

**ORDER ESTABLISHING THE PROCEDURE THAT CITY COUNCIL WILL FOLLOW  
OF APPEAL PROCEEDING FOR ANTICIPATED APPEAL OF DEVELOPMENT  
REVIEW BOARD RESOLUTION NO. 432 TO CITY COUNCIL**

WHEREAS, on December 15, 2023, the City received an application for Class II Review with respect to the real property located at 29400 SW Town Center Loop West (respectively, the “Location”) from applicant/appellant Dan Zoldak, of Lars Andersen & Associates, Inc. (“Appellant”) (this application is referred to as “AR23-0031” in City records); and

WHEREAS, in its application, Appellant requested a “Class II Staff Interpretation to confirm that The Home Depot and Fry’s Electronics are both warehouse retail uses” at the Location, and alternatively, a “staff interpretation of the Wilsonville Development Code to confirm that The Home Depot store proposed for [the Location] constitutes a warehouse retail use and may operate in the existing structure”; and

WHEREAS, City staff interpreted the Appellant’s application to request confirmation that the Home Depot’s proposed use of the Location will constitute a continuation of the non-conforming use, as provided in Wilsonville Code Section 4.189(.01), which nonconforming use was confirmed in the related but separate Class I decision relating to the Location (which was established by the DRB in resolution no. 429, and later confirmed by order on appeal by City Council dated April 15, 2024); and

WHEREAS, the Planning Director chose to refer the application to the Development Review Board (the “DRB”) for a public hearing per WC 4.030(.01)B., and did not issue a Planning Director’s decision; and

WHEREAS, the DRB held a public hearing on April 8, 2024 (this proceeding is referred to as “DB24-0003” in City records); and

WHEREAS, the DRB closed the public hearing on April 8, 2024, but kept the written record open to allow the submission of evidence and legal argument, and reconvened to consider the application and issued a decision on April 24, 2024; and

WHEREAS, on April 24, 2024 the DRB unanimously adopted Resolution No. 432; and

WHEREAS, the City Council anticipates that Appellant will appeal the DRB’s decision in Resolution No. 432 to the City Council within the prescribed time frame for filing the appeal; and

WHEREAS, in anticipation of the appeal, the City Council seeks to establish the procedure for the appeal proceeding and date of appeal should Appellant timely file its appeal; and

WHEREAS, in considering the procedures applicable to the anticipated appeal proceeding, City Council has discussed and considered the factors set out in WC 4.022(.07)A.

NOW, THEREFORE, IT IS ORDERED, by the City of Wilsonville City Council, at its regular meeting on this 6<sup>th</sup> day of May 2024, with respect to the anticipated appeal:

1. Pursuant to WC 2.003(2), the City Council hereby orders a special-set meeting to address this appeal to occur on Friday, May 17, 2024, at 12:00 p.m. PT (the "Appeal Proceeding"). The scheduling of the Appeal Proceeding ensures the City's compliance with ORS 227.178. During this special-set meeting, the agenda will be limited to the following: Call to Order (roll call, Pledge of Allegiance, and approval of order of agenda); and the Appeal Proceeding.
2. Pursuant to its authority under WC 4.022(.05)A., City Council limits this appeal to a review on the record subject to WC 4.022(.06). City Council will not hold a public hearing or otherwise accept any additional evidence.
3. The review of the appeal will be limited to arguments raised by Appellant in its anticipated appeal that were raised before the DRB.
4. The schedule for the Appeal Proceeding will occur in the following order: (1) Staff presentation of the factual report required under WC 4.022(.06)A.1., (2) Appellant argument on the record under WC 4.022(.06)B., (3) Staff argument on the record under WC 4.022(.06)B.; (4) Appellant rebuttal on the record under WC 4.022(.06)B., which rebuttal will be limited to five (5) minutes; (5) Additional questions, if any, from City Council to either Appellant or staff; (6) Discussion by City Council; and (7) A decision by City Council, except, however, that further discussion and/or decision by the Council may be postponed to another meeting, the time, date, and place of which shall be announced before adjournment.
5. All persons who speak at the Appeal Proceeding who are not City staff shall identify themselves by name and address. Attorneys and other authorized representatives may speak on behalf of Appellant or City staff.
6. After considering the factors set out in WC 4.022(.07)A., City Council finds that the procedures outlined above will not prejudice Appellant.

DATED this 6th day of May 2024.

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JULIE FITZGERALD MAYOR

ATTEST:

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Kimberly Veliz, City Recorder

SUMMARY OF VOTES:

Mayor Fitzgerald	Yes
Council President Akervall	Yes
Councilor Linville	Yes
Councilor Berry	Yes
Councilor Dunwell	Excused