jurisdiction. If the applicant does not meet the criteria of Wilsonville Code 4.122(c), the project could still be denied or called up on this issue.
- (4) Testimony re fast food alternatives. On site queuing and circulation is an appropriate issue for Design Review Board to address as mentioned above. Because Town Center carries a fast food overlay zone, this does not automatically allow a fast food with take-out window. The criteria for proper queuing and circulation must be met. If it is found by the Design Review Board not to have met this criteria, a particular project could be denied.

mek:dp