

RESOLUTION NO. 1068

A RESOLUTION AFFIRMING THE PLANNING COMMISSION'S DECISION TO DENY MR. LINDQUIST'S REQUEST TO REMOVE THE PRIMARY OPEN SPACE DESIGNATION FROM THE COMPREHENSIVE PLAN MAP; CONFIRMING THE EXPIRATION OF STAGE II SITE DEVELOPMENT PLANS FOR A RECREATIONAL FACILITY; AND PRESERVING THE STAGE I MASTER PLAN FOR THE SAME FACILITY FOR LINDQUIST DEVELOPMENT (APPLICANT). THE PROPERTY IS DESCRIBED AS A PORTION OF TAX LOT 9300, SECTION 13 CA, T3S-R1W, CLACKAMAS COUNTY, OREGON.

WHEREAS, the Wilsonville Planning Commission held a public hearing on October 11, 1993, to hear a request by Mr. Lindquist (represented by Ben Altman, Planning Consultant) to remove the Comprehensive Plan Map designation of Primary Open Space (POS) from 1.90 acres of land located in Courtside Estates and identified as a portion of Tax Lot 9300, Section 13CA, T3S-R1W, Clackamas County, Oregon; and

WHEREAS, Mr. Lindquist also requested that the Planning Commission render a decision regarding the status of the "Recreation Facility" that previously had received Stage I and II approvals from the Planning Commission; and


WHEREAS, several interested parties appeared before the Commission and presented oral and written testimony, including documents and letters, in opposition to any change in the subject property which would be different from the original proposed use for recreational use and/or for a park; and

WHEREAS, the Commission, after closing the hearing and considering all the evidence and testimony, voted to deny the applicant's request to remove the POS Plan map designation from the property and, secondly, confirmed that the Stage I approval for a Recreational Facility was still valid even though the Stage II approval for the facility had expired (because the applicant failed to request time extensions from the Commission); and

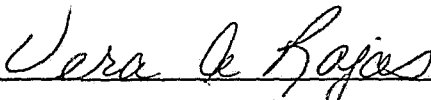
WHEREAS, the Commission set forth its decision and findings by adopting the Commission's Resolution No. 93 PC 18 which was forwarded to the City Council for consideration along with the Commission's entire hearings record.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Wilsonville does hereby uphold and affirm the Planning Commission's decision as set forth in Resolution No. 93 PC 18 and, in doing so, adopts the Commission's findings and recommendations as their own.

ADOPTED by the Wilsonville City Council at a regular meeting thereof this 15th day of November, 1993, and filed with the Wilsonville City Recorder this date.


GERALD A. KRUMMEL, Mayor

ATTEST:


VERA A. ROJAS, CMC/AAE, City Recorder

SUMMARY of Votes:

Mayor Krummel	<u>AYE</u>
Councilor Carter	<u>AYE</u>
Councilor Hawkins	<u>ABSENT</u>
Councilor Lehan	<u>AYE</u>
Councilor Van Eck	<u>ABSENT</u>

STAFF REPORT

November 15, 1993

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: WAYNE C. SORENSEN, PLANNING DIRECTOR

SUBJECT: **Planning Commission's Recommendation Regarding the
Courtside Estates "Open Space" and Current Status of the
Recreation Facility as Envisioned in the Master Plan --
Case File No. 93 PC 18**

BACKGROUND

Mr. Ben Altman, representing Lindquist Development, filed an application in April, 1993, for a 8 - lot preliminary subdivision plat which was located on the Courtside Estates "Open Space". The "Open Space" can be generally described as being located in the middle of the Courtside Estates subdivision plat and the parcel is about 1.9 acres in size. The "Open Space" is designated as Primary Open Space (POS) on the City's Comprehensive Plan Map and the Parks Steering Committee and the Parks and Recreation Advisory Board have recommended that this parcel be included as a "Neighborhood Park" on the proposed City of Wilsonville's Parks/Recreation and Open Space Master Plan (not yet adopted, so there is no legal effect at this time). After filing the initial application, the applicant revised his request so that the 8-lot preliminary plat was dropped; however, the applicant did want to continue with a public hearing so that he could get a final opinion and ruling about the "Open Space" and the status of the Recreational Facility that was approved as part of the Courtside Estates Master Plan. Since the City Council is empowered to render final decisions regarding the Comprehensive Plan and the Commission is not, this item has to come before the Council for a final determination regarding the POS.

This item has received a great amount of interest from the residents of Courtside Estates and from the Parks committees. Most of the testimony and evidence has been presented in opposition to the request to change the Open Space designation and for any use other than recreation. Much of the testimony reflects a desire of the Courtside Estates residents to preserve this area as a Neighborhood Park.

RECOMMENDATION

The Planning Commission's record is quite extensive regarding this issue and, I believe, is quite complete. I do not believe that either the applicant or the opponents question the record of the Commission or the Commission's decision; however, the opponent's have indicated to me that they would like to make a statement to the City Council in addition to the Commission's record. Since this has been advertised as a public hearing, I think that we should follow our normal hearings procedures and accept the additional statements and testimony for the Council's record. I would then recommend that the City Council affirm and uphold the Planning Commission's decision by adopting the draft Resolution submitted to the Council.

WS



City of
WILSONVILLE
in OREGON

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

NOTICE OF DECISION
(RECOMMENDATION TO CITY COUNCIL)

Project Name: Lindquist Development File No. 93PC18

Applicant/Owner Stewart Lindquist

Recommended Action: Deny request to remove Open Space designation and
confirm expiration of Stage II approval

Property Description:

Map No: 13CA Tax Lot No: 9300 Site Size: 1.90 Acres

Address: _____

Location: In the center of Courtside Estates Subdivision

On October 11, 1993 at the meeting of the Planning Commission
the following recommendation and decision was made on the above-referenced
Proposed Development Action:

 Approval Approval with Conditions XX Denied

This decision has been finalized in written form and placed on file in the City records at the Wilsonville City Annex this 15th day of October, 1993 and is available for public inspection. The date of filing is the date of the decision. The City Council will publish Public Hearing Notices and hold further Public Hearings on this matter.

 XX Written decision is attached

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

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

FILED 10-15-93 o L

PLANNING COMMISSION

RESOLUTION NO. 93PC18

A RESOLUTION ADOPTING FINDINGS TO DENY THE APPLICANT'S REQUEST TO REMOVE PRIMARY OPEN SPACE FROM THE COMPREHENSIVE PLAN MAP; CONFIRMING THE EXPIRATION OF STAGE II, SITE DEVELOPMENT PLANS FOR A RECREATIONAL FACILITY (RESOLUTION 79PC01); AND PRESERVING THE STAGE I MASTER PLAN APPROVAL FOR THE SAME RECREATIONAL FACILITY. LINDQUIST DEVELOPMENT, APPLICANT. THE PROPERTY IS DESCRIBED AS A PORTION OF TAX LOT 9300, SECTION 13CA, T3S-R1W; CLACKAMAS COUNTY, OREGON.

