



**DEVELOPMENT REVIEW BOARD PANEL A  
MEETING MINUTES**

**May 8, 2023 at 6:30 PM**

**Wilsonville City Hall & Remote Video Conferencing**

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**Approved**  
June 12, 2023

**CALL TO ORDER**

A regular meeting of the Development Review Board Panel A was held at City Hall beginning at 6:30 p.m. on Monday, May 8, 2023. Chair Jean Svadlenka called the meeting to order at 6:30 p.m.

**CHAIR'S REMARKS**

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

**ROLL CALL**

Present for roll call were: Jean Svadlenka, Clark Hildum, Yara Alatawy, and Jordan Herron. Rob Candrian was absent.

Staff present: Daniel Pauly, Amanda Guile-Hinman, Miranda Bateschell, Kimberly Rybold, Cindy Luxhoj, Amy Pepper, Kerry Rappold, and Shelley White

**CITIZENS INPUT** – This is an opportunity for visitors to address the Development Review Board on items not on the agenda. There were no comments.

**CONSENT AGENDA**

1. Approval of Minutes of the April 10, 2023 DRB Panel A meeting

**Jean Svadlenka moved to approve the April 10, 2023 DRB Panel A meeting minutes as presented. Clark Hildum seconded the motion, which passed unanimously.**

**PUBLIC HEARINGS**

2. **Resolution No. 411. Delta Logistics Site Expansion.** The Applicant is requesting approval of a Stage 1 Preliminary Plan, Stage 2 Final Plan, Site Design Review, Waivers, Class 3 Sign Permit, Type C Tree Removal Plan, Standard SROZ Map Verification, Standard SRIR Review and Variance for Development of a 58,116 square foot warehouse / manufacturing building with accessory office space at 9710 SW Day Road, and minor site modifications at 9835 SW Commerce Circle.

Case Files:

DB22-0007 Delta Logistics Site Expansion

- Stage 1 Preliminary Plan (STG122-0005)
- Stage 2 Final Plan (STG222-0006)
- Site Design Review (SDR22-0006)
- Waivers (WAIV22-0001)
- Class 3 Sign Permit (SIGN22-0004)
- Type C Tree Removal Plan (TPLN22-0005)
- Standard SROZ Map Verification (SROZ22-0006)
- Standard SRIR Review (SRIR22-0004)
- Variance (VAR22-0001)

**Chair Svadlenka** called the public hearing to order at 6:36 p.m. and read the conduct of hearing format into the record. Jean Svadlenka, Clark Hildum, and Jordan Herron declared for the record that they had visited the site. No board member, however, declared a conflict of interest, ex parte contact, bias, or conclusion from a site visit. No board member participation was challenged by any member of the audience.

**Cindy Luxhoj, 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 at the side of the room and on the City's website.

The following exhibits were entered into the record:

- Exhibit A7: Staff memorandum to DRB dated May 5, 2023
- Exhibit B15: Letter from the Applicant's legal counsel dated May 4, 2023, regarding conditions of approval in the Staff report.

**Ms. Luxhoj** presented the Staff report via PowerPoint, briefly reviewing the site's and expansion area's location, key features, and surrounding land uses, and presenting the project as follows:

- The project had been reviewed using all applicable standards in the Coffee Creek Form Based Code and Pattern Book and complied with Coffee Creek review procedures. City Council had reviewed the Annexation and Zone Map Amendment and approved both ordinances unanimously. The appeal period for both ordinances ended on February 18, 2023. (Slide 4)
  - If the Stage 2 Final Plan application was not approved, the Annexation and Zone Map Amendment would expire on June 18, 2023, 120 days from the effective date of the Ordinances.
- Proper noticing was followed for this application with notice mailed to all property owners within 250 ft of the subject property and notice published in the newspaper. An additional posting was placed on the site and the City's website. Due to the nature of the revised review process for projects within Coffee Creek, public notice was mailed and posted on December 15, 2022, January 3, March 7, and April 18, 2023. No public comments regarding the project were received during the comment period.

