



**DEVELOPMENT REVIEW BOARD PANEL B  
SPECIAL MEETING VERBATIM MINUTES**

**April 24, 2024 at 4:00 PM**

**City Hall Council Chambers & Remote Video Conferencing**

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**CALL TO ORDER**

A special meeting of the Development Review Board Panel B was held at City Hall beginning at 4:00 p.m. on Monday, April 24, 2024. Vice Chair Alice Galloway called the meeting to order at 4:00 p.m., followed by roll call.

**CHAIR'S REMARKS**

The Conduct of Hearing and Statement of Public Notice were read into the record.

**ROLL CALL**

Present for roll call were: Alice Galloway, John Andrews, Kamran Mesbah, and Megan Chuinard. Rachelle Barrett was absent.

Staff present: Daniel Pauly, Stephanie Davidson, Kimberly Rybold, Miranda Bateschell, Cindy Luxhoj, and Shelley White

**PUBLIC HEARINGS**

1. **Resolution No. 432 - Planning Director's Referral of a Continuation of Non-Conforming Use Determination:** The Planning Director has referred Case File AR23-0031 to the Development Review Board for determination regarding the continuation of an existing Non-Conforming Use.

*On April 8, 2024, the Development Review Board moved to keep the record open until April 15, 2024. This item will be for deliberation and decision only based on the evidence in the record. No further testimony or written comments will be accepted.*

*[Verbatim Transcription Starts Here]*

**Vice Chair Galloway:** Well, some Board members did not attend the prior hearing on this matter but can participate so long as they have reviewed the recording of the hearing and reviewed the materials. For those Board members not present at the prior hearing, please confirm whether you have reviewed the recording and the application materials.

And, I am one Board member, who was not at the April 8th meeting, and I reviewed the recording, listened to the entirety, and I reviewed all the materials.

**Megan Chuinard:** I also was not at the April 8th meeting but did listen to the full recording and reviewed all materials related to this case.

**Vice Chair Galloway:** Do any members of the Development Review Board wish to declare a conflict of interest or bias or report any ex parte contact or any information gained outside of the hearing?

**Kamran Mesbah:** None.

**Vice Chair Galloway:** No.

**John Andrews:** No.

**Ms. Chuinard:** No.

**Vice Chair Galloway:** With the public hearing and the record closed, it is now time for the Board to entertain a motion to deliberate and make a decision on the application before us. I will begin by calling for a motion regarding the Staff report and then the resolution. Next, I will call for a motion to adopt the Staff report, including all findings and exhibits and enter it into the record. If a Board member wishes to amend the Staff report in any way, including adding a new condition, removing a condition, or modifying a condition. It should be included in the motion.

I would like to amend the Staff report. We need to add Exhibits B3, 4, and 5 and D1, 2, 3, and 4.

**Daniel Pauly, Planning Manager:** So that'd be included in the motion when it's made.

**Vice Chair Galloway:** Okay. Is there any further discussion on the Staff report?

**Mr. Pauly:** Or you want to make a motion first?

**Vice Chair Galloway:** Okay. Do I have a motion on the Staff report?

**Mr. Andrews:** Yes. Yes. I'll move to accept the Staff report. Is that adequate?

**Mr. Pauly:** You'd want to amend it with these—adding the exhibits if you want to.

**Mr. Andrews:** Oh, okay. Well, I need the list of the exhibits.

**Vice Chair Galloway:** Right there.

**Mr. Andrews:** Oh, this is it. Oh, okay. Okay. So, I'll move to accept the Staff report but include the Applicant materials, which is B3, B4, B5 and public comments D1, D2, D3, D4. Is that adequate?

**Mr. Pauly:** Just conferring with legal counsel.

**Stephanie Davidson, Assistant City Attorney:** Let's just clarify and do it again. I think the motion should be to adopt the Staff report with the following amendments, and then you would read off all of the added exhibits.

**Mr. Andrews:** Okay. So, I guess I'm moving to accept the Staff report –

**Ms. Davidson:** Adopt.

**Mr. Pauly:** Adopt.

**Mr. Andrews:** –adopt the Staff report and – you're pretty good at this; maybe you should say it, and I can –

**Ms. Davidson:** So if – I would move to adopt the Staff report with the following amendments, including the incorporation of Exhibits B3, B4, B5, D1, D2, D3, and D4.

**Mr. Andrews:** So moved. So moved.

**Ms. Chuinard:** Second.

**Mr. Andrews:** Thank you.

**Vice Chair Galloway:** Okay. It has been moved and seconded that we adopt the Staff report with the following amendments, including incorporation of Exhibits B3, 4 and 5 and D 1,2,3, and 4.