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 recommended a denial of the request and is on file with the Planning Department, and

WHEREAS, all planning exhibits were duly considered by the Planning Commission at a regularly scheduled meeting conducted on October 11, 1993 at which time said exhibits, together with findings and public testimony, were entered into the public record, and

WHEREAS, the Planning Commission duly considered all testimony concerning this issue along with recommendations contained in the staff report, and

WHEREAS, several interested parties have had an opportunity to be heard on the subject and, in fact, submitted several documents and letters in opposition to any change in the subject property except for use as a park and/or recreational purposes.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Wilsonville does hereby deny the application as submitted and hereby adopts the staff report along with the amendments made thereto.

ADOPTED by the Planning Commission of the City of Wilsonville at a regular meeting thereof this 11th Day of October, 1993, and filed with the Wilsonville Planning Secretary on October 15, 1993

Attest:

Sally Hartill
Sally Hartill, Planning Secretary

Pamela Vann
Pamela Vann, Chairperson
Wilsonville Planning Commission

Commissioner Burns moved that on the subject of 93PC18, the Lindquist Development, that we adopt the Staff Report recommendation and thereby recommend that no change be brought to the Courtside Estates Stage I Master Plan and preserve the subject property for outdoor living, and that this recommendation be made to City Council. Commissioner Spicer seconded the motion.

Commissioner Burns amended her Motion to include Code Section 4.136, Subsection 4 (a) and (b) as the basis for maintaining it in the Open Space. Motion was approved 5-0.

PLANNING COMMISSION
ADOPTED FINDINGS
(AS AMENDED ON OCTOBER 11, 1993)
93PC18

**LINDQUIST DEVELOPMENT REQUEST FOR A
COMPREHENSIVE PLAN MAP INTERPRETATION**

Applicant: Lindquist Development
Property Owner: Same
Planning Consultant: Mr. Ben Altman, Altman Urban Solutions

Review Criteria:

Issuance of a site development permit requires that the applicant comply with the Comprehensive Plan and other applicable Ordinances adopted by the City Council. The applicable plans, maps and ordinances are as follows:

Zoning:

Section 4.123: Planned Development Residential (PDR) zone
Subsection 4.139(2): Stage I Master Plan
Subsection 4.136(4)(a) and (b).Recreational Facilities & Outdoor Living Area
Subsection 4.136(e)(1) and (2): Outdoor living area.
Subsection 4.139(4)(a): Compliance with Comprehensive Plan.

Comprehensive Plan:

Open Space

Policy 4.5.1 Primary Open Space and Secondary Open space criteria.

Location:

1. The subject 1.90 acre site consists of a portion of Tax Lot 9300 in Section 13CA, T3S, RIW. The subject property is located in the center of Courtside Estates subdivision.

Application Request:

3. The applicant asks that a planning procedure be used to resolve the conflict with the Primary Open Space designation on the property. The applicant also seeks confirmation that the prior approved Stage I master plan and Stage II site development plans for a commercial recreation facility remains valid. The subject 1.90 acre parcel is a part of Tax Lot 9300 which consists

of 7.81 acres. Mr. Altman concludes: "The primary parcel (Tax Lot 9300) is correctly designated as part of the general open space network associated with the trees and slopes of Boeckman Creek." Therefore, the 1.90 acre parcel is the subject of this request.

4. The applicant also seeks to preserve the Stage II approval for the commercial recreation facility comprising tennis courts, indoor racquet ball courts and a tot lot. In Planning Commission Resolution 79PC01, the Planning Commission Condition No.10 states:

"That the developer submit to the Planning Department for review and approval, prior to the plating of the property, a coordinated schedule of improvements for the recreational sites and that said schedule of improvements for the schedule be consistent with the schedule of the residential development of the project. It is understood that the developer intends to improve and manage the interior park/recreation system on a private basis, thereby eliminating the need for creation of a home owners association for the maintenance and operation of said uses. It is further understood that any statement of intent for the dedication of open spaces and park sites will be effected by the denial by the City Council to accept said open space will require a creation of a home owners association. Therefore, the Planning Commission authorizes the submittal of said schedule of development and maintenance of open spaces to be submitted to the Planning Department with the final plat document."

5. The original developer of Courtside Estates makes this request. In June, 1980, the Planning Commission approved a request from the Courtside Racquet Club, Inc, an one year time extension for improvement of the racquet club. Again in September, 1981, the Planning Commission granted the applicant an additional two years or until September 14, 1983, to develop the racquet club. These time extensions were based on economic constraints caused by a lack of residential development within Courtside Estates and throughout the City. Finally, Tom Barthel, the Administrative Analyst for the City, sent a letter to the applicant questioning the status of the responsibility for the subject property intended for the racquet club. City records indicate that the applicant did not respond to Mr. Barthel's letter. The racquet club was not developed, nor did the applicant request to extend the Planning Commission deadline set on September 14, 1983. As a consequence, houses were constructed on practically all of the lots in Courtside Estates without the required improvements and maintenance of the racquet club and recreational system. Therefore, on the basis of previous Planning Commission actions, the applicant did not fulfill his obligation to develop the racquet club as required in Condition of Approval No. 10. The Stage I master plan does not vest a development right to build the racquet club. As a result, the Commission finds that the Stage II approval for the racquet club has expired.

Comprehensive Plan and Zoning:

6. The property is designated Primary Open Space on the Comprehensive Plan. Primary Open Space is intended to remain natural and prohibits site

development. Single family residential surrounds the site is designated "Urban Medium Density Residential (U.M.R.)(5-7, 7-12 du/ac).

7. The property is zoned Planned Development Residential (PDR). The property is designated Primary Open Space. Primary Open Space is intended to remain undeveloped and comprises of conditions listed below:
 - a. 100 year flood ways.
 - b. Slopes greater than 20%.
 - c. Significant stands of trees.
 - d. Major natural drainage channels.

8. The City's Comprehensive Plan at page 3 under "Procedures" recognizes a procedure to resolve conflicts between Plan Policies and the Plan Map.

"When any ambiguity or conflict appears to exist, Goals shall take precedence over objectives, Policies, text and map; Objectives shall take precedence over Policies, text and map; Policies shall take precedence over text and map. The land use map is only a visual illustration of the intent of the Plan".

This procedure acknowledges the ability of the City to resolve conflicts through the interpretation of the text and map and allows adjustments when the policies of the plan are in conflict with the map. As a result, this procedure authorizes resolution through an interpretation and does not require an amendment to the Comprehensive Plan when a conflicts exists. Therefore, it is appropriate for the Planning Commission and the City Council to evaluate the subject property with respect to the criteria.