- The first seven requests before the DRB tonight were objective in nature, as they involved verifying compliance with the standards. The waivers and variance involved discretionary review. (Slide 6)
- The Applicant had proposed three design options for the site expansion area. All options included the same improvements in the central and eastern parts of the site but differed in their interaction with the Significant Resource Overlay Zone (SROZ) in the western portion of the property.
  - The Applicant's preferred Option 1 requested a variance to cross the SROZ with a drive aisle to access trailer cab parking on the west part of the site.
  - Option 2 was the Applicant's preferred alternate option and also included trailer cab parking west of the SROZ but access was via an interim driveway on SW Day Road. That driveway would be replaced in the future by a connection to a Supporting Street offsite to the west and did not include a variance request.
  - Option 3 did not include any crossing of or development west of the SROZ nor a variance request. It did note, however, the potential for future development west of the SROZ under a separate future application.

15:25

- The discussion and findings in the DRB Staff report focused on Site Design Option 3, which was Staff's recommended option because it was the only one that did not intrude into the SROZ or require a variance. Additionally, it minimized impacts on natural resources while still achieving the majority of the Applicant's development objectives for the site.
- The Stage 1 Preliminary Plan proposed expansion of the Applicant's operation northward from their current location at 9835 SW Commerce Circle. The proposed project included a new warehouse/manufacturing building on the eastern part of the site and semi-tractor trailer and cab parking in the center. A driveway would provide access to SW Day Road.
  - The Applicant proposed minor improvements to the north part of their existing site to provide a connection between the two sites and to facilitate semi-tractor trailer circulation. The SROZ and upland area on the western part of the site were proposed to remain in their natural state with potential future development under separate application.
- The Stage 2 Final Plan reviewed the function and design of the project and assured the proposal met all performance design standards of the PDI-RSIA Zone and the Coffee Creek Industrial Design Overlay District and Pattern Book.
  - The 58,125 sq ft structure had the potential for a future internal addition of two storage mezzanines for a total potential floor area of 62,107 sq ft. The structure was designed as a warehouse and manufacturing facility with accessory office use. (Slide 9)
  - The project provided 41 parking spaces, which was the minimum required based on the proposed use. The 15 spaces at the front of the building faced SW Day Road, and 26 spaces were located on the building's south side. Loading, utility, and service areas were located at the west side of the building. Roughly 34.9% of the project site, and 15.9% of the parking area was landscaped, which exceeded the standards. Proposed site improvements met, or would meet with conditions of approval, City standards.

- The Coffee Creek Design Overlay District included a Regulating Plan Map and Connectivity Standards. Land within the Overlay District was subject to additional Connectivity Standards as detailed in Figures CC-4 and Table CC-1. Within Coffee Creek, connectivity was to be provided through existing and planned Addressing Streets, required Supporting Streets, and Through Connections. Planned Intersections were locations where Addressing Streets intersect with required Supporting Streets and Through Connections. (Figure CC-1, Slide 10)
  - The exact location, alignment, and cross-section of required streets or paths complying with spacing and minimum cross-section standards was determined at the time of development review. Table CC-1 specified a 600-ft maximum centerline to centerline connection spacing for Supporting Streets, except for intersections with Addressing Streets SW Garden Acres Road and SW Day Road. If the Addressing Street was SW Day Road, connection spacing was to be no less than 1,000 ft centerline to centerline.
- Specific to the current application, the Applicant proposed frontage improvements and right-of-way dedications on SW Day Road consistent with City design sections for this major arterial and identified Addressing Street, thus meeting the standards.
  - The subject site was intended to obtain access to SW Day Road via the required Supporting Street on its west boundary and the Planned Intersection at its northwest corner. However, if the Supporting Street was the only access for the property, a drive aisle that crossed the SROZ would be necessary to access the eastern part of the site.
  - To minimize impacts on the SROZ and enable the Applicant to access the eastern part of their property, the City Engineer evaluated whether a driveway access on SW Day Road, east of the SROZ would function while continuing to meet safety and Level of Service (LOS) standards. As a result, the City approved the location of a driveway east of the SROZ to enable development of the largest unencumbered portion of the site. The City also specified that development of the western portion of the site would require construction of the required Supporting Street. (Slide 11)
  - Because none of the Applicant's site design options proposed dedication or construction of the required Supporting Street along the west site boundary, Engineering Condition of Approval PFA 14 required the Applicant to dedicate a 31-ft wide public access and utility easement along the western property line to ensure the future required Supporting Street could provide a vital connection for properties in Coffee Creek to the west and south.
- The Traffic Study evaluated five intersections, all of which would remain at LOS C or better, which exceeded the minimum LOS D standard. Staff noted that sight distance for trucks exiting the proposed driveway on SW Day Road was identified as a concern in the Transportation Impact Analysis (TIA) for the project. Site distances were evaluated and determined to be met for passenger cars, not trucks making a left turn from the driveway onto SW Day Road. As a result, Condition PFA 10 prohibited trucks from making left turns onto SW Day Road from the site and must use the existing site access on SW Commerce Circle. (Slide 12)

