

**DEVELOPMENT REVIEW BOARD MEETING**

**MONDAY, FEBRUARY 26, 2024**

**6:30 PM**

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Consent Agenda:

1. Approval of minutes from the January 22, 2024 DRB Panel B meeting



**DEVELOPMENT REVIEW BOARD PANEL B  
MEETING MINUTES**

**January 22, 2024 at 6:30 PM**

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

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**CALL TO ORDER**

A regular meeting of the Development Review Board (DRB) Panel B was held at City Hall beginning at 6:30 p.m. on Monday, January 22, 2024. Chair Rachele Barrett called the meeting to order at 6:30 p.m., followed by roll call.

**CHAIR'S REMARKS**

**ROLL CALL**

Present for roll call were: Rachele Barrett, John Andrews, Megan Chuinard, Alice Galloway, and Kamran Mesbah

Staff present: Daniel Pauly, Amanda Guile-Hinman, Stephanie Davidson, Amy Pepper, Kimberly Rybold, Cindy Luxhoj, and Georgia McAlister

**CITIZEN INPUT**

This is an opportunity for visitors to address the Development Review Board (DRB) on items not on the agenda. There were no comments.

**Alice Galloway motioned to amend the agenda to move the Chair and Vice-Chair elections to the end of the agenda. Kamran Mesbah seconded the motion, which passed unanimously.**

The Board proceeded to the Consent Agenda at this time.

**ELECTION OF 2024 CHAIR AND VICE-CHAIR**

This agenda item was addressed after Staff Communications.

**Stephanie Davidson, Assistant City Attorney,** reviewed the rules for nominating and electing the Chair and Vice-Chair.

**Mr. Pauly** confirmed the prior year's Vice-Chair did not automatically assume the role of Chair.

1. Chair

**Rachele Barrett** nominated John Andrews for 2024 Development Review Board Chair.

**Kamran Mesbah** nominated Rachele Barrett for 2024 Development Review Board Chair.

**John Andrews** declined the nomination.

**Following a roll call vote, Rachele Barrett was unanimously elected Development Review Board Chair for 2024.**

2. Vice-Chair

**Alice Galloway** volunteered for the Vice-Chair position.

**John Andrews** confirmed he did not want to run for the Vice-Chair position

**Following a roll call vote, Alice Galloway was unanimously elected Development Review Board Vice-Chair for 2024.**

### **CONSENT AGENDA**

3. Approval of minutes of September 25, 2023 DRB Panel B meeting

**Alice Galloway moved to approve the September 25, 2023 DRB Panel B meeting minutes as presented. Megan Chuinard seconded the motion, which passed 4 to 0 to 1 with Kamran Mesbah abstaining.**

### **PUBLIC HEARINGS**

4. **Resolution No. 426. Canyon Creek Subdivision Tract A Open Space.** The applicant is requesting approval of a Site Design Review of Parks and Open Space in the Canyon Creek Phase 3 Subdivision.

Case File:

DB23-0012 Site Design Review of Tract A Open Space  
-Site Design Review of Parks and Open Space (SDR23-0008)

**Chair Barrett** called the public hearing to order at 6:37 p.m. and read the conduct of hearing format into the record. Chair Barrett, Alice Galloway, John Andrews, and Kamran Mesbah declared for the record that they had visited the site. No board member, however, declared a conflict of interest, bias, or conclusion from a site visit. No board member participation was challenged by any member of the audience.

**Chair Barrett** declared for the record that she was on the DRB B when the subdivision application was originally reviewed.

**Cindy Luxhoj, AICP, Associate Planner**, announced that the criteria applicable to the application were stated starting on page 2 of the Staff report, which was entered into the record. Copies of the report were made available to the side of the room and on the City's website.

The following items were entered into the record:

- Exhibit D1: Public comment received via email from J. Britt dated January 22, 2024
- Exhibit D2: Public comment received via email from B.L. Troupe dated January 21, 2024

- Exhibit D3: Public comment received via email from D. Carlson dated January 22, 2024
- Exhibit D4: Public comment received via email from A. Calcagno dated January 22, 2024

**Ms. Luxhoj** presented the Staff report via PowerPoint, briefly reviewing the site's history and noting the project's location and surrounding features, with these key comments:

- The Canyon Creek Phase 3 Subdivision was approved in 2020 with 5 residential lots as Case File DB20-0039. At that time, only the size, general location north of Lot 1, and shape of the required usable Tract A open space area had been submitted by the Applicant.
  - At the 2020 hearing, a condition of approval was added requiring the plan to be updated to swap the location of the Tract A open space with Lot 1 in response to public testimony received and subsequent discussion by the DRB. The new location was as proposed in the current application. (Slides 2 and 3)
- The Applicant had previously proposed a professionally designed open space that met all applicable standards of Site Design Review; however, the late location change of Tract A did not provide the Applicant's design team enough time to complete a professional design of the relocated open space. As a result, the DRB decision included two conditions of approval specific to the Tract A open space.
  - Prior to final plat approval, the Applicant was required to revise the Landscape Plan to match the boundaries of the relocated Tract A open space, verify that the same Landscape architect had prepared the plan or provide a new affidavit of professional credentials (PDD 14) and return to the DRB for review and approval of the open space area. (PDE 1)
  - The current application responded to those specific conditions of approval and sought Site Design Review of the Tract A open space by the DRB. (Slide 4)
- Proper noticing was followed for the application with public hearing notices mailed to property owners within 250 ft of the subject property, onsite posting, and publication in the Wilsonville Spokesman. (Slide 5)
  - No public comments regarding the project were received during the comment period, but four comments were received today.
- The only request before the DRB was for Site Design Review. A discussion of the relevant clear and objective standards that applied to the proposed application was included in the Findings in the Staff report. The role of DRB was to verify compliance of the proposed application with previous development approvals and the clear and objective standards of the current Code. No requests in the current application required discretionary review. (Slide 6)
- In the Landscape Plan, the Applicant proposed a ramped pathway from the public right-of-way to the Tract A open space for residents of the subdivision. The path continued into the open space, as a hard surface, ADA-compliant walkway, to a small plaza area with a picnic table and benches. The walkway and plaza were outlined in orange. A soft surface path extended in a looped configuration, outlined in brown, from the plaza further into the open space area with another bench located near the Significant Resource Overlay Zone (SROZ) boundary. (Slide 7)
  - No changes to pedestrian circulation or access within the subdivision outside of the Tract A open space were proposed in the current application.
  - The open space had been professionally designed by a credentialed professional, met applicable landscape and Site Design standards, and conformed with the Site Design Review criteria for open space in residential subdivisions.

**Daniel Pauly, Planning Manager**, noted a number of the comments received were outside the scope of what was before the DRB tonight, but Staff was responding to them appropriately. The scope of what was before the Board tonight was limited to the landscape design of the Tract A open space only. Nothing else in the subdivision was up for discussion.

**Alice Galloway** asked if that included all the questions in the email from Brenda Troupe, who asked about street lighting and landscaping.

**Mr. Pauly** replied street lights were outside the scope of the application, adding they would meet the Dark Sky standard so not as glaring as older lights. The landscaping questions about the open space were more about design preferences and did not fall under the purview of the clear and objective standards.

**Ms. Galloway** asked if Ms. Troupe's landscaping Question 2 was a part of tonight's discussion.

**Mr. Pauly** responded that while it was applicable and could be discussed, no City standard required the screening of open space from a neighbor.

**Chair Barrett** understood landscaping did not include trees, ramps, or fences.

**Mr. Pauly** clarified that anything within the open space was a part of the park design. Site Design Review was the detailed review of the layout, design, palette of plant materials, etc.

**Ms. Galloway** asked if the designer would speak to Ms. Troupe's concern regarding plants in Question 2 of her email.

**Mr. Pauly** replied if the designer did not address it, she was welcome to ask, but no applicable review criteria was noted in the Staff report that required plantings or additional privacy between the neighboring properties, or planting of the arborvitae, as detailed in her question.