9. On the basis of the above findings, the applicant asked that the procedure be used to resolve the conflict between the Primary Open Space map designation on the property and the fact that the property does not fall into any of the categories for Primary Open Space or Secondary Open Space. The Planning Commission has not adopted the findings prepared by the applicant.

10. Outdoor living area. Subsection 4.136(e)(1 and 2) stipulates:

" 1) In all residential developments or a in combination residential commercial developments, twenty-five percent (25%) of the area shall be devoted to outdoor living area, excluding streets."

"2) Outdoor living area required by Sections 4.130 to 4.140 may, at the discretion of the Commission, be dedicated to the City, either rights in fee or easement, without jeopardizing the density or development standards of the proposed development , provided the size and amount of the proposed dedication meets the criteria of the City parks standards. The square footage of any land, whether dedicated or not, which is used for outdoor living shall be deemed a part of the development site for the purpose of computing coverage density. The purpose of this Section is to provide

adequate light, air, open space and recreational facilities to occupants of a such development."

Regarding the above, the subject 1.90 acre parcel is master planned for a racquet / tennis club. Pursuant to findings prepared by Mr. Altman, the combined total of 390 multi-family and single family housing units leaves 24.81 acres (30%) in open space of the original 83.3 acre master plan. Development of the subject 1.90 acre site would not reduce the open space below 25% minimum. However, the overall Courtside Estates Master Plan exceeds the minimum 25% open space standard.

11. The Planning Commission did determine that in accordance with Subsection 4.136(4)(a), that the 1.9 acre area was suitable for a park, or a playground, and that this be set aside, improved or permanently reserved for the owners, residents, employees or patrons of the Courtside development consistent with the adopted Master Plan. The Planning Commission finds that the subject property in this request shall be reserved for potential development of the recreational facilities or set aside as "Outdoor Living Area" under Section 4.136 (4) (b) of the Wilsonville Code.

The Planning Commission finds that no change to the Courtside Estates, Stage I Master Plan is required and that the 1.9 acre parcel shall be reserved for the proposed "Recreational Facilities" envisioned by the Courtside Estates Master Plan or preserved as "Outdoor Living Area". In making this decision, the apparent conflict has been resolved as requested by the applicant. Any future development of the 1.9 acre parcel will require Stage II Development plans be submitted to the City because the former plans have expired. The actual plan map need not be changed in view of this decision; however, this decision shall be made a part of the official City records.

EXHIBITS

The following Exhibits are hereby entered into the public record by the Planning Commission as confirmation of its consideration of the application as submitted:

- A. Findings and Conditions of Approval
- B. City of Wilsonville Comprehensive Plan
- C. Chapter 4 of the Wilsonville Code
- D. Applicant's submittal documents
Project Plans, project findings
- E. Condition No.10 of Resolution 79PC01
- F. Planning Commission motion, June, 1980.
- G. Planning Commission motion, Sept., 1981
- H. Letter from Tom Barthel of the City, dated April 18, 1988.
- I. Letters:
 - James W. Kellison
 - Cecilia T. Klupenger
 - Carol Tolles
 - Dan Summers and Joyce K. Summers
 - Mark J. West and Fried J.C. East
 - Robin Willie
- J. Petition/general statement, June 28, 1993.
 - Joanne La Voire
 - S.L. Severeide
 - Daniel W. Summers and Joyce K. Summers
 - Luana Aagard and Jeff Aagard
 - Warren and Dawn Bratton
 - Kim Robben
 - Bill Bryant
 - Thomas E. Darnell
 - Douglas C. Mott
 - Pam Compton
 - Lynn Olstewski- Adams
 - James W. Kellison
 - Barbara Mawy
 - Jeff and Daey Olson
 - Jannie and Bruce Sawyer
 - Bruce Messmer
 - Louise Bruck
 - Linda Bruck
 - Frieda J.C. West
 - Jeff Eberharm and Carol Taaffe
 - James A. Pond
 - Thomas L. Quarles
 - Myung D. Chung
 - Michael D. Garner

Petition Continued:

Richard D. Irish and Emily A. Irish
Alfred G. Hook Jr.
Mr. And Mrs. R.W. Koellermeier
Ina Jo Darnell
Helen Stantan
Marvin Wyckoff
Kurt and Cheri Cote
Max and Janice Brammer
Marvin D. Wyatt
Robin And Erik Haverson
Paul and Anna Buchanah
Melvin A. Krause
Nieda Martin
Richard Litts
Carol Tolles
Keiko Hirota
Waldo E. Timm
LaDonna Elliot
Robert L. Rouser
Denise Burnham
Steve J. Friswold Sr.
Paul Peri
Larry Christensen
Curtis Heintz
George Carey
Joy Reid
Kennith and Francis R. Stewart
Terri Huddleston
Tom Barthel
Glenn Elliot
Eric Anderson
Jon and Tracey Schatz

K. Memo from Parks and Recreation Dept.

L. Letter submitted by Norman Adams

M. Planning Dept, photos of site.

N. Letter from Robin Willie, City Stamped Oct. 8, 1993

O. 88 petitions from Courtside residents dated Oct. 8, 1993

P. Report, Opposition Memorandum To The Stuart H. Lindquist Comprehensive Plan Map Interpretation and Master Plan Confirmation Revised Application Dated July 26, 1993. Submitted by: Concerned Neighbors of Courtside Estates.

Q. Planning Commission motion of Oct.11, 1993 meeting.

attended and all of the work they have put forth in this plan. It has been a long time and they have done a good job with it.

PUBLIC HEARINGS:

93PCI8 - LINDQUIST DEVELOPMENT -Requesting preliminary subdivision plat to create 8 lots and modify primary open space designation to allow housing development. The site is located in the center of COURTSIDE ESTATES subdivision, Tax Lot 9300, Section 13CA, T3S-RIW in Clackamas County, Oregon.

Correction was made on listed application - it is interpretation of primary and secondary open space.

Chairperson Vann called to order the Public Hearing at 8:11. The Public Hearing format was read. The Staff Report was called for.

Blaise Edmonds presented the substantiating approval criteria as listed in the staff report.

He stated a tremendous amount of written material was received in the last two days that is not included in the packets. He introduced them into the record. He noted we wanted citizen involvement - we got it.

