

**ORDER ESTABLISHING SCOPE OF THE APPEAL PROCEEDING FOR THE
APPEAL OF DEVELOPMENT REVIEW BOARD RESOLUTION NO. 429 TO CITY
COUNCIL, AND THE PROCEDURE THAT CITY COUNCIL WILL FOLLOW
DURING THIS APPEAL PROCEEDING**

WHEREAS, on October 30, 2023, the City received an application for Class 1 Review to confirm the status of the existing use and structure at 29400 SW Town Center Loop West (the “Location”) from applicant/appellant Dan Zoldak, of Lars Andersen & Associates, Inc. (“Appellant”), requesting a Class I Review to confirm the status of the existing non-conforming use at the Location (this application is referred to as “ADMN23-0029” in City records); and

WHEREAS, on December 28, 2023, the Planning Director issued a Notice of Planning Director Determination (the “Planning Director’s Decision”); and

WHEREAS, Appellant submitted a notice of appeal of the Planning Director’s Decision to the Development Review Board (the “DRB”) on January 10, 2024 (this appeal is referred to as “DB24-0002” in City records); and

WHEREAS, the DRB held a public hearing for the appeal proceeding on February 26, 2024; and

WHEREAS, the DRB closed the public hearing on February 26, 2024, but kept the written record open to allow the submission of evidence and legal argument, and reconvened to address the appeal on March 14, 2024; and

WHEREAS, on March 14, 2024 the DRB unanimously adopted Resolution No. 429; and

WHEREAS, on March 27, 2024, Appellant submitted the document titled “Appellant’s Notice of Appeal” to the City (the “Notice of Appeal”) within the prescribed appeal period; and

WHEREAS, pursuant to the Notice of Appeal, Appellant challenges the following DRB actions:

1. Rejection of certain materials and information from the record on March 14, 2024;
2. Adoption of the staff report presented to it in preparation for the February 26, 2024 meeting; and,
3. Finding that the legally established non-conforming use at the Location is “a 159,400 square-foot electronics-related retail store” (together, the “Challenged Actions”); and,

WHEREAS, in considering the scope of, and procedures applicable to, the 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 1st day of April 2024, with respect to the Appeal Proceeding:

1. Pursuant to WC 2.003(2), the City Council hereby orders a special-set meeting to address

this appeal to occur on Wednesday, April 3, 2024, at 7:00 p.m. PT (the “Appeal Proceeding”). The scheduling of the Appeal Proceeding ensures the City’s compliance with ORS 227.178.

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) with the following clarification – the City Council will consider all evidence submitted by any party, including Appellant, to the Development Review Board. All materials from the Development Review Board hearing will be provided to the City Council in an unredacted form. City Council will not hold a public hearing or otherwise accept any additional evidence.
3. The review of the appeal will be *de novo*, but will be limited to the Challenged Actions. Thus, the City Council will review the Challenged Actions as if no prior decision had been rendered.
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. Pursuant to its authority under WC 4.022(.05)B., City Council is limiting this appeal to consideration of only the Challenged Actions, which are the only issues City Council deems necessary for a proper resolution of the matter.
7. After considering the factors set out in WC 4.022(.07)A., City Council finds that the procedures outlined above will not prejudice Appellant for the following reasons:
 - a. Appellant has not requested a public hearing or sought to admit evidence in its Notice of Appeal that it did not previously submit to the DRB, and does not suggest in its Notice of Appeal that there is evidence that is relevant to this matter that did not exist as of February 26, 2024; and
 - b. Appellant’s Notice of Appeal and the unredacted public hearing record before the Development Review Board provides adequate information for the Council to make a determination regarding the Challenged Actions without additional evidence.

DATED this 1st day of April 2024.

JULIE FITZGERALD MAYOR

ATTEST:

Kimberly Veliz, City Recorder

SUMMARY OF VOTES:

Mayor Fitzgerald
Council President Akervall
Councilor Linville
Councilor Berry
Councilor Dunwell