- Site Design Review. The Applicant used appropriate professional services to design structures and landscaped areas on the site and used quality materials. The proposed tilt-up concrete building with colors including light, medium and dark gray, and white was consistent with the design standards in the Overlay District. The building will also contain perforated metal panels, a steel canopy and metal top cap, and glass. The colors and materials chosen were appropriate for the development.
  - The Applicant had used the General Landscape Standard for the site's frontage on Addressing Street SW Day Road while adding varied plantings to provide the naturalistic landscape character required by the Coffee Creek Design District Standards. Three areas were landscaped to the High Screen standard, including on the south side of the industrial wayside, north of the loading area on the west side of the building, and surrounding the trash recycling enclosure on the south side of the site. The sides and rear of the site, which are adjacent to other industrial-designated properties, were landscaped to the Low Screen standard. (Slide 14)
  - The proposed industrial wayside was located west of the driveway on the south side of SW Day Road frontage in the general area outlined in red. The wayside was designed as a looping detour path with two seating areas. (Slide 15)
    - The paved surface of the wayside path and plaza area were approximately 700 sq ft, exceeding the minimum requirement. Perimeter landscaping would not obscure visual access to the wayside from SW Day Road. Dense landscaping behind the wayside, on the north side, visually separated it from the semi-tractor trailer parking at the interior of the site.
    - Benches and trash bins were provided, and bollard fixtures provided illumination.
- Class 3 Sign Permit. The Applicant had proposed one building sign on the north front façade and one monument sign east of the driveway on the SW Day Road frontage. The proposed signs were typical of, proportional to, and compatible with development in the PDI-RSIA Zone.
  - Conditions of approval would ensure the proposed signs would not exceed the maximum allowed size and that the details of design, color, texture, lighting, and materials were provided at the time of application for Class 1 Sign Permits.
- Type C Tree Removal Plan. A total of 257 trees were inventoried, including 221 onsite and 36 offsite. Trees proposed to be retained were shown circled in green and included 46 onsite trees, primarily in the SROZ and the upland portion of the site to the west, and a few along the east and south property boundaries. The 36 offsite trees along the east and south boundaries would also be preserved and protected during construction.
  - The remaining 175 onsite trees, including trees in the SW Day Road right-of-way adjacent to the site, were proposed for removal. The Applicant would plant 175 trees in landscaping throughout the site and as street trees to meet the one-for-one mitigation requirement. (Slide 17)
- Discretionary Review-Waivers. Per the Development Code Section 4.118 (.03), a waiver must implement, or better implement, the purpose and objectives of the planned development regulations. In cases where the Applicant elected to apply for the waiver track instead of the clear and objective track within Coffee Creek, the Design Guidelines would guide approval of the project. Both requested waivers related to the development

standards in Table CC-3 Site Design in Section 4.134 (.11) of the Coffee Creek Industrial Design Overlay District, and were specific to the proposed development, intended to improve design, and also met the intent of the standards.