**John Andrews** noted the symbols in the drawing were not clearly defined and asked about the circles with the dots in them. What would the ground space look like that was not part of the ramp, platform, or pathways? It looked like a row of arborvitae was proposed at the top of the plan.

**Ms. Luxhoj** confirmed the legend was in the full plan set. Slide 7 was just an excerpt of the plan.

**Mr. Pauly** stated the Applicant could describe the plan, and any further questions could be asked after their presentation.

**Chair Barrett** confirmed there were no further questions from the Board and called for the Applicant's presentation.

**Jennifer Arnold, Emerio Design, LLC, 1500 Valley River Dr., Suite 100, Eugene, OR, 97401** circulated a copy of the legend identifying the plant types proposed in Tract A. As stated, the application was straightforward and limited in scope. It did not involve any subdivision approvals or uses.

- Tract A would feature a variety of plant types, a hard surface for ADA access from the public street down to the plaza viewing platform, and a couple of steps down to a soft path which really used the space. A fence was added for extra privacy and to address privacy concerns.
  - A number of significant trees along the southern property line would be preserved by either using hand tools for planting or mulch/bark dust coverage. In addition, two new trees, many shrubs of varying heights, and infill with perennial grasses would be added.
- The Applicant did not have any concerns or questions regarding the conditions of approval associated with the application and hoped for an approval.

**Ms. Galloway** asked if a health analysis of the larger trees had been conducted to assess the risk of them falling down in the near future.

**Ms. Arnold** replied an arborist report was submitted with the subdivision, as well as with the application prior to the current one, so the trees had been assessed for health and vitality, which was why they were being preserved.

**Chair Barrett** asked what the fence would be made of and if an irrigation system would be installed to maintain the plants.

**Ms. Arnold** responded a wood fence had been installed and confirmed the irrigation system was noted on the plan set.

**Kamran Mesbah** asked if the arborvitae that had been cut down was in the subject parcel or the neighboring parcel.

**Ms. Arnold** responded that at that time, she was not involved; however, she understood that trees had to be cleared in order to access, grade, and work on the site, and now the Applicant was replanting to make the site pretty again.

**Mr. Mesbah** stated the tree removal sketch in the plan set seemed to indicate that all the trees that were removed were in the park parcel, which he wanted to confirm.

**Kimberly Rybold, Senior Planner**, explained that any removed trees would have been reviewed as part of the Type C Tree Removal Plan for the subdivision and on the subject property unless there was an authorization from an adjacent property owner to allow for removal of trees. She recalled that all trees included within the Type C Removal Plan were on the subject property.

**Mr. Pauly** added that Type C Tree Removal had gone through the DRB process and subsequent permitting, including additional noticing to neighbors. Ms. Troupe's question related to whether or not any screening or specific replanting would be triggered by the standards, and Staff had not identified any that would.

**Mr. Mesbah** confirmed with Staff that Ms. Troupe's property was located on the south side of the park. He said he had asked because he did not know if any regulations prevented property owners from removing trees that screened a neighbor's view.

**Mr. Pauly** replied that had been approved after an extended discussion in the original approval.

**Ms. Luxhoj** noted arborvitae were not trees.

**Mr. Pauly** believed primarily Douglas fir and a hedgerow were removed there.

**Mr. Luxhoj** noted the large trees shown on the Tract A open space plan with the dripline were the trees that were preserved, mainly Douglas fir and possibly one Ponderosa Pine.

**Chair Barrett** called for public testimony regarding the application and confirmed with Staff that no one was present at City Hall to testify and no one on Zoom indicated they wanted to testify.

**David Carlson, 7564 SW Vlahos Dr., Wilsonville, OR, 97070** stated he was a 29-year resident of the property immediately to the south of the subject site. He did not believe Wilsonville shot for achieving the bare minimum, and wanted an A, not a C-. He noted his suggestions were easily achievable and designed to get an excellent outcome as opposed to the bare minimum.

- Referencing his own PowerPoint, he displayed a view from the street. He explained that until the grading had been finished, it was not possible for a lay person to understand the impact on the adjacent property. With the 6-ft screening fence in place, the complete height of the 7-ft tall sliding patio door behind it was completely visible, so the screening fence effectively achieved nothing and would result in the residents of the new subdivision being able to look directly into property that was previously completely screened and private. (Slide 2)
  - He suggested planting mature, 12-ft arborvitae to replace the arborvitae that were removed for the fence as an easily achievable solution to restore the privacy lost for Tax Lots 1100 and 1200.
  - For the last 12 years, his backyard where his nine grandchildren played had been completely private, but now was very much in the line of sight of the 4-plex and 2-plex that would be built in the new subdivision.
- He noted the protection fence at the rear to the east was all blackberries and dead trees. Since the restoration of the Significant Resource Overlay Zone (SROZ) was already in the approved plans, he suggested they be removed now so the new park would not be immediately adjacent to blackberries and dead trees or have to be renovated in the future. (Slide 3)
- He believed the fence ended prematurely. Per City Plan, it should extend another 25-ft into the SROZ to prevent people from walking around the back of his property because the fence had not been put in yet.

**Brenda Troupe** stated her address was on the card and confirmed she could not discuss her Question 2 or the street light.

- She noted that in some places, the walking path was too close to her fence. The path went in between her fence and Trees #8565 and #8564. Per the Landscape Plan Tract A, Sheet L-1, Revision date 12/10/20, the path could be rerouted to the other side of the trees, farther away from the fence and allow for a wider path.

- Since all the previous privacy screening was now gone and the fence was only 6 ft tall, that path would allow pedestrians to see into her backyard.
- The open space would be utilized by both people and pets, and unfortunately, not all pet owners were responsible and picked up after their pets. Noting that her privacy had been cut down and the open space was now visible from her patio door, she asked that the pet station be in a discreet location and supply plastic bags and a receptacle to collect waste. She was concerned about waste that was not picked up, specifically on the walking path along her fence, as the odor would not be conducive to the enjoyment of her backyard.
- She also wondered who would be responsible for keeping the open space clean.

**Joan Carlson, 7564 SW Vlahos Dr., Wilsonville, OR, 97070**, stated David Carlson was her husband, adding they had walked the property this past weekend and had some concerns. She could not find the name of the certified landscape architect anywhere and wanted to know who was responsible for the design.

- She noted a bench in the far southeastern corner of the property was located next to the fence adjacent to her chicken coop. She reiterated that they wanted the fence extended 25 ft into the SROZ, as shown in the Plans but had not happened yet. They wanted that addressed immediately.
  - The bench was in an area where 4-5 trees had been removed, rendering the ground very soft, and water was currently running through there. The stormwater retention plan was not doing its job. The water was running down the hill and into her backyard and her chicken coop. Before any paths or benches were installed, the water runoff needed to be addressed, perhaps by a French drain.
  - She asked that the bench be put elsewhere on higher ground or removed completely. She worried about smokers using the bench when the grass was dry in the summer and starting fires. She was very concerned about fire safety in that area.
- The lower pathway loop was really large, and she wanted it made smaller.
- She had concerns about some of the plantings as the area was a deer highway, and the landscape architect had chosen two different kinds of rosebushes and another plant that were very susceptible to deer. She suggested those choices be revisited.

**Helena Lulay, 7557 SW Vlahos Dr, Wilsonville, OR, 97070**, agreed with her neighbors' previous comments, adding that the tall-growing shrubs were on the side of the quadplex, not on the south side of the long-time residents. It would be very easy to flip those and put the tall-growing barrier plants on the south side, something she hoped the Applicant would consider. She added that the water runoff had been extreme, and she and her neighbors were really concerned about that at this point.

**Danielle Britt, 28659 SW Canyon Creek Rd South, Wilsonville, OR, 97070** noted she lived directly adjacent to the proposed subdivision on the other side from the neighbors who testified.