- a) Extensive report from Robin Willie, Courtside Estates Subdivision, containing several pages of documents to enter into the record.
- b) Report submitted by concerned neighbors of Courtside Estates dated October 8, 1993. The title of the report is Opposition Memorandum to the Stewart H. Lindquist Comprehensive Plan Map Interpretation and Master Plan Confirmation Revised Application Dated July 26, 1993. Blaise noted that a tremendous amount of work went into the report.
- c) Letter from Mr. & Mrs. R. W. Koellermeier recording opposition.
- d) Letter from Derek and Molly Luoto, 7900 SW Racquet Court recording opposition.
- e) Letter from Jack and LaDonna Elliott dated Oct. 7, 1993, recording opposition.
- f) Letter from Jeffery and Lana Hagaard, 7554 SW Wimbledon Court, recording opposition.
- g) Letter from Marilyn C. Rouse, 7529 Wimbledon Circle North, recording opposition

All of the letters record opposition to a change from Open Space and expressed the need for a park, expressed that their understanding was that a park or recreation facility was to be put on that area in the Courtside Subdivision.

h) Memoranda from the Parks and Recreation Advisory Board, Glenn Milner-Recreation Coordinator. Mr. Sorensen reported: One memo is dated July 7, 1993 addressed to Blaise from Glenn which refers to meeting of June 8, 1993 where the Advisory Board had discussion and made a motion to verify that there were no other available property (referring to Courtside property) in the Wilsonville Subdivision prior to recommending to the Parks and Recreation Department purchase described property, using either SDC's or Urban Renewal. That motion was seconded and carried 6-0, with Commissioner Ken Crawley abstaining from the vote.

PUBLIC HEARINGS:

Lindquist Development

Courtside Estates

Correction on listed application

Staff Report

Much citizen input received and submitted into the record

All above oppose change from Open Space

Parks Advisory Board recommendation

That was followed by another memorandum dated October 5, 1993 addressed to Blaise from Glenn which indicated there may have been some misleading information as to what the purpose of the two acres would be. It appears they will look for land availability in the Wilsonville Meadows subdivision and if there were no land available the Parks and Recreation Board would support purchasing the Courtside parcel using Urban Renewal funds.

i) Photographs showing the site in the Center of Courtside Estates. Photographs are submitted by staff.

Photographs submitted

Chairperson Vann asked the Commissioners if they wanted time to review the material. Consensus was to keep going. Chairperson Vann called for the Staff Report.

Blaise Edmonds stated the original application was for a single family subdivision. The applicant has revised the application, now asking for a Comprehensive Plan map interpretation. The property is currently in Primary Open Space designation. The subject site is in the center of the Courtside Estates subdivision which was Master Planned in the late 1970's, with build out beginning in the mid 1980's. Blaise showed the particulars of the property and surrounding areas using overheads. There was a wide range of housing types planned into the overall Courtside Estates Master Plan, single family housing, condominiums, apartments.

Staff Report:

Description of project location

In the Stage I approval the subject property was approved for a racquet ball court facility with a small "tot lot" in the very northeast corner. A 10 foot-wide easement was granted to access the property through all parts of the Master Planned area. Those easements are identified as tracts of land on the sub-division plat and they are still part of the overall Master Plan.

Stage I approved a racquet ball facility with "totlot"

The applicant has not developed the racquetball court facility. They have returned to the Planning Commission on numerous occasion requesting time extensions. Mr. Edmonds stated he concludes that the applicant no longer has a Stage II approval to apply for a building permit to build the racquetball court facility. The Stage II approval had expired several years ago.

Racquetball facility not developed/Stage II approval expired

Basically, this is an area designated as Primary Open Space. Since it is privately owned, the applicant would like to have more flexibility in utilizing the space and develop the property. Primary Open Space designation does not allow development. They chose to use an interpretation of Open Space by using the criteria in the Comprehensive Plan. They are also proposing it is not Secondary Open Space using criteria in the Comprehensive Plan. However, the applicant does not give us any direction as to how the property is going to be used. Mr. Edmonds stated that is one of the reasons why it has raised such a big concern with the Courtside Estates residents. They are asking why does it need to be taken out of Primary Open Space at this time when they don't have a definitive plan for the property at this time.

Primary Open Space designation

Definitive plan not given for property

By applying the Primary Open Space criteria and the Secondary Open Space criteria, the property does not have the conditions that comprise

Primary and Secondary Open Space such as it is clearly not a piece of property that has slopes greater than 12 percent; it is a relatively level piece of property. It is not in a 100 year floodway; it is not within a power line easement; it does not have significant stands of trees. To argue on that basis, the applicant is correct. It does not fit into the criteria of Primary Open Space or Secondary Open Space.

The issue is a) what is the compelling need to remove from Primary Open Space without a development plan and b) because they did not get the appropriate time-extensions through the Planning Commission over the years, they have lost their Stage II approval for the racquet ball court facility.

Mr. Edmonds stated his recommendation is no change to the Courtside Estates Stage I Master Plan and preserve the property for outdoor living. However, the applicant has demonstrated subject property does not comprise Primary or Secondary Open Space. At such time development is proposed, developer needs to apply for a Comprehensive Plan amendment and obtain City approval to modify the Courtside Estates Master Plan. The request to preserve the Stage II approval for development of the racquet ball court is invalid since the Stage II approval expired in 1983. This will be a recommendation to the City Council for their final review and decision.

Attorney Kohlhoff stated in 1980 he represented Courtside Racquet Club which was an indoor tennis facility that was part of this project. Later Attorney Keyes referred to it as racquet ball but that is a misstatement; it was planned to be an indoor tennis facility. He stated he also had an ownership interest. Subsequently to that he represented the City in 1981 as City Attorney and declared a conflict of interest. He stated he has no interest in that site. The corporation that was formed is no longer in existence. He stated he did not think he had a conflict of interest with regards to the City's position but he may have, having represented Courtside Racquet Club. Mr. Lindquist was a stock holder and director. He stated if there were legal issues tonight he would not be able to rule on them. We can get another independent attorney to make any rulings, should there be any.

Commissioner Burns stated that she didn't think because she had heard this item initially and voted to approve it, should not present a conflict. It was represented as tennis.

Chairperson Vann asked for the position of the Commission on continuing the hearing based on the volume of reading material submitted for review.

Blaise Edmonds recommended that because of the number of individuals present from Courtside that we hear their testimony.

Chairperson Vann called for the applicant's presentation.

Ben Altman, Altman Urban Solutions, 1962 NW Kearney, Suite 101, Portland, 97209, representing Stewart Lindquist, Lindquist Development. Mr. Lindquist is also present.

Courtside Estates (cont.)

Primary/Secondary
Open Space criteria

Primary issues:

Staff recommends no
change/preserve property
for outdoor living

Recommendation to
City Council

City Attorney/
Conflict of Interest

Applicant presentation:

Mr. Altman expressed appreciation to Jon Schatz from the Courtside group for the effort he has taken to coordinate and work with them up to this point relative to what the Courtside group wants to accomplish. One of the questions that has been raised is why are we here tonight.

He stated their position is that they would like a decision made. They presented an issue to the City two years ago of what they would like to do, were they interested in this property and that proceeded on into a Master Planning effort which at some point, it is time for a decision to be made. We felt that even in the interest of the community and the neighborhood in particular, that it was time to turn the heat up and get a decision made around this piece of property. It is in that vein that we proceeded, that we amended the application, withdrew the subdivision plat that was previously applied for and asked for an interpretation of the plan.

