

**RESOLUTION NO. 1778**

**A RESOLUTION OF THE CITY OF WILSONVILLE INTERPRETING THE PARKS AND RECREATION MASTER PLAN AS APPLIED TO DEVELOPMENT OF A CIVIC CENTER AT MEMORIAL PARK EAST/BOOZIER PROPERTY.**

WHEREAS, on October 5, 1994, the Wilsonville City Council adopted the Parks and Recreation Master Plan ("Parks Master Plan"); and,

WHEREAS, Section 2 (a) of Ordinance No. 435 adopting the Parks Master Plan provides that "the City Council, as required by the Comprehensive Plan, has the final authority for interpretation of the Parks and Recreation Master plan text and map"; and

WHEREAS, the City Council has considered a proposal to construct city offices and a civic center park, referred to as the Civic Center Park Project ("Civic Center"), at the Memorial Park East/Boozier Property, and, in alternative contexts, approved an urban renewal plan to provide for the design of the Civic Center at the property and adopted the Parks and Recreation Advisory Board's recommendation to approve the site concept for the Civic Center on the southerly portion of the property; and

WHEREAS, in the process of taking these actions, the City Council has interpreted the Master Plan to provide for the Civic Center; and

WHEREAS, the City Council wishes to formalize that interpretation for the benefit of parties to development review proceedings respecting the Civic Center; and

WHEREAS, the City Council finds and concludes as follows:

1. Development of a Civic Center has been proposed for the Boozier property, which is part of Memorial Park East. The property is designated "Public Land" on the plan map and is zoned Public Facility (PF). The Civic Center is an outright permitted use under these designations. As part of the comprehensive plan Special Area of Concern C, the property is subject to the design objective that the development be master planned. Because use of the property for a civic center is allowed outright as part of a site development master plan, the development of the property for the Civic Center may occur if reviewed and approved through the Wilsonville Code Section 4.140 (Planned Development Regulations). The

Development Review Board is specially charged with the review and approval authority. WC 2.330(1)(a), 4.031.

2. Parks and recreation facilities are also outright permitted uses with the public land and public facilities designations. WC 4.136.

3. There is nothing in the Comprehensive Plan, City Code or Parks Master Plan that prohibits the combining of permitted uses if the development is properly designed. As a practical matter, civic uses are often mixed. In fact, in virtually every American city there are examples of public buildings, parks, trails, gardens and recreation facilities that have been combined for a variety of reasons such as aesthetics, transportation, community gatherings and the conducting of public business.

4. The City of Wilsonville Parks and Recreation Master Plan ("Parks Master Plan") is one of the Comprehensive Plan's supporting documents. The Purpose and Scope text of the Parks Master Plan states that the "Master Plan complements the city's Comprehensive Plan and provides guidance to amend the Comprehensive Plan when it is updated." It serves as "the city's guide to addressing the community's recreation needs" and "recommends concrete action the City should take to create a comprehensive system of parks..." The specific purpose of the Parks Master Plan is "a practical guide" to, among other things, assist the residents of the city in developing a parks and recreation system, and give direction to the Parks and Recreation Advisory Board "to guide their recommendation to the Wilsonville City Council of future Park expansions and development."

5. The Parks Master Plan designates the Memorial Park East/Boozier Property as site number 2 and specifically requires a design and plan for the property. The property is recommended to be the site of a regional park under the plan, but beyond that, there are no restrictions on uses that are allowed by the Comprehensive Plan and zone map.

6. A design plan for parks and recreational development of the Boozier site, inclusive of alternative A and B sitings of a civic center, was presented to the Parks and Recreation Board for their review and recommendation. See attached

minutes and memorandum of March 12 and June 4, 2002. The Board reviewed the design plan in terms of its carrying out the Parks Master Plan and in how siting of the Civic Center worked best with the proposed park and recreation development. The Parks and Recreation Board recommended alternative siting A and approval of the design plan.

7. How and to what extent the Master Plan applies in the review of a development proposal for the subject property is a matter of interpretation. Previous actions taken by the City Council with respect to the Civic Center reflect an interpretation of the project's consistency with the Parks Master Plan. That interpretation is based upon the recognition that the Comprehensive Plan and Zoning designations specifically provide that a Civic Center is an outright use of the property and that, in the context of the master planning and development review of the project, the Parks Master Plan does not contain standards or criteria that serve to limit that use. This is because the Parks Master Plan, by its nature and stated purpose, is a "guide." The land use case law uniformly holds that guides and guidelines are not approval standards for a given land use. They may be relevant to an interpretation, but compliance is not required unless the code or comprehensive plan clearly makes them approval standards. *Fasano v. Washington Co. Comm.*, 264 Or 574, 582 (1973). As we have observed, nothing in the Comprehensive Plan, Parks Master Plan or zoning code provides that the Parks Master Plan contains mandatory requirements. Because it is advisory in nature, the Parks Master Plan admits to flexibility in its application, and we do not construe it to prohibit park, civic or other uses that are not expressly mentioned in the Parks Master Plan. This makes sense since, for example, development of a park not shown in the Parks Master Plan would not be prohibited under the plan and would not require amendment to the plan to provide for it. Indeed, uses that are not provided for in the plan, even those incompatible with park use, would at best be subject to a negative recommendation from the Parks and Recreation Advisory Board, but not prohibited by the plan. In any event, the Parks Master Plan would not have to be amended to provide for the non-park use. We need not look far for an example of this. Town Center Park is included in the Parks Master Plan but the project

description does not include the Visitor Information Center and Chamber of Commerce building that was subsequently built in Town Center Park. The development master plan for the Town Center Park was reviewed by the Parks and Recreation Advisory Board, the uses found compatible, and subsequently approved by the Development Review Board. The Parks Master Plan was not amended to include the change in scope.

8. Because the Parks and Recreation Master Plan is a guide to park development decisions, and because the property is planned and zoned for public facility use, we interpret the proposed Civic Center on the Boozier property to be consistent with the Parks Master Plan. The Parks Master Plan need not be amended to enable review and possible approval of a Civic Center on the subject property.

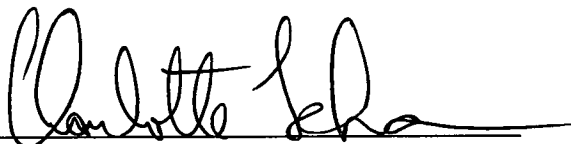
NOW THEREFORE, THE CITY OF WILSONVILLE RESOLVES AS FOLLOWS:

1. Based upon the foregoing findings and conclusions, the City Council of the City of Wilsonville hereby interprets the Civic Center Park Project, and specifically the city office portion of such project, to be consistent with the Parks and Recreation Master Plan.

2. The Development Review Board is the authorized land use hearing body to review the Civic Center Park Project development application and shall do so consistent with the City Council's interpretation set forth above.

3. This resolution shall be effective upon adoption.

ADOPTED, by the City Council of the City of Wilsonville at a regular meeting thereof on the 17th day of June, 2002.

  
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CHARLOTTE LEHAN, Mayor

Attest:

  
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SANDRA C. KING, CMC, City Recorder

SUMMARY OF VOTES:

Mayor Lehan        Yes

Councilor Helser   No

Councilor Kirk     No

Councilor Barton   Yes

Councilor Holt     Yes