- The proposed development seemed to be multifamily, and it was likely people of all ages, including children and possibly people with disabilities, would live there. She was concerned about the elevation changes in the common space, as the lot was very sloped and would prohibit its use for certain residents. The ADA ramp only went down so far with stairs then down to the ground, which might not be conducive to strollers, crutches, canes, and walkers. She questioned the utilization of



the space to fit the population they were trying to serve, considering accessibility was highly important to the people who would actually use it.

- She also questioned whether some of the shrub choices were child or pet-friendly options, noting she did not want residents getting hurt in common spaces.
- The open space did not look like it fit the population it was trying to serve. It would be better utilized as a green space to fit the community, if that was what the City was trying to achieve.

Staff confirmed there was no further public testimony.

**Mr. Pauly** read into the record comments made by Danielle Britt in the chat as follows, “ The accessibility ramp only leads to a small portion of the area. The rest of the area is only accessible by stairs. The plans for the subdivision call for multiple multifamily homes. Families with strollers or walking issues would not be able to use the common spaces. Multifamily homes need to consider the population occupying the space.”

**Chair Barrett** called for the Applicant’s rebuttal.

**Ms. Arnold** clarified that the Landscape Plan had been submitted by Lenity Architecture, and Brian Lind was the stamped landscape architect.

- She noted that a lot of the tall privacy shrubs did best with more light, and were on the north side of the site, and the tall trees along the south side prevented a lot of the plantings they normally would have done on that side.
- They had done their best with grades, improvements, and meeting criteria to provide an open space that was user-friendly for a majority or variety of people. She was unsure how the space would be used since it was so tucked in; whether it would be used by local neighbors only or residents of the larger city as well, so the Applicant had made a generic open space for light use.

**Mr. Andrews** noted the open space was tucked in an area that nobody would notice and asked if there were plans for a sign at the entrance or on nearby streets indicating a park was close by.

**Ms. Arnold** replied the Applicant had not proposed any signs, and the space would be maintained by the HOA, so she did not anticipate the City putting up signs.

**Mr. Pauly** clarified the open space was intended for the immediate neighbors of the HOA and they would be aware of it. He recalled signage was not discussed at the original DRB hearing because the Plan had initially placed the open space closer to the street, making it more visible; however, the DRB had decided to move it towards the back of the property.

**Ms. Galloway** understood Mr. Carlson's concern for privacy and concern that some of tall trees would block light to other plants. She noted a 6-ft fence did not seem high enough and asked if arborvitae or other plants could be placed in certain sections to provide privacy.

**Ms. Arnold** replied that a variety of plants could have been placed throughout the site, which was why they had depended on the landscape architect to choose the best plants for the site. The fence was 6-ft as that was the allowed height. Privacy shrubs would be planted in the gaps between the trees where

possible. The Applicant had done everything they felt necessary to provide additional privacy other than a neighbor planting their own screening on their property.

**Mr. Pauly** stated he understood neighbors' concerns, but there was no requirement for screening. Originally, a home had been proposed there but was changed to an open space after the initial DRB hearing in an effort to provide more privacy. While conditions had changed, nothing in the Code required buffering or screening.

**Chair Barrett** asked which houses were part of the HOA that would be responsible for maintaining the open space. She was curious if any of the residents that provided testimony would be in the HOA.

**Ms. Arnold** replied that went back to the main subdivision application. She believed it was the five residences but deferred to Staff for confirmation.

**Mr. Pauly** confirmed the five lots in the subject subdivision would definitely be part of the HOA; however, the developer owned some lots immediately across Canyon Creek that were not a part of the subdivision, and he could not recall if those were also included. He confirmed no existing homes were part of the HOA.

**Mr. Mesbah** asked Staff to address some of the points that had been brought up online and in the testimony for the record.

**Mr. Pauly** confirmed the City Attorney did not have any items of concern to address. He noted the privacy concern, which was the main issue, had been discussed. He deferred to Ms. Pepper for any construction concerns, as she was supervising that component, but noted Staff was holding the developer to the original design plans.

**Amy Pepper, Development Engineering Manager**, stated she would be following up with the inspector on a couple construction related issues that had not been brought to Staff's attention earlier. The items related to unsafe conditions and damage to adjacent properties raised during testimony were already being addressed by the inspector.

**Mr. Mesbah** asked if stormwater failure was one of the issues Ms. Pepper was addressing.

**Ms. Pepper** replied there did not appear to be stormwater failure, the system itself was operating. The lot drained pretty far down, and it was just water hitting the slope. It was clay soil combined with the amount of runoff there has been, the runoff was going down the hill but was being directed into the Carlson's yard instead of into the SROZ where it naturally flowed. That was a construction issue that Staff would address.

**Mr. Mesbah** stated he was concerned the erosion fence might not be working on that slope.

**Ms. Pepper** replied that was correct. The sediment control fence was really a perimeter control. There was also some hay out there and Staff would be looking at those erosion control measures. Some

channels may have formed that were directing water into places it should not go, but Staff would address those concerns.

**Mr. Pauly** noted while the subdivision was not under review, public comments had referenced the different housing types being built, so he read the following into the record, "Pursuant to Oregon Revised Statute (ORS) 197.758 adopted by House Bill 2001 in 2019 and the implementing Oregon Administrative Rules 660-046-0010 through 660-046-0235 and compliant City Development Code adopted by Ordinance 851 in October 2021, the City must allow middle housing, such as plexes, on any lot that allows detached single-family homes. The additional units are exempt from density calculations. All lots allowing single-family are allowed duplexes, or two units, and all lots 5,000 sq ft or greater are allowed a triplex, or three units, and all lots 7,000 sq ft or greater are allowed a quadplex, or four units. There are other allowances. The review process and standards for middle housing must be the same as those for detached single-family homes. This means that subject plexes go directly to issuance of building permits. No land use process is required or allowed."

- He noted the 2020 Staff report that adopted the approved subdivision acknowledged the state statute, which at that time had been passed, but was not yet fully implemented. Finding A-38 read in part, "The type of housing was anticipated to be single-family; however, the approval would allow middle housing consistent with House Bill 2001 in implementing administrative rules once the City's updated Code is adopted."
- He understood many in the audience had likely heard that before, but he thought it was worth repeating for clarity.

**Chair Barrett** noted rerouting the path away from the fence had been suggested during public testimony and asked if the Applicant was willing to consider those kinds of suggestions.

**Ms. Arnold** replied that as long as any changes did not result in a follow-up hearing, adjustments could be made. She clarified the Applicant did not have to constrain the path, as the comment indicated, to locate the path in its present location. The path was 4-ft wide all the way through. She was unsure how to meet the Code standard of using the space efficiently without having the path near the present location.

**Megan Chuinard** stated the map of the open space seemed to indicate decent ADA access and asked the Applicant to address the ADA accessibility issues raised during public comment.

**Ms. Arnold** explained there were substantial grade changes from the right-of-way down to the site which necessitated the need for a large access ramp. The platform for a plaza or gathering space followed the grades and was also situated to avoid utilities and excessive grading of a natural area, which was a Code criterion. There was a 5-ft grade difference between the plaza gathering space and the rest of the site. The grade was smoothed out to be walkable and plantable. The Applicant had done their best to keep the grading minimal and also user-friendly.

**Ms. Chuinard** confirmed with Ms. Arnold that the ADA path accessed the main area with the picnic table.

**Chair Barrett** confirmed there were no additional questions or discussion and closed the public hearing at 7:36 pm.

**Alice Galloway moved to approve the Staff report with the addition of Exhibits D1, D2, D3, and D4. Megan Chuinard seconded the motion, which passed unanimously.**

**John Andrews moved to adopt Resolution No. 426 with the Staff report as amended. Kamran Mesbah seconded the motion, which passed 5 to 0.**

**Chair Barrett** read the rules of appeal into the record.

The Board took a brief recess, and the meeting was reconvened at 7:47 pm.

- 5. Resolution No. 427. Wilsonville Transit Oriented Development.** The applicant is requesting approval of a Stage I Preliminary Plan, Stage 2 Final Plan, Site Design Review, Type C Tree Removal Plan, Tentative Partition Plat, Master Sign Plan, and Waiver for development of a 121-unit apartment building with retail on the ground floor adjacent to TriMet WES Station and the Wilsonville Transit Center along SW Barber Street just west of Kinsman Road.