Property owner would like to see a decision made

He continued, the concern is framed within the first page of the Staff Report where the summary outlines and basically agrees that under the Stage I Master Plan this site was planned for recreational /commercial use and that subsequent to that there was a Stage II approval granted and we would concur that particular permit has expired. We disagree, however, that under a Planned Development Zoning, when there is phase development that occurs, any development preserves the entire Master Plan. He stated they disagree with Staff that because the Stage II permit expired, it also means the Stage I Master Plan expires. Their argument is that the Master Plan is still valid and that is what they are asking acknowledgment of, as a backup of whether the City intends to ever acquire this property. If they don't, is really what Mr. Lindquist is asking for the confirmation of, for his own purposes. If the City is not going to acquire this property and make it a park as the neighbors would like, then he would like the assurance that the plan that was in place is still valid.

Interpretation of plan asked for/best interests of community also

Applicant feels Master Plan is still valid

He stated that in the recommendation in the Staff Report, it appears that even if we came forward with a reapplication for Stage II for the racquet club that it wouldn't be valid. There is a technical problem in that you do have a designation on the Comprehensive Plan of Primary Open Space which we believe is a mapping error - it is incorrect - it is not consistent with what the Stage I Master Plan says and he could not find anything in the records that ever declared or intended this particular piece of property to be Primary Open Space. In the interest of supporting what the neighbors would like to have happen, that is the wrong designation. That property complies, which is addressed by information submitted by the neighbors where they state this property remains undeveloped, there are issues of attracting nuisance and so on. The fact is, that piece of property as it sits today fully complies with Primary Open Space; it has remained undeveloped. This is what Primary Open Space is all about in the Plan. He stated that they did not think that was ever the intent, that is clearly not what the neighbors would like to have happen. That isn't what Mr. Lindquist would like to have happen and, in fact, if the Commission agrees with everybody they are willing to agree with the neighborhood that it should be a neighborhood park but that Mr. Lindquist should not own it as a neighborhood park, the public ought to own it as a neighborhood park.

Applicant continues

He stated the two issues on the table are a clarification of Primary Open Space, which is inappropriate and an error and should be corrected, and you ought to send that recommendation to the Council, remove that designation and if the Council wishes to support the neighborhood, designate it as a park site and move forward with acquisition. Mr. Lindquist is fully supportive of that option. He is not supportive of being stuck with an inappropriate plan designation that he cannot do anything with.

He stated the bottom line and summary is that the Primary Open Space is the wrong designation. They believe that the Stage I Master Plan is still valid and that would authorize, by clarification, if the City does not move forward with a park decision that the valid use is commercial recreation as prior approval was granted. That is what they are asking clarification on. The purpose is to put some pressure on the City to support the neighborhood. We don't disagree with that. We believe the worse decision that could be made right now is to not decide. That would not serve anybody - the neighborhood or the applicant.

Chairperson Vann called for proponents. (None)

Chairperson Vann called for opponents:

Jeff Eberhardt, Attorney, 7547 Wimbledon Circle S. He stated he and Jon Schatz are responsible for the submitted document.

Jon Schatz, 7658 Wimbledon Circle N representing the Concerned Neighbors of Courtside Estates.

Mr. Eberhardt stated their document addresses every point made by the applicant plus some others and gives a full history of the property. He stated this was not designated as Open Space by mistake. It was done at the specific request of Mr. Lindquist in 1978. He requested this property be designated as Open Space (recreation area). At some point it had to be placed in an appropriate designation since it was called Open Space in all of his documents. For him to now come and request that it be changed because it is an incorrect designation when he requested it, it was self-imposed 15 years ago, doesn't ring true. He asked the Commissioners to determine why was it there of his own request. He cannot now come forward and say it is an undue burden on him.

The Exhibits make clear as we have quoted in the materials that it was zoned residential at the time and he (Mr. Lindquist) asked that it be put into the Open Space along with one other site, which is now the Sundial Apartment Complex which was also to be developed into outdoor tennis courts, it can no longer be a park site because of the development of that complex.

Mr. Eberhardt stated it is important to note that he (Mr. Lindquist) has benefited for 15 years from this designation because the taxes on this property have been at the farm rate which is the equivalent of less than \$10.00 per year for the property. If it would have been zoned commercial all of these years, as he apparently wants it now zoned, his tax liability would have been several thousand dollars a year. For him now to come

Courtside Estates (cont'd)

Clarification of Primary Open Space/ remove that designation designate as park and move forward with acquisition

Primary Open Space wrong designation

Applicant asks City to make a decision

Opponents:

Neighborhood opposition represented and presented

Submitted documents addresses history of project

Applicant requested Open Space/why change now?

Applicant benefited from designation

forward and ask for this to be changed rings a bit "hollow" to us. The statement we have concern with is "he is being stuck with an inappropriate designation and he can't do anything with it." . He can't do anything with it because when this development was approved - and again all of the exhibits reference it - it was on the condition that he build these two park sites. The City Council and Planning Commission noted back in that time frame, specifically stated that "because he was going to develop this into a park site and again the minutes call it a 'park site' - the City would not have to build a public facility or park in a subdivision." If he proposes to do something with this property other than a park site type of facility, obviously we are in jeopardy of losing the last Open Space undeveloped piece of land within the subdivision that is usable.

Mr. Eberhardt stated it was a requirement that this be developed back in the early 1980's. It was required to be developed at the same pace as the homes - when the homes were done, this would be done. The homes have been developed for many years but there has been no action on this. Ten years have passed since the last extension ran out. This property was promised to the neighbors to be used as a tennis court facility, open to their use as the map shows. There is supposed to be open easements to it. The theme of the development is "tennis" -

To develop this into anything other than a neighborhood park would frustrate the original requirements that are set out in the various minutes. The homes throughout the years beginning initially when he reaped benefits from this property - the original intent was that these homes were sold with the idea that we have this area. They were resold again with the expressed intention that we would have these facilities. We all look at the vacant lots and ask when is the developer going to build our park. That is literally what folks have been told when they purchased homes here.

Just because the designation is technically not correct - is not justification for changing it, particularly when the zoning was at his request. He asked for it to be Open Space for the obvious tax benefits, I guess, until it was time for development. He previously told the Planning Commission on prior application that it is not feasible to develop as originally intended. Now if he has told you that, unequivocally, what is the need to change it - other than obviously the fear of the neighbors - that he is going to come back after it has been changed and want to put in homes or commercial development - but he is not going to want to put in what was required.