**Ms. Davidson:** Great. Yeah.

**Vice Chair Galloway:** Any discussion among the Board members?

**Mr. Mesbah:** I'm wondering if Staff have any additional comments in response to the material received yesterday from the Applicant.

**Mr. Pauly:** I think it's at a point of discussion for the Board, so – doing that –

**Mr. Mesbah:** So you want us to discuss that?

**Mr. Pauly:** Yes.

**Mr. Mesbah:** Okay. That one of the points that was brought up again, and I would like to have, I guess, a conversation about it, is this bifurcation of the application; that the Applicant is stating the City is requiring it, when I very clearly offered for them to withdraw their first application and combine all of their efforts in the current one, and apparently they refused. I feel...miffed that

they are blaming the City for something they decided to do. And I'm wondering what benefit this bifurcation would have had for the Applicant. There must have been some strategic advantage; otherwise, why do it the long way? They're not here to respond to any questions about this. But it seems to me that if the Applicant is trying to get us to believe that this is a good faith effort on their part to work with the City and all of that, this kind of gaming of the system is not, to me anyway, consistent with that approach. And that, to me, is an affront as a member of this Board. So I just wanted to bring that up.

**Vice Chair Galloway:** You know, I agree. I think it took a lot more time, and you had to kind of differentiate Class 1 from Class 2. And it was confusing why we were doing both, and now we're back here again, after we've already made a decision about Class 1.

**Mr. Mesbah:** Right.

**Vice Chair Galloway:** Any other conversation or discussion?

**Mr. Andrews:** Well, the only thing is the last submittal was more like a legal brief than like something for this Committee or even the City Council, who's probably next on the list of people who will – or groups that will review this. So anyway, that, I found not very satisfying either.

**Vice Chair Galloway:** Ms. Chuinard, do you have anything?

**Ms Chuinard:** It was quite a lot to review, and I did notice that a lot of the materials were duplicative of previous packets and a little bit confusing as to the germaneness to the argument. So, I found it not conclusive, the additional documents that were provided.

**Vice Chair Galloway:** Any other discussion.

**Mr. Mesbah:** The other aspect of the approach or the strategy that has been kind of reinforced over the several meetings, to me, has being this clear effort to over generalize on the one hand, whitewash the differences on the other hand, and create this kind of nebulous environment where anything from a Super Walmart to the corner grocery store that has rows and aisles and signage and shelving is all in the same category and acceptable.

The statement from a traffic count gets generalized to, “this has less impact than Fry's.” A very universal statement. As a civil engineer, I can tell you that the wear and tear on the streets is a function of the weight of the vehicles that go on and not the number. The number tells us whether we're going to have a traffic jam. But the wear and tear, which is a significant impact for the city, has to do with heavy trucks. When I go to Home Depot, I go with my big SUV and a trailer and fill it to the gills with lumber and rock and bark dust and whatnot. That is a heavier load on the streets than when I go to Best Buy to pick up a computer wire. So, this kind of statement that generalizes it from a traffic count to “oh, we have less impact”, hoping that nobody will pay attention to the details, to me, is also a – it tells me that the Applicant is not transparent and forthcoming with what is being proposed. The whole idea of showing beautiful pictures of what the development could be like, to me, is again, a promise that once the foot is

in the door is probably going to be an entitlement, like their approach has been. So, the overall materials that have been provided to me were not satisfying, not at all convincing.

**Vice Chair Galloway:** You know, I felt that there was a disregard for all of the time and energy and input that Wilsonville's citizens had to the Town Center Plan. I mean, a lot of people worked for a long time on coming up with this vision that we want for our community, and I didn't really hear much from the Applicant on how important that vision is to a city and a town.

**Mr. Andrews:** So, one other thing, which was really that they—the Applicant had kind of described a vision of all sorts of other buildings and housing and all that, but I saw nothing in the form of a commitment that those things actually were going to be done. They were just sort of like the dangling something in front of us as a possibility, rather than as a fact, because that was not in their proposal.

**Vice Chair Galloway:** Any other discussion.

**Ms. Chuinard:** Yeah, I would say in the additional documents from the Applicant, I also don't feel like they had addressed the legal cases that the City provided as direction for why they have the conclusory findings listed in our original packet from the City. I also think that there was a grand use of the commercial, retail kind of building description in – even in the 1991 documents. Though those are irrelevant to this discussion, there still was an electronics-related retail store use called out in those documents. And so, it's kind of a 'you could pick whatever wording you'd like' and kind of make an argument for it there.