Case Files:

- DB23-0011 Wilsonville Transit Oriented Development
  - Stage 1 Preliminary Plan (STG123-0004)
  - Stage 2 Final Plan (STG223-0006)
  - Site Design Review (SDR23-0007)
  - Type C Tree Removal Plan (TPLN23-0003)
  - Tentative Partition Plat (PART23-0002)
  - Master Sign Plan (MSP23-0001)
  - Waiver (WAIV23-0004)

**Chair Barrett** called the public hearing to order at 7:47 p.m. and read the conduct of hearing format into the record. Chair Barrett, Alice Galloway, John Andrews, and Kamran Mesbah declared for the record that they had visited the site. No board member, however, declared a conflict of interest, bias, or conclusion from a site visit. No board member participation was challenged by any member of the audience.

**Kamran Mesbah** declared he was copied on the email the City received from Garret Prior but had not responded to it. Both he and Mr. Prior were members of a local group, and he would talk to Mr. Prior about removing him from his mailing list. He also noted he was serving on the Planning Commission when the Wilsonville Transit Oriented Development (TOD) was adopted as part of the City's Strategic Housing Plan.

**Amanda Guile-Hinman, City Attorney,** noted Garret Prior's email would be entered into the record.

**Georgia McAlister, Associate Planner**, announced that the criteria applicable to the application were stated starting on page 2 of the Staff report, which was entered into the record. Copies of the report were made available to the side of the room and on the City's website.

The following item was entered into the record:

- Exhibit D1: Public comment received by Garet Prior via email dated January 16, 2024.

**Ms. McAlister** presented the Staff report via PowerPoint, briefly noting the project's location and surrounding features, with these key comments:

- The Wilsonville TOD would be located to the south of the WES transit station at the SMART Transit Center in the Planned Industrial Zone.
- The subject site was currently part of a larger parcel with the SMART turnaround occupying the northern portion, and a walking path that wound through a grove of trees to the south. Development would occur on the undeveloped portion. A natural area to the west of the site was planted as mitigation and managed by the City. The parking and office component of Swire Coca-Cola was to the south across Barber St, and the railway ran adjacent to the east property line. The site was designated Industrial in the Comprehensive Plan, and she would highlight the ORS that allowed for residential development in the Industrial Zone later in her presentation. (Slide 2)
- Proper noticing was followed for the application. Public notice was posted and mailed to all property owners within 250 ft of the subject property on December 21, and published in the newspaper. One public comment was received after the publication of the project and was included as Exhibit D1.
- Six of the requests before DRB tonight for the TOD were objective in nature as they involved verifying compliance with Code standards, and the waiver request involved discretionary review.
- The Stage 1 Preliminary Plan proposed a new apartment building with ground floor commercial use. While not a typical development expected in an industrial zone, the proposed use was allowed in a Planned Development Industrial (PDI) Zone was based on the limited allowance of uses for Planned Development Commercial Zone and special provisions in the state statute that allowed for affordable housing on certain publicly owned lands. The proposed ground floor commercial was within the 5,000 sq ft of retail use allowed in the PDI Zone. (Slide 5)
  - The authority to develop affordable housing in areas not zoned for residential use in certain circumstances was described in Oregon Revised Statute (ORS) 197.308. Under the ORS, a property owned by a public body and located in an industrial area that was not slated for heavy industrial use, and that was adjacent to existing residential development, was outright allowed to develop housing if the resulting housing was affordable housing.
  - As an affordable housing development on a property owned by the City, not designated for heavy industrial use, and adjacent to the Villebois neighborhood with only preserved wetlands in between, the proposed development was an allowed use under the statute.
- The Stage 2 Final Plan proposed approximately 128,675 sq ft of residential use with 121 housing units. The ground floor featured 4,900 sq ft of commercial use that would be allocated between three tenants. The proposal also included parking, usable open space, a circulation area, a pedestrian connection, and landscaping that met and exceeded the City Standards. All utilities and services for the site were already available or would be with conditions of approval.

- The Traffic Study evaluated the five nearby intersections, and all would remain a Level of Service (LOS) D or better, which exceeded the City's minimum standard of LOS D. (Slides 7)
- Site Design Review. The Applicant used professional services to design the proposed 121-unit residential mixed-use building and landscaped areas on site using quality materials and design. The proposed modern designed building utilized natural wood and colors throughout the façade that reflected the surrounding environment.
  - The configuration of the site allowed for the retention of three significant Douglas fir trees that were identified as a City Council priority during the initial planning stages of the project. Landscaping was incorporated throughout the site and provided shade, stormwater mitigation, and aesthetic value with special attention paid to usable open space.
  - The General Landscape Plan Standard was used for the majority of the site with buffering landscaping adjacent to the parking area and along the transformer to screen both parking and mechanical equipment from the public and the installation of street trees along all frontages. (Slides 9 & 10)
- Class 3 Sign Permit. The subject development proposed commercial tenant spaces on all sides of the building. As three tenant spaces with four entrances were provided, a Master Sign Plan was required for the development to provide guidance on location, size, materials, colors, and finishes for future signs in compliance with the Development Code.
  - Since tenants had not yet been determined, specific sign copy, and design would be approved through subsequent Class 1 Sign Permits. Conditions of approval ensure the proposed signs would not exceed the maximum allowed size and that details of design, color, texture, lighting, and materials would be provided at the time of application for the Class 1 sign review. (Slide 11)
- Type C Tree Removal Plan. The Applicant proposed the removal of 24 trees from the site. Tree species on site included a mix of native and non-native trees. The trees proposed for removal were not high-quality, and removal was necessary for the development of the site. The Applicant proposed replanting 36 new trees, which was in excess of the 1:1 mitigation ratio required by the Development Code. (Slide 12)
  - The preservation of three high-quality Douglas fir trees was identified as a Council priority for the implementation of the proposed project. The trees would provide aesthetic, environmental, and recreational benefits for future tenants and visitors of the transit-oriented development. Significant thought and care for the preservation of the trees was clear in the final proposed project design. The trees were incorporated into the open space to be enjoyed by future residents and activate the space. (Slide 13)
    - An elevated deck would maximize the open space amenity while protecting the roots of the trees. Any work within the root zone would be conducted under the supervision of a certified arborist. The project arborist developed a work plan that focused on how to safely develop the site around the trees without cutting any major roots.
- The proposed Tentative Plat met technical platting requirements and demonstrated consistency with the Stage 2 Final Plan. The partition would legally separate the proposed mixed-use residential development from the existing adjacent bus stops and turnaround to the north and east. (Slide 14)
- The application included a request for one waiver which involved discretionary review by the DRB. Pursuant to Development Code Section 4.118.03, a waiver must implement, or better implement, the purpose and objectives of the Planned Development Regulations. The DRB could approve or deny the requested waivers based upon the evidence submitted by the Applicant. (Slide 15)

- The Applicant requested to waive the 30-ft required setback at the front, rear, and side lot lines. The required setback was delineated with a red dotted line, and the proposed setbacks were shown with thicker red line. She had also highlighted what the footprint of the building might look like if the 30-ft setbacks were in place.
- The setbacks in the Code were set with a more traditional industrial development in mind. Due to the limited size of the property, unique shape, and goals to preserve the three mature Douglas fir trees on site while providing as much affordable housing as possible, the required 30-ft setback on all sides was very limiting. The setback reduction would improve the function of the site and meet the Planned Development Regulations in Section 4.140 without negatively impacting the surrounding area or future residents.
- Additionally, the setbacks would not bring the building close to adjoining buildings or industrial uses. The site was bounded by the Transit Center and SW Barber St. The parking lot and office building for Swire Coca-Cola across Barber St was a component of the industrial use that did not merit special distancing or buffering from or the proposed residential/commercial uses.
- One public comment was received in support of the project and was included in the public record as Exhibit D1.