If public acquisition is the course for this property, he has been told repeatedly that the City would consider this - but it takes a time to get a Master Parks Plan developed. The City has been working hard on it for a year now and it is coming to fruition. It is going to be approved within the next few months. This site has been identified as #1 for acquisition in the plan. If they are serious about selling this land to the City we would ask and they state "they want a grace period and they won't come forward with any development until September of 1994." Mr. Eberhardt asked the Planning Commission to take the applicant up on their proposal to wait until September, 1994 and not take any action on this until the neighborhood has had the chance to conduct negotiations and the Parks Plan has been approved to work with the City for the purchase of this.

Courtside Estates (cont'

Opposition
addressed by neighbors

Minutes reference
"Park site"

Property promised to
neighborhood

Neighbors question
intent

Site has been
identified as site
for acquisition

We believe there is some precedent for this action with the dispute that occurred in Charbonneau with the small area where some wanted parking. Several extensions were given until the parties had a chance to discuss and agreement was reached. We fully believe that once the Parks Plan has been approved, hopefully we can get a similar action with the City purchasing this site and perhaps one day developing into a park.

Opposition-continued

Jon Schatz entered into the record a statement put together by the Concerned Neighbors of Courtside Estates. We decided to get statements rather than fill the room with all of the residents. He read from the statement: "Dear Planning Commission Members: Please enter this into the record as testimony against any and all applications submitted by Steward H. Lindquist, his representatives or any other party to change the zoning designation, develop commercially or residentially or modify the Courtside Estates Master Plan effecting 1.9 acres Open Space located within Wimbledon Circle in Courtside Estates. Our neighborhood needs a neighborhood park. The children do not have a place to play except in the streets. The Wilsonville Parks and Recreation Master Plan and Steering Committee has identified the Open Space as a top priority to purchase and develop into a neighborhood park. We urge the Planning Commission to take this into consideration when rendering any decision regarding the Open Space. We ask the Planning Commission to recommend to the City Council to purchase this Open Space as soon as possible utilizing the funds identified in the City of Wilsonville's annual budget fiscal year 1993/94, Capital Projects Fund Page 135, Parks Master Plan Implementation Parks and Open Space land acquisition." The statement was signed by 88 residents of Courtside Estates. He submitted the statement into the record.

City to purchase site when Parks Plan approved

Statement from Concerned Neighbors of Courtside Estates entered into record

Statement signed by 88 residents

Mr. Schatz made the following clarifying points: Courtside Estates consists of 32.7 acres. The Courtside Estates Development currently has 7.81 acres of Open Space which equals 24% which includes the subject 1.9 acres of Open Space. If the 1.9 acres is developed into anything other than a neighborhood park, the development will fall under the required 25% criteria of Open Space. We would like to ask that the Planning Department come up with some firm figures and tell us exactly what makes up Courtside Estates, how much land and what are the boundaries, where is the Open Space within the development and would it meet the 25% criteria of the Wimbledon Circle Open Space if it were developed? The figures mentioned in the report is referenced to the developers plan that was put together and information that was submitted, not that we question the figures but we think that it is appropriate that a neutral independent party qualify the figures.

1.9 acres needs to be neighborhood park to meet required criteria of open space

Mr. Schatz continued. The Zoning Code revised July, 1992, on Page 146, Section 4.132, - he paraphrased - "for those planned development residential lots which are located within a residential zone, the site shall include not less than two acres". He stated it is not two acres.

Mr. Schatz stated that the Commissioners would receive copies of the submitted information. He requested that the neighbors have the opportunity to speak.

Mr. Eberhardt stated his comments are brief but are submitted in depth in the written material, along with citations, copies of minutes from the Planning Commission and City Council meetings, Staff Reports pertinent to that time frame. He asked the Commissioners to continue the hearing to allow for opportunity to read the submitted information.

Opposition continued

Chairperson Vann asked Mr. Eberhardt if he were requesting a continuance of this hearing. Mr. Eberhardt said he would like the Commissioners to have opportunity to read the submitted information and they were asking the hearing be continued once everyone has had a chance to speak.

Chairperson Vann called for other speakers in opposition.

Dan Summers, 7576 Wimbledon Ct. He stated before they purchased their home, they were told by the Realtor the subject site would be built into a park or recreational facility and would never be developed upon. Verification with the City's zoning map showed the area as Open Space. His property abuts the subject property. He wants to see it developed as they were originally told.

Citizen speaks

Bob Weaver, 7058 Hollybrook Ct., in Wilsonville Meadows. He stated there is no park within the Wilsonville Meadows area for the children. He said it is a dangerous situation for children when they have to play in the streets. He stated the Courtside area is in a very similar situation. He stated they have a Boeckman Creek area which was designated as park land by Mr. Randall when he developed Wilsonville Meadows and used that as a way to not have to have Open Space within the Meadows. He explored the possibility of having a couple of lots on the Courtside side and a couple of lots on the Wilsonville Meadows side and join them with a bridge which would create a park which would be advantageous in three ways, a park for Courtside, a park for the Meadows and a way to get to Town Center without going down Wilsonville Road. He requested that the Planning Commission consider this as an option. There is a vacant lot on the Courtside side that could be purchased as well lots on the Meadows side. Perhaps Mr. Lindquist could purchase those and then have the rights to develop the subject site. This is just a suggestion and he stated he is neutral on the issue.

Citizen speaks

Cathie Gleeson, Chair of the Park & Rec Board. It is really important to keep the zoning as it is to give time to work out some sort of agreement to have a park for Meadows and Courtside people. It is a priority for the Steering Committee to have neighborhood parks and that is the only land left. It is very important. Chairperson Vann asked if this were the #1 designation for acquisition. Ms. Gleeson stated this came out as a priority to acquire the property in some way. How that would happen is not her decision but she would like to see something happen. She would really like to see this kept for a neighborhood park.

Parks & Rec Chairperson speaks

Richard Litts, 7854 SW Champion Court. He stated that everyone he talked to when assisting in getting the signatures of the Courtside residents on the statements, indicated their desire to have the area as an Open Space. There is no place for children to play. He requested we wait until a

Citizen speaks

formal Parks Master Plan is in place. Funding should be easier to secure once it is designated as a high priority area in the Plan.

Courtside Estates (cont'd)

Opposition continued

Eric Anderson, 7528 Wimbledon Circle S. He did research on the background for the material submitted by the residents. From doing the research, it became apparent that companies doing development within Courtside have been asked repeatedly by City Council, by agents of the City to provide information as to when they were going to do the development, why was the rec center economically unfeasible? The records show a very large lack of response to those requests. That is highlighted by the fact that the development lapsed and didn't take place. He is in favor of this site being acquired for a park, based on the situation presented to people who purchased homes with the assurance that it was to be recreation area.