In terms of how they described the use of the building, it is very clear that the – it would be a home improvement warehouse, in their own description. And, you know, in terms of the – there's the PowerPoint that describes the use of products that are very similar to what was in the old store's space, and it's something where you could say like, "Oh, hey, this store has candy, so it's the same as a grocery store" kind of very broadly, those are things that many stores might have, but not clearly defined in that electronics retail use piece. So, I felt that they did not clarify that better in the additional commentary.

**Vice Chair Galloway:** Any other discussion, then, among our panel? Okay, hearing no further discussion, I will call the question. All in favor of – is it accepting the Staff report?

**Mr. Pauly:** Adopting.

**Vice Chair Galloway:** Adopting, sorry –

**Ms. Davidson:** As amended.

**Vice Chair Galloway:** Adopting the Staff report. Aye?

**Ms. Chuinard:** Aye.

**Mr. Andrews:** Aye.

**Vice Chair Galloway:** Aye.

**Mr. Mesbah:** Aye.

**Vice Chair Galloway:** Okay. So moving on the resolution –

**Ms. Davidson:** Oh, can you clarify that the motion carried by a certain number of votes?

**Vice Chair Galloway:** The motion carries by four to nothing.

**Ms. Davidson:** Great. Thank you.

**Vice Chair Galloway:** Thank you. Okay. Do I have a motion on the Resolution Number 432? And I invite all of us to do provide your thoughts on the resolution.

**Ms. Davidson:** Can we have a motion on the resolution first?

**Vice Chair Galloway:** I was just coming to that. Do I have a motion to adopt the resolution?

**Mr. Mesbah:** I move that we adopt Development Review Board Resolution Number 432.

**Vice Chair Galloway:** 432.

**Mr. Mesbah:** Yes.

**Ms Chuinard:** Second.

**Vice Chair Galloway:** Okay. Any discussion?

**Transcriptionist:** Just for clarification on the record, are we also – that also includes with the amended Staff report?

**Mr. Pauly:** Yeah, that's what the resolution states.

**Transcriptionist:** Oh, great. Thanks.

**Vice Chair Galloway:** Do we have any discussion on the resolution?

**Mr. Mesbah:** There is a date of filing that is still open in the resolution I have. Is that date going to be filled in the resolution? There's a blank. Is the date today or yesterday? What is the date?

**Shelley White, Planning Administrative Assistant:** So the date –

**Ms. Davidson:** I'm pulling up the packet right now.

**Ms. White:** The blank on the resolution is when that decision is mailed. The resolution – the date on the resolution is the date that that will be mailed out.

**Mr. Mesbah:** Mailed out, okay.

**Ms. White:** That will either be today or tomorrow.

**Mr. Mesbah:** Okay.

**Vice Chair Galloway:** Any other discussion or thoughts you might have about the resolution?

**Ms. Chuinard:** My comments have been stated.

**Mr. Mesbah:** None.

**Vice Chair Galloway:** Okay. All right. It has been moved and seconded that the – that we adopt the Resolution Number 432. Any other discussion?

All right, hearing no further discussion. I will call the question. All in favor?

**Ms. Chuinard:** Aye.

**Mr. Andrews:** Aye.

**Vice Chair Galloway:** Aye.

**Mr. Mesbah:** Aye.

**Vice Chair Galloway:** And the motion carries four to zero. If you desire to appeal this decision to the City Council, you must file an application stating the grounds for the appeal to the City Council and submit any applicable fee within 14 days of mailing the decision notice.

## **STAFF COMMUNICATIONS**

**Vice Chair Galloway:** Okay. We can adjourn?

**Mr. Pauly:** Yeah, there are no other agenda items, so we can move –

**Vice Chair Galloway:** No other items from the Staff?

**Mr. Pauly:** Yes, so we can adjourn.

## **ADJOURNMENT**

**Vice Chair Galloway:** Okay. It's 4:19, and we are adjourning the DRB panel to –

**Mr. Pauly:** Do you want to move to adjourn or—

**Ms. Davidson:** It's not technically necessary, but you can if you would like to. There's no additional agenda item so you can adjourn. Yeah.

**Vice Chair Galloway:** Okay. Okay, it's 4:19, and we are adjourning the Panel B – the DRB meeting today. Thanks.

Respectfully submitted,

Paula Pinyerd, ABC Transcription Services, LLC. for  
Shelley White, Planning Administrative Assistant