**Alice Galloway** asked how affordable was defined and how it was different from low income.

**Ms. McAlister** deferred to the Applicant, who would be presenting shortly.

**Chair Barrett** asked what the residential setback was versus commercial.

**Ms. McAlister** replied that commercial setbacks were zero and residential setbacks depended on the number of stories in the home and the size of the lot.

**Dan Pauly, Planning Manager**, added that it also varied by zone, but typically it was 5 ft to 7 ft and 10 ft for some larger lots. He confirmed the commercial setback was zero.

**John Andrews** stated there would be a lot of residents in the facility and asked if any park space was planned as part of the development.

**Ms. McAlister** replied the project incorporated the required open space for a multifamily unit of the proposed size, but not a separate park. That open space was the area in which the three Douglas fir and deck were located, and it also featured a barbecue area, seating spaces, and a play area for children. There was a great mix of recreation and usable open space provided on site.

**Mr. Pauly** added that the building was adjacent to Villebois, which had the most park area within the city, and noted Villebois was accessible via the trail loop on Kinsman Rd.

**Chair Barrett** confirmed there were no further questions from the Board and called for the Applicant's presentation.

**Robert Gibson, Palindrome Communities, LLC, 412 NW 5th Ave, Suite 200, Portland, OR, 97209** stated he was excited to present the project to the Board and thanked Staff for all the work they had done

with his team over the last year. It had been a great process with a lot of conversation, as well as challenges to some of their designs that improved the project along the way, and he was proud of the results.

- Palindrome had been selected by the City to develop the project on December 19, 2022, and thus began the process. They had focused on three main goals, maximizing the number of affordable housing units provided, activating the ground floor, a challenge in the subject location, and preserving the three Douglas firs.
  - To maximize affordable housing, the Applicant had achieved 121 income-restricted units with a mix of studios, 1-, 2-, and 3-bedroom units to serve different populations from seniors to small and large families with a mix of rent and income levels ranging from 30 percent to 80 percent of median income as published by Clackamas County. The average of all of the units worked out to 60 percent median income.
  - To activate the ground floor, the Applicant had worked in partnership with the Wilsonville Community Sharing food bank to provide them with new space. They had also worked with SMART to design a new transit facility for riders on the ground floor and had proposed a coffee shop or taproom to serve the commuters who were currently using the transit station as well as members of the community.
  - Construction was planned to begin summer of 2024 with building completion by late 2025 and opening for occupancy in early 2026.
- The difference between affordable housing versus low-income was simply terminology and preference. Someone at 80 percent of median income was not low income but average. Residents went through a certification process of income verification prior to moving in and rent was based on 30 percent of their income based on household size. Affordability was relative depending on income. The term was affordable housing, but it was really based on income set asides.

**Alex Yale, Design Principal, YBA Architects, 3514 North Vancouver Ave, Suite 310, Portland, OR, 97227**, reiterated that the proposed development consisted of 121 affordable residential units, commercial tenant space for Wilsonville Community Sharing, the designated welcome center for SMART transit, and the café/tap room. These commercial tenants would be located at three of the corners of the site to activate the street frontages and increase the pedestrian nature of the site. Residential units in-filled the building between the corners and the remaining interior space contained the resident services. He presented the Applicant's proposal via PowerPoint with these comments:

- The main lobby aligned with parking lots to the north and south. The north lot featured some shared spaces and the south lot contained approximately 14 onsite parking stalls, two of which were ADA, five were compact, and the remaining were standard parking stalls.
  - In addition, there were 30 short-term and 130 long-term bicycle parking stalls within the building to encourage bicycle use and other alternative modes of transportation.
- The City-owned site was shared with the bus depot and turnaround; therefore, a Tentative Partition Plat was included in the application.
  - The development site included the land area inside the existing sidewalks on the west, north, and east frontages. New right-of-way improvements would be added along SW Barber, including stormwater planters, street trees, and a new sidewalk.



- The site was zoned PDI, and since the proposed commercial and residential uses were allowed uses with restrictions in the PDC and PDR Zones, he would not review Senate Bill 8, which promoted the development of affordable housing, was also in effect.
- The subject affordable housing project would play a significant role in Wilsonville's Equitable Housing Strategic Plan. The Applicant had built upon the City's past community outreach and continued that outreach to organizations such as the Latino Network to ensure the development met the needs of the Wilsonville community and the goals of the Equitable Housing Strategic Plan.
- The proposed building was 61 ft tall and five stories. The ground floor would be Type 1 concrete and the remaining four stories would be wood framed. The building would be fully sprinklered.
  - The upper floors consisted entirely of residential units while the ground floor was a mix of residential units, amenity spaces, and commercial spaces.
- The Community Sharing space was on the western side of the building, the taproom was on the southeast corner, and the SMART Transit Center was located to be adjacent to the existing SMART Transit Center and Depot to the northeast of the site. The Applicant had been challenged to feather together the existing bus turnaround and right-of-way improvements, Transit Center, and heavy rail line with a new residential mixed-use community that was pedestrian friendly and pedestrian oriented.
- To the south was a 20-ft-wide one-way drive aisle with head-in parking that narrowed to 15-ft as it exited SW Barber St. The Applicant had worked closely with Engineering to align the driveway with the Coca-Cola driveway across the street while also preserving the three mature trees in the center of the site. As such, the building notched around the trees and the driveway stayed just outside of the critical root zone and just west of the alignment with the Coca-Cola driveway.
- There was quite a bit of amenity space for residents, including the raised outdoor deck adjacent to the tap room that would also be open to the public. The remainder would be natural and include the canopy of the existing trees.
  - Barbecues and fire pits with ADA access were also outside, as well as a trike loop around the trees with natural landscaping at ground level. A large interior resident amenity room equal to the outdoor space was provided to be enjoyed year-round regardless of weather. An onsite laundry room was also included, and a designated loading zone was adjacent to the two elevators served the upper four floors. The mail room, trash, electrical room and services were also on the main floor west of the lobby.
  - Stormwater was addressed with permeable pavers and flowthrough planters as the site did not allow for onsite drainage.
  - A transformer currently existed onsite. The utility easement that ran along SW Barber varied in width from 6 ft to 8 ft, but the Applicant would widen and maintain the easement at 8 ft wide, consistent with the Collector Street Standard of SW Barber. Plantings would also be installed in the easement to help buffer.
- The upper floors were set back somewhat from the ground floor. High quality materials that related to the transit-oriented nature of the site had been chosen. The Applicant had found the site's proximity to the train, buses, and automobiles interesting and considered how the somewhat static architectural massing and scale of the building could be broken down as it related to that legacy of transportation.
  - They were excited about using the massing of the building and creating subtle angles on the long sides with the front face of the building recessed to create Juliet balconies consisting of a

composite wood cladding material to create recesses and notches in the building and delineate the base, middle, and top of the building. The building folded somewhat on its long axis.