Citizen speaks

Freda West, 7670 SW Wimbledon Circle. She stated that before they purchased their house three years ago she went to the City Planning Department, reviewed the maps and asked many questions about what the subject property was going to be. She was told it was going to be a racquet club park. She talked to the neighbors before they bought. There was nothing more they could have done to determine what the use of the property might be other than what they were told. After they bought, they were told that the park would be developed as soon as the last houses were built. Three years later they are still looking at the eye sore and their children are playing in the front yards and on the sidewalks. They feel the owner of the property should be forced to live up to his original standards and make it into a racket club park or wait until the neighbors can get everything together and purchase the property and do it themselves.

Citizen speaks

Keith Cochran, 29099 SW Courtside He stated out of respect for private property, his children have avoided using this property. Every developer in town has dumped their left overs on the perimeter of the property making it far from safe. For the most part the property is left alone. He stated he and his son play ball on the street. It is certainly unsafe. When asking for a definition on the use of the land, the owner said leaving it alone is not in the best interest. Mr. Cochran stated he feels leaving it alone is in the best interest of all. He stated Mr. Lindquist has a sizable amount of land in Wilsonville and does not understand why he needs to develop this property. He questioned why this particular issue is pursued at this time. He stated in 1988 he asked the City Planning Department what it would take to change Primary Open Space to Residential and he was told "an act of God". He commented on the amount of Primary Open Space that has been converted and developed in Wilsonville. He stated he hopes the development of that land could aid in the assistance of the growth of their children and the reduction of accidents by providing them with a place to play.

Citizen speaks

Robin Willie, 7682 SW Wimbledon Circle N. She stated that two years ago she when researching the property she called Mr. Lindquist and asked him what his intent was for the property. He told her that he wanted to exchange the property with the City so it could be developed into the park and anything she could tell the City that would encourage the City to do that he would appreciate. If Council looks at the history of the property and what the original intent was when they read through the minutes and

Citizen speaks

documentation submitted, it becomes real clear what the intent was - to be an open area recreation site. Based on that, many have bought their homes and made an investment. She asked the Planning Commission to take that into consideration, stating they have as large an investment to lose as Mr. Lindquist has to gain if he changes the designation and puts housing or something else in there.

Opposition continued

Mark West, 7670 Wimbledon His primary concern if the property is developed into residential or commercial is that the only obvious outlet be directed straight at his home. He would be most effected because the traffic flow. There would be a safety factor as well as the inconvenience. When they purchased the property, their intent was to live across from a park. They would not have purchased if they knew it would be developed into something other than a park. A park would encourage foot traffic and not additional vehicles.

Citizen speaks

Jeff Aagard, 7554 SW Wimbledon Ct. When they purchased their property they were led to believe that the property would be developed into a neighborhood park and it wouldn't be developed. He feels strongly that it should be held to the original intent and designation.

Citizen speaks

Dave Robbin, 7746 Wimbledon Circle N. He stated he has been in the neighborhood longer than anybody other than the Koellermeiers. When he moved in he was told it would be racquet courts and tennis courts and if we wanted to play we could pay. There was no mention of a park. He would love to see a tennis court. It is now an eyesore. He stated he agrees with his neighbors but feels Mr. Lindquist has been forced into the position he is in to try to get a decision made, changes made and get moving on it. He is sitting with a piece of property that doesn't do him any good. He shouldn't be forced into providing the neighborhood with a park or recreation facility. He asked that some sort of decision be made so we can set a tangible, concrete, with an end-in-sight course, be it a park or open recreation area.

Citizen speaks

Jim Kellison, 7736 SW Wimbledon Circle S He addressed the problem of traffic and off-street parking. Currently the area is starter homes with large families, small children. At all times trucks, cars, RV's are parked across the street because there is no parking. There is a real danger. The children have no place to play. He has pictures of children playing there. He would like to see the area left as Open Space until there is a reason to develop it properly.

Citizen speaks

Chairperson Vann called for neutral parties. (none)

Chairperson Vann called for applicant rebuttal:

Ben Altman, representing Mr. Lindquist. stated their intent to establish an agreement was extended into February or March (of 1994) to allow the Park Plan to come forward. He stated it is unfortunate that there is lack of trust on what their intent is, which is to support the neighborhood but they have a concern that the decision be made and it not get sidetracked or as referenced by the Park Board memo, that they don't decide to make the park for this area some place else and this issue will be left "dangling".

Applicant rebuttal

Applicant supports a neighborhood park

There was a reference to the similarity with the Charbonneau issue. He agrees. The similarity is there needs to be some direction from the Commission in terms of the legitimate use of the property and even in consideration, what is the current Master Plan. He stated they have no disagreement with the neighborhood; but what the neighborhood wants is not what they are asking you to do. They are asking you to do nothing; the property is designated Primary Open Space and that is not what they want. He stated they would be willing to support a position that the Commission would carry forward to the Council that this property is needed for neighborhood park purposes and that is a better use than the intended racquet club use which would generate traffic and which is also not economical.

Applicant rebuttal

He stated the similarities of the Charbonneau issue is that the recommendations of the use from the Commission and the ownership issue. Those are tied together. He sees the role of the Commission in considering the facts and giving guidance to the Council on this issue. They will be considering a Parks Master Plan and it would be very useful to have a recommendation specifically from the Commission on this particular piece of property about how it best serves the neighborhood. The intent is to relieve Mr. Lindquist of the ownership of the property so that it can be appropriately used by the neighborhood. If that is not going to be the public decision we are asking for clarification of the record that there is still legitimate use of that property.

Commissioner Burns moved to close the Public Hearing, seconded by Commissioner Wagner. Motion passed 5-0. Public Hearing was closed at 9:23 p.m.

Public Hearing closed

Commissioner Discussion:

Commission discussion

Chairperson Vann stated we have been requested by a representative of Courtside Estates to continue this. Those were his words of formal requests.

Blaise Edmonds asked for a clarification. Did you close Public Hearing? Chairperson Vann stated yes, she did. Blaise asked if there were new information next month, you are only going for decision only?

Mr. Sorensen stated there could be new information but you would have to reopen and advertise the Public Hearing.

Chairperson Vann stated that pending no new information, we will be going for decision only next month. She stated that as she understands it, if we have been requested by the applicant or a public person to continue, we are bound to do so, are we not?

Mr. Sorensen stated that under State Law and under our own rules, you are obligated to, since you have received additional material that was not submitted within 20 days prior to the hearing, any person or party can request to hold the record open for one week for written comment. Your

decision to continue to date and time certain is the Commission's own decision.

Commissioner Burns stated she has been going through the submitted information rapidly as she has been listening. She would like to move on the item tonight.

Commissioner Wagner stated if we could make clear just what the issues is, he doesn't think they will hear any more, we have gobs of information now, we could be ready to vote tonight.

Commissioner Coppersmith agreed.

Chairperson Vann called for a motion.