- The Applicant took advantage of the concrete podium at the ground floor with some deep cantilevered overhangs at the commercial corners.
- The building had three main massings, one along the bus turnaround access road to the east, one to the north, and the third to the west. The Applicant used two slightly different color schemes to differentiate those three masses, a blue scheme with wood notch and recess on either end and a charcoal scheme in the middle to break it up. These massings were used to create directionality and break down the overall massings into three distinct massings.
- The Applicant had also broken down the building vertically. At the ground floor along the bus turnaround, the Applicant had brought the commercial space right to the sidewalk to create a more urban experience. A blue-glazed brick base would relate to the boxed rib blue metal cladding that was prominent on the east and west massings and black infilled metal panels was used above the black vinyl windows.
  - The Applicant had gone to great lengths to conceal the air and exhaust intakes for the housing units with black strips of perforated metal panel. A few of the 3-bedroom units had their own washer and dryer, and those had individual louvers in lieu of the perforated metal.
  - The Applicant had tried to maintain an order with the middle or top floors grouped, and the Juliet balconies were sprinkled around the overall massing to also help break down the scale and accentuate the residential character of the building.
  - Along the north, where the bus turnaround zone was located, the residential units featured deep recesses and setbacks, and three different layers of landscaping to help buffer the unit to the sidewalk as well as quite a bit of space.
- The Applicant had tried to take advantage of the slope of the site, which generally sloped down diagonally approximately 4 ft from the northeast corner, where the SMART Transit Center was located, to the southwest corner of the site.
  - The units along the north façade facing the bus turnaround were slightly elevated above the sidewalk to provide another layer of privacy between the sidewalk and residential units. Materials used also included boxed rib metal on the upper four floors, with clinker brick, in the charcoal family, on the ground floor which extended out a bit. The west massing repeated into the blue scheme.
- Overall, the three corners of the site were very active. The Wilsonville Community Share food bank was located on the northwest corner and featured lots of glass, transparency, and landscaping to help buffer between the sidewalk and quasi-commercial space.
- Regarding the materials used, the blue glaze matched with the blue metal panel above and the charcoal clinker matched the gray metal box strip above. The little low walls in front of the ground-floor residential units were approximately 18 inches tall, comprised of board-form concrete, and would give some buffer from the sidewalk.
  - The composite wood plank cladding was a really nice material, there were more residential Juliet balconies, steel plate canopies were placed over all ground-level common entries, and up/down black wall sconces were strategically located around the project on all of the wall panels at the ground floor.

**Alice Galloway** asked if the resident amenity room was large enough for residents to conduct meetings or workshops.

**Mr. Yale** replied yes and displayed the floor plan, noting the room was quite large, approximately 700 sq ft with another 150 sq ft of storage. It would be laid out with a small kitchen or kitchenette, a TV/living lounge area, and lots of open space for things like ping pong, pinball, and other assorted games for residents to enjoy. The storage was designed to hold movable furniture for parties and other large gatherings. Residents would be able to reserve the amenity room, as well as the outside area with the covered and lit barbecues and firepit.

**Ms. Galloway** asked if the Applicant had considered child care at all during the design process.

**Mr. Gibson** replied yes, but the Applicant was limited by the amount of commercial space that could be included on the ground floor, as well as restrictions on providing daycare facilities which were required to be on the ground floor. There was no space for dedicated child care, but via a partnership, the Latino Network would provide services, such as after-school tutoring, although it was not child care in that a child could not be dropped off while parents went to work. Additionally, the Applicant had converted what was originally going to be bicycle storage to a library space/homework room on one of the upper levels.

- He confirmed there were 14 parking spaces onsite as well as an agreement with TriMet, the owner of the large parking lot behind the site, for shared use of its parking spaces.

**Megan Chuinard** asked if the shared use spaces would have any hourly time restrictions on usage.

**Mr. Gibson** replied no. TriMet's only concern was not knowing what they might do with the parking lot over the next 10 or 20 years so they could not guarantee parking spaces in perpetuity, but in terms of current use, excess parking spaces were available all day, every day. The Applicant envisioned that TriMet would issue parking passes to the residents, first come, first served, for whatever was available within the parking lot. Based on the times he had visited the TriMet parking lot, it was way underutilized.

**Chair Barrett** asked for further details on the walking path from the building for residents to catch the WES train.

**Mr. Yale** indicated that the two elevators that accessed all of the upper floors were located within the knuckle of the building. An interior corridor connected all the upper floors and the ground floor units to the entry lobby. There was a concrete walking path that organized the site, and it was aligned with the pedestrian sidewalk that crossed the bus turnaround zone. Residents would be able to walk straight out of the lobby to the SMART Transit Welcome Center, which would be staffed and have wait times and other services for train and bus riders. From there, residents would cross the street to the existing sidewalk to access the depot and the train.

**Ms. Galloway** noted the Applicant had mentioned some units would have laundry facilities and asked if there would also be a laundry facility for the building.

**Mr. Yale** replied there was a laundry facility on the ground floor adjacent to the resident amenity room that would feature about 13 washers and dryers in an oversized laundry room.

**Mr. Andrews** noted the development was pretty isolated from the rest of the community. Despite walkways, it was a fairly significant distance away and he asked for the Applicant's reaction to that.

**Mr. Gibson** replied the best thing about the development was its adjacency to SMART, which connected the site to every service available in the city, as well as to nearby cities such as Salem, Portland, and Beaverton via the train. There was excellent infrastructure along SW Barber for pedestrians and bicycle paths that connected to other parts of the city, and the Applicant expected residents would have cars. The combination of all those factors was positive. He liked the fact that it was a little isolated because it would be quiet, other than the train. Affordable housing next to the Villebois development was a great location.

**Ms. Chuinard** asked where residents could store their bicycles since the Applicant had eliminated the bicycle storage room.

**Mr. Yale** responded that 130 long-term bike stalls were inside the building. The largest bike room was on the ground floor and designed to help activate the bus access support street. There was additional bike storage in the knuckle of the building on every upper floor. There was also short-term bike parking on the ground floor all around the building including six stalls in front of the SMART Transit Welcome Center, six in front of the future coffee/tap house, four in front of the Wilsonville Community Share food bank, and ten in front of the main residential lobby. There was a lot going on with the site plan, including a lot of little break-out spaces, outdoor spaces, little plazas, and covered seating surrounded by the stormwater planter. There were a lot of details, such as board-form concrete walls in front of the units, and a lot of thought and attention had been given to the site plan.

**Mr. Gibson** noted that in building previous developments, Palindrome had learned that people did not like to take their bikes down the elevator. They wanted to get on their bike and ride out. Also, the Applicant did not want water tracked into the building. Locating the bike room on the ground floor would encourage people to use their bikes. The bike room also featured a tool tower and pumps, so it was very user-friendly, which he believed was important.

**Mr. Andrews** asked if Palindrome had developed similar facilities elsewhere.

**Mr. Gibson** responded yes, probably over a dozen. A lot of lessons had been learned and each development got better.

**Chair Barrett** called for public testimony regarding the application and confirmed with Staff that no one was present at City Hall to testify and no one on Zoom indicated they wanted to testify.

**Michael Cofflin, Jr.** stated his address was the same as the one he had entered online. He wanted to talk about responsible contractors, stating everyone deserved a job to go to with livable wages and benefits for their families. The construction trade was an outstanding place for all of those things as long as there were responsible contractors for the workers to work for.

- All too often, in order to save a buck, irresponsible contractors were chosen with the pretense that the cheaper the bid, the more money to line the developers' pockets. PacifiCap, JP Pro, All-Seasons, Westside Drywall, and Doctor Drywall were all examples of general contractors and subcontractors that were known to withhold worker pay for 7 to 8 weeks at a time, pay their workers overtime using personal checks, and pay their workers as little as \$10/hour cash at the end of the day in order to line their pockets with more money.
  - All the extra money made was through the exploitation of the workers themselves. Lower wages, substandard working conditions, no benefits, tax fraud, and wage theft only benefited irresponsible contractors.
- Using a responsible developer who hired responsible contractors for the entirety of the TOD project would give Wilsonville the opportunity to rise up and meet the industry standards they represented with better jobs, wages, and benefits for every single person who worked on the project, month after month, year after year. Responsible contractors were here to set the standard.

**Heather Mayther** stated her address was as written. She was a carpenter and had worked in construction for over 20 years. She had worked on dozens of projects similar to this development and, like Mr. Cofflin, she wanted to share a bit about the differences between responsible and irresponsible contractors. For the first ten years of her career, she had worked for contractors who were not responsible, and she had never made a living wage, or had healthcare, a pension, or hopes of buying a home in the communities she helped to build.

- In July of 2011, she welcomed a surprise pregnancy of triplets and relied on public assistance for health care and to help get her family through the days. At that time, she joined an apprenticeship program that was available to all and helped more women get into the trades and earn a living wage. She began working for contractors that were responsible, that paid a living wage, provided healthcare for her family, and a pension. She made six figures and was able to buy her first home in 2018 and pull her family out of generational poverty.
- Affordable housing meant only 30 percent of income could be utilized for rent and utilities and was designed to keep people in poverty, quite the opposite of what she and her fellow speakers were trying to do here.
- She appreciated the food bank onsite and advised Ms. Galloway that when she was struggling and relying on affordable housing, she would have loved some kind of daycare as hers was \$4,000 a month. She believed having space for a tap room/coffee shop, but not a daycare warranted a deeper look and many more questions, which she would have at a later date.
- Tonight, however, she asked the DRB and Staff to demand that the developer and general contractor on the subject project hire responsible contractors so that people building the proposed affordable housing did not have to apply to live in it, that everybody on the project could thrive in the community they were building in.

**Tino Juarez** stated he was a carpenter that lived, worked, paid taxes, and spent money in Wilsonville. He wanted to shine light on so-called community developers like Palindrome Communities that practiced profit over people on their jobsites.

- Palindrome Communities' sister company, PacifiCap, which normally managed their construction projects, had a known history of hiring irresponsible subcontractors like JP Pro Framing and TMG Wall Systems, and Palindrome had a history of exploiting the local work force.
  - He had received a phone call over Christmas from a worker from one of these companies who claimed he went six weeks without pay. What a way to spend the holidays. When he asked the PacifiCap superintendent about the pay issue, he brushed it off, pushed the blame and responsibility onto someone else, and stated it was not his problem.
- He had listened to the Board, Staff, and Applicant tonight discuss details such as tree roots and the activation of the area but no language pertaining to protecting the working class and the people who would work on this project.
  - He asked the DRB which member would lead, rise to the occasion, and require Palindrome Communities to include language and items that would provide a safeguard for the working class so the working-class community would not be taken advantage of.

**Haley Alves** stated her address was as written on the DRB card and introduced herself as a representative of the carpenter's union. She visited job sites all over the Metro area daily to talk to workers, and wanted to submit this comment so that it was added to the public record because it was important to bring to light some events that occurred on construction projects in the community.

- She had personally witnessed workers being paid in cash or with personal checks with no deductions on the SE 92nd Ave Palindrome project in Portland. When contractors committed tax fraud in that way, the effects cascaded from the individual workers and into the community.
  - Community members that were forced to work off the books were unable to prove their income to finance a car, rent an apartment, or achieve the dream and stability of home ownership. When those workers were injured or fired unjustly, even when their boss failed to pay them, as she had seen multiple times with this contractor, there was no safety net available.
- Although the Applicant had spoken earlier about lessons learned, they had shown no sign of learning any lessons about children that missed meals, fell behind at school, and failed to thrive. Desperately needed funding for schools, hospitals, and infrastructure were lost.
  - The City allowed public money to boost the profits of a contractor and leave those with the least power in a broken system behind. She assured the DRB that this issue was not limited to a single project and was bigger than they could imagine.
- As community leaders, she asked the DRB to convene and work together with her regarding how they would safeguard the local workforce from the exploitation that had occurred because of the lack of oversight in the industry and the availability of public funds on the subject project.
- It had to be asked how the City was helping to address the housing crisis when they allowed affordable housing to be built on the backs of exploited workers who then qualified for even more affordable housing.
  - A better job needed to be done vetting who and what developers had access to tax dollars by adding language to ensure responsible contractors were selected moving forward.

**Jesus Saucedo** stated his address was written on the DRB card. He was a Latino in the construction industry and the proud father of three Latina daughters. He had personally witnessed and been the victim of extortion and wage theft on projects similar to the subject project. Subcontractors such as

TMG, G Builders, and JP Pro had all worked under Palindrome Communities, which was tied to PacifiCap, Inc.

- He had spoken to several construction workers that were still owed money after a month with no pay while continuing to work. When he had asked why they continued to work for such subcontractors, he was told it was the normal practice now. The children of parents working in those conditions would be statistics, not being able to go to college or continuing education and possibly living off government assistance because their parents were victims themselves to these contractors and many more.
- He strongly encouraged DRB and Staff to hold developers such as Palindrome Communities and contractors accountable for their actions on the subject project and future projects.

**Jonathan Rodriquez** stated his address was on the testimony card. As a Latino in the construction industry, he had concerns about who was designing the affordable housing. He had spoken with a construction worker who had worked under Palindrome Communities who was not paid for months. Additionally, this happened to 20 other workers, and the moment those hard workers received a check, it bounced, not just once, but three times. There were even videos of PacifiCap admitting to what was happening on their sites.

- One worker lost his index finger on a Palindrome project. Everyone used their index fingers on a daily basis, and he could not imagine having to retrain himself to use a tool, or even a cell phone, when that finger was the moneymaker. Now that worker sat at home with no income.
- He asked the City, as the owner of the property, if they were going to choose an advocate that used an out-of-state contractor and \$1.9 million of State funding. He asked if the developer was for the community or for themselves.

**Scott Schaefer** stated his address was provided on the list. He was present tonight to speak on the construction industry's tax fraud and the resulting negative effects on local and state economies, as well as to taxpayers. Such tax fraud was a business practice of the subcontractors PacifiCap used on their projects.

- Lost tax revenue. When construction companies engaged in tax fraud, they often underreported their income or inflated expenses, which resulted in a lower tax payment, which led to lost revenue for local and state governments, reduced funds for public services, infrastructure development, and other essential programs.
- Unfair competition. Companies involved in tax fraud had a competitive advantage over law-abiding construction firms.
  - By evading taxes, fraudulent businesses could offer lower bids on projects, which made it harder for honest companies to win contracts, stifling fair competition and creating an uneven playing field within the construction industry.
- Job losses. When fraud hindered the growth and competitiveness of legitimate construction businesses, it could lead to job losses.
  - Those job cuts affected not only the workers employed by those businesses, but also suppliers and contractors who depended on their operations. Ultimately, that could give a negative impact on the local and state economies leading to increased unemployment rates and reduced consumer spending.

- Decreased government funding. Reduced tax revenue from fraudulent construction companies could limit government funding for vital public services, such as education, healthcare, and transportation, which could hinder the ability of local and state governments to invest in infrastructure projects, public safety, and other essential services, thereby negatively impacting the overall economy.
- Increased tax burden on honest taxpayers. When tax fraud occurred, the burden of financing public services and infrastructure investment fell on honest taxpayers.
  - With reduced tax revenue from fraudulent companies, governments might need to increase tax rates or implement new taxes to cover the shortfall. This placed an unfair burden on law-abiding citizens, potentially leading to decreased disposable income and reduced economic activity.
  - Oregonians' personal income tax burden was the second highest in the nation.
- In conclusion, construction industry tax fraud could have significant and detrimental effects on state and local economies, including lost tax revenue, unfair competition, job losses, decreased government funding, and increased tax burdens on honest tax payers. Combating tax fraud within the construction industry was essential to protect the economy and ensure a level playing field in the industry.
  - The subject property was a City and publicly owned property. The City should have a prevailing wage and apprenticeship requirement for those local workers. When those requirements were not followed, the community was the loser.
  - The City was helping this developer by allowing the project on public land and was helping them exploit a local workforce, a workforce that could not even afford the affordable housing because of the cash payments.

**Ms. Guile-Hinman** confirmed the Board had questions for those who had provided testimony and agreed to ask those members of the public to return.

**Ms. Galloway** stated she had questions for Staff and the Applicant.

**Mr. Pauly** suggested first allowing the Applicant's rebuttal, and then the Board could ask more questions.

**Mr. Andrews** asked what the origin of the concerns from those providing testimony in mass was regarding subpar wages. He was unclear as to how it was connected to the current development proposal.

**Mr. Pauly** replied those may be things for consideration by City Council later and not germane to tonight's decision.

**Ms. Guile-Hinman** invited one of the testimony speakers to answer Mr. Andrews' question.

**Mr. Schaefer** stated he represented the Carpenters' Union and stated he and his fellow union members believed in affordable housing, but it had to be for everyone. The exploited workers could not afford any of the units and could not even fill out an application because they had no check to show the landlord.