Wayne Sorensen stated if you were to approve the Staff Report and the recommendation contained therein, you would be recommending No Change to the Master Plan and you would be recommending that the subject property be preserved for outdoor living.

Commissioner Burns moved that on the subject of 93PC18, the Lindquist Development, that we adopt the Staff Report recommendation and thereby recommend that no change be brought to the Courtside Estates Stage I Master Plan and preserve the subject property for outdoor living, and that this recommendation be made to City Council. Commissioner Spicer seconded the motion.

Blaise Edmonds asked for clarification. Are you saying it is not Primary Open Space or Secondary Open Space?

Wayne Sorensen stated his interpretation is that it means exactly what Helen stated. It stays on the plan as Primary Open Space until we get a development proposal.

The Commissioners agreed in the affirmative.

Commissioner Burns stated if we adopt the Staff Report, the recommendation goes on to say that it does not....Mr. Edmonds stated that is why he asked the question. The Staff Report says it is not Primary Open Space or Secondary Open Space. You need to amend the Staff Report.

Commissioner Burns stated the proposal in the beginning in 1978 did have this as Open Space. When we came to the next, it referred to it as Primary Open Space consisting of two separate park sites proposed within the single family neighborhoods. It was carried forward by Mr. Keyes a couple of years later. They never requested this as a Primary Open Space which does have some criteria. It was just asked to be an Open Space to meet their Open Space requirement. She stated she was interested in the comparison to Charbonneau which has its golf course to meet their Open Space. Well, tennis courts, if they were open, could have been considered Open Space. It was never requested to be Primary or Secondary Open Space. It was just to meet an Open Space requirement as an amenity for their Planned Development. That is why she hasn't addressed the Primary

Courtside Estates (cont'd)
Commission discussion

Motion to accept Staff recommendation/no change to Stage I Master Plan/preserve the subject property for outdoor living/recommendation to CityCouncil

Remains as Primary Open Space

- they never asked for Primary - just called it Open Space to get their approval in the very first instance. They got their approval.

Commission discussion

Commissioner Spicer stated that was why he seconded it.

Commissioner Burns stated if the Parks Department has some new information for us in the future we can act upon it at that time.

Mr. Sorensen stated the recommendation from the Parks Department is going to come forward in the form of a Master Plan - a City-wide Master Plan that may possibly have this site incorporated into it as a park area. That will have to come before both the Planning Commission and the City Council sometime in the future.

Parks recommendation will come in form of Parks Plan

Commissioner Wagner stated his concern is that we have heard a lot of testimony tonight from both the applicant and the people at Courtside, we have heard park, park, park. Everybody wants a park. If we have no change - preserve as outdoor living - that doesn't get anybody a park - or even make provisions for getting a park unless it is included in a Master Park Plan sometime in the future. He asked if we have any idea when that plan might be forthcoming?

Mr. Sorensen stated it was to have been last July. Hopefully, we are working very hard to get this to the Parks Steering Committee in December; that would put it before the Parks Advisory Board either in December or January and then the Planning Commission would follow probably in February and City Council in March.

Commissioner Wagner stated that would meet somewhere close to the February/March time frame that Ben referred to as far as a decision is concerned.

Chairperson Vann stated we don't have to vote until we are ready to vote.

Commissioner Burns stated that initially they were going to improve and manage the interior parks/recreation system on a private basis, thereby, eliminating the need for the creation of a homeowners association for the maintenance operations. She stated she has not gone there because there has been no maintenance. She can understand why these people are frustrated; all kinds of varmints can be hiding in that thick brush. She would not want her children wandering in there either. It is not safe. If we expect other people to live up to their promises, why shouldn't Mr. Lindquist have to live up to his promise. We consider them promises.

Mr. Sorensen stated there is a contractual arrangement between the City and the Developer to the extent that under the Code, Section 4.136, Subsection 4 (a) and (b), the Planning Commission or on appeal to the City Council may as a Condition of Approval for any development for which an application is submitted require the portions of the tracts under consideration be set aside, improved, conveyed or dedicated for the following uses: (a) recreational facilities and the Commission or the Council may require that suitable area for parks or playgrounds be set

Contractual agreement between City/developer

aside, improved or permanently reserved for owners, residents, employees or patrons of the development consistent with adopted parks standards in the facility Master Plan. In this case you clearly had a contract that required that this land be set aside as a recreational facility that was consistent with the Master Plan that was approved by the Planning Commission. That is the end of the case. If not, you still have (b) which is outdoor living area which would have required the formation of a homeowner's association so that it would have been maintained. That association was to last not less than 20 years and continue thereafter until a majority vote of the members should terminate it. It is pretty clear from the testimony tonight that there was a contract, a development plan, approved by the Commission that set this aside clearly as a recreational facility if not outdoor living area. He stated he would encourage the Commission to make reference to that Section if you choose to recommend to make no change. That reinforces the no change. That is Section 4.136, Subsection 4 (a) and (b).

Commissioner Burns amended her Motion to include Code Section 4.136, Subsection 4 (a) and (b) as the basis for maintaining it in the Open Space. Motion was approved 5-0.

PUBLIC HEARING:

93PC28 - MC DONALD'S CORPORATION - Requesting modification to the Town Center Master Plan and review of Stage II, Site Development plans for a McDonald's Restaurant. The site is located on Town Center Loop West next to the main access drive to the Incredible Universe Store. Staff is recommending denial.

The Public Hearing was opened at 9:43 p.m. Chairperson Vann read the Public Hearing format. Staff Report was called for.

Blaise Edmonds reviewed the substantiating approval criteria. He stated the request is to modify the Stage I Master Plan from a Center Commercial Zone to a Fast Food use in Town Center. The base zone is Planned Development Commercial. There is a proposal for a Stage II Site Development approval for a McDonald's Restaurant.

The following items were submitted into the record after the packets were prepared:

a) Via hand delivery today from Vogle & Gates, McDonald's legal representatives, Mark D. Whitlow, submitting a letter responding to traffic concerns and findings in the Staff Report.

b) (this item was just handed in and not yet reviewed by staff) from Nick E. Monte. He will explain when it is his turn to speak.

c) Letter from Lamb's Market addressed to Pamela Vann, Wilsonville Planning Commission stating that as a tenant of Wilsonville Town Center he feels there is a need to complete the shopping center. Letter is signed by Tanney Staffenson, Store Director of Wilsonville Thriftway.

d) Minutes from the Transportation Advisory Commission regarding McDonald's Restaurant. There was no recommendation from TAC forwarded to the Planning Commission.

Courtside Estates(cont'd

Commission discussion

Criteria for no change

Motion passed

PUBLIC HEARING:

McDonald's Corporation

Staff Report

Zone change requested

Submitted into record

Applicant's attorney addresses traffic concerns and findings

Lamb's Thriftway/ need to complete shopping center

TAC minutes