- The subject project would be great, but he urged Board members and Staff to check out Palindrome Communities and rethink what they were doing with this developer. Palindrome Communities' practices at PacifiCap, and the practices of their subcontractors, had led all those who had testified to tonight's meeting.
- He and his fellow union members would not have attended and spoken tonight if Palindrome Communities was a good developer. They had seen what happened on their projects and that was why they were here tonight.

**Ms. Guile-Hinman** advised members of the audience that after the Applicant had an opportunity to rebut, Staff would also have the opportunity to provide additional information, and she encouraged those in attendance to stay for that discussion.

**Ms. Galloway** asked Staff to explain the process the City used for reviewing RFPs, if an RFP was how the Applicant's proposal came to the City for this project. Did the City look into how a developer treated their contractors and how they paid them? She also wanted a response from the Applicant regarding the concerns expressed tonight.

**Chair Barrett** called for the Applicant's rebuttal.

**Mr. Gibson** stated his father had been a member of the Carpenters Union his entire career, and as a child he had experienced Christmas when his dad had no check. He understood the plight of construction workers and wanted the members of the audience to know where he was coming from.

- The proposed project would be subject to prevailing wage as the project had a BOLI wage requirement. The project also had a workforce equity requirement.
- Palindrome Communities had had several projects with prevailing wage and equity workforce requirements that also featured apprenticeships, support, and training in the construction trades.
  - He noted that the requirement for the subject project was that 100 percent of it, everything contained within the construction contract, was subject to State of Oregon prevailing wage, including carpenters, cleaners, landscapers, and drywallers. Every job on the site would be subject to prevailing wage and workforce equity. That requirement stemmed from Metro and the State of Oregon, who was providing the primary source of funding for the project.
- He was not involved in the details of JP Pro but knew that there was a contract dispute with them. JP Pro was a subcontractor of Palindrome's affiliated construction company, and Palindrome would never hire them again. Palindrome would have fired JP Pro early on in that project but because of the contract Palindrome had with them, they would have been subject to litigation if Palindrome did not allow them to perform, even though they were not paying their workers.
  - Oftentimes, Palindrome offered to pay the workers because that subcontractor was failing.
  - It was a bad decision to hire JP Pro. They were not qualified, and that was the same with some of the other subcontractors whom Palindrome would never hire again.
- The issues raised by the members of the Carpenters Union were valid. He reiterated that JP Pro and other contractors on the job that the union members had referred to were mistakes and Palindrome would never use them again. Those were not the type of contractors Palindrome planned to use in Wilsonville, and they were not the type of contractors they typically employed.

**Chair Barrett** asked what recourse workers had if they were not paid for their work on the subject project.

**Mr. Gibson** stated recourse for the worker should be via complaints made to BOLI, which had a very strong enforcement division, but it was complaints-driven. After receiving a complaint, BOLI would assign an investigator and look into it. There was also a requirement to report it to Metro as they were one of the funders.

- For workforce equity, Palindrome did monthly tracking wherein they reported wages and required their subcontractors to certify their wages to Palindrome by showing a certified payroll.

**Ms. Guile-Hinman** advised the DRB that these types of concerns were not related to a land use decision. For audience members, she noted that the property was currently City-owned, and the City had done a request for proposals.

- Unrelated to the land use development decision by DRB, the City Council would be separately considering a development agreement with Palindrome that outlined the obligations of both parties moving forward with the subject development. City Council would be considering that in late February or early March, and she encouraged audience members to reach out to City Council if there were things they wanted to see in the development agreement.
- City Council was a more appropriate avenue for them than with the land use approval; however, having heard their comments, and having a Palindrome representative present as well as herself, they could work on addressing the comments and concerns from the audience members ahead of the City Council meeting, and she appreciated the audience members coming out tonight to share their concerns.
- She noted that the following points regarding RFPs were for educational purposes only and not part of the DRB's decision-making.
  - There were two different processes that a local jurisdiction could undertake whenever it wanted a piece of its publicly owned property to be developed. One was a standard public contracting request for proposals wherein the local jurisdiction did a straight contract with a private entity to develop a project, which typically occurred when the local jurisdiction retained ownership of the property.
  - In a case where the local jurisdiction was offloading the property, there was a separate state process, particularly for affordable housing, that allowed for more leeway in how the evaluation was done.
  - For the subject property, the City had done a request for qualifications first, which was a call for companies who had done these types of projects before to submit a portfolio. From that request for qualifications, the City put out a specific request for proposals to those the City deemed as potentially appropriate to do the subject project and then had them go through a conceptual project design and budget.
    - The next step was a scoring system, and a recommendation was made from that scoring by City Staff and a consultant who had assisted throughout the entire process. City Council made the final decision whereby they selected Palindrome from the qualified proposers. That action was taken last year.

- The City then entered into a memorandum of understanding with Palindrome, which was totally separate from the land use side; that was the City, as the owner of that property, doing that work.
- Presently, the City was at the point of entering into a final development agreement that would handle both the construction project and the transaction of the land that was separate from the land use application process. It had been a multi-month process with various stakeholders involved in the review.
- City Staff had also taken onsite tours of various other regional projects completed by all the qualified entities.

**Ms. Galloway** asked if at any time during that process City Staff had looked into any complaints those companies may have had against them by contractors in the past for any issues. She asked if there was any way to ascertain that.

**Ms. Guile-Hinman** replied that Staff gathered references, but she could not say for sure that a complaint check had been done. She noted that the presence or not of onsite childcare was not a decision under the purview of the DRB, but it had been a discussion point amongst City Council, and City Council opted for Palindrome's package for the use of the ground floor space. In City Council's discretion, that was what they wanted to see.

**Mr. Mesbah** stated that when the Planning Commission was looking at equitable housing, he did not recall any issues of systemic inequities in labor, or other elements of construction, being discussed at all.

- While Mr. Pauly had mentioned the issue was for City Council, he wondered in what context the DRB could make recommendations to City Council to look at the contract processes to see if adjustments to policy were warranted regarding systemic inequities in those construction elements. The State had rules, Metro had rules, and perhaps the City could have rules as well. A lot of money was being spent upgrading waste water treatment plants, water systems and such, and he thought that would go a long way to address some of the issues brought up tonight. Although it was not the business of DRB, City Council might want to consider it.

**Ms. Guile-Hinman** noted that for public projects, those same BOLI regulations applied to the City. The City had responsibilities as well and could be held liable if, on public projects, workers were not being paid, so there were checks for that as well.

**Chair Barrett** confirmed the Board could only consider what was before it and not make any other kind of recommendations.

**Mr. Andrews** asked what range of things the Board could propose.

**Mr. Pauly** reminded that most of the items were clear and objective based on the standards. Unless a Board member saw an error in application of the clear and objective standards, it was what it was. The discretionary portion of the application was the waiving of the 30-ft setback.

**Chair Barrett** confirmed there were no additional questions or discussion and closed the public hearing at 9:17 pm.

**Alice Galloway moved to approve the Staff report with the addition of Exhibit D1. The motion was seconded by Megan Chuinard and passed unanimously.**

**Megan Chuinard moved to adopt Resolution No. 427 with the Staff report as amended. Kamran Mesbah seconded the motion, which passed unanimously.**

**Chair Barrett** read the rules of appeal into the record.

#### **BOARD MEMBER COMMUNICATIONS**

6. Results of the December 11, 2023 DRB Panel A meeting
7. Results of the January 8, 2024 DRB Panel A meeting
8. Recent City Council Action Minutes

There were no comments.

#### **STAFF COMMUNICATIONS**

**Daniel Pauly, Planning Manager**, said he anticipated DRB Panel B meetings in February and March. He welcomed Kamran Mesbah as a new DRB member, noting roundtable introductions could be done at the next meeting.

The Board returned to the Election of 2024 Chair and Vice-Chair at this time.

#### **ADJOURNMENT**

The meeting adjourned at 9:27 p.m.