The first waiver requested that the vehicle parking area design standards be waived in Table CC-3 of Subsection 4.134 (.11). While the number of proposed parking spaces were within the maximum 16 spaces allowed without an adjustment, the Applicant proposed designating 9 of the 15 total parking spaces for employees, which was not allowed by the standard; therefore, a waiver was requested. (Slide 19)

- The second waiver also regarded Table CC-3 and requested that the maximum retaining wall height standard of 4 ft, or 4.8 ft with an allowed adjustment of 20%, be waived to allow for the varying grades of the proposed retaining wall which was 18.7 ft-high at the northeast corner and along the entire eastern segment to the southeast corner where it descended to grade at the west extent of the south wall. (Slide 20)
  - The north section of the retaining wall, highlighted in red, on the north side of the parking area drive aisle would not be visible from the SW Day Road right-of-way, except at its northeast corner and along the eastern portion not obscured by the building. The retaining wall would be visible from within the north parking area and from the walkway to the office endcap at the northwest part of the building.
  - Soil nails and a finished surface of scored shotcrete that resembled basalt bedrock would be used to construct the wall. The eastern wall section would include a benched landscape area and landscape seating wall at its base, providing the minimum 5-ft horizontal offset required by the design standard. Landscaping was proposed along the entire extent of the wall and was located in a way to avoid the critical root zone of retained offsite trees along the east and south property boundaries.
- Staff recommended approval of the requested waivers. The Applicant would address the waiver criteria and explain how the requested waivers met the purpose of the standards.
- Discretionary Review-Variance. Per the Code, Uses exempt from SROZ regulations included the construction of new public, not private, roads and paths into the SROZ to provide access to or across the sensitive area, provided the location of the crossing was consistent with the intent of the Comprehension Plan and construction impacts were minimized. Therefore, the exemption did not apply to the private drive aisle crossing proposed by the Applicant. None of the other exempt uses or activities listed in the Code applied to the proposed private crossing of the SROZ. (Slide 21)
  - Although two of three Site Design options did not include a drive aisle crossing of the SROZ, the Applicant had not withdrawn the variance request and proposed Option 1 as their preference. Because there was no exemption in the regulations for a private crossing of the SROZ, and the Applicant had failed to demonstrate that the proposed crossing involved the minimum necessary to relieve the alleged hardship, Staff recommended denial of the variance request.
- The Applicant requested that the DRB not impose Engineering Conditions PFA 3 and PFA 11.
  - Condition PFA 3 addressed the looping of the water line serving the site. Looping was necessary to avoid long, dead-end water lines. The proposed main to serve the hydrant

on the south side of the building was approximately 750 ft long, which was considered a long line. The City's Water Master Plan had identified an existing deficiency in the fire system on the Applicant's existing site. The proposed fire system would need to be looped to ensure there were no performance or reliability issues in the future.

- Although looping the water line through the Applicant's existing site on SW Commerce Circle would improve performance and liability, it was not essential to serve the development. Therefore, deleting the second sentence in the condition was acceptable to the City. (Slide 22)
- Condition PFA 11 addressed water line easements, but not the looping of water lines specifically. Dedication of all necessary water line easements was a standard requirement of development when public utilities were located on private property. As such, no modification of this condition was warranted.
- The Applicant also requested that the DRB not impose Condition PFA 14, which addressed the dedication of an easement to enable construction of the required Supporting Street along the site's west boundary, shown in the Coffee Creek Regulating Plan Figure CC-1, either with the current application or at some point in the future.
  - Compliance with the Coffee Creek Code and Regulating Plan occurs during the Stage 2 Final Plan application and approval. In Stage 2, the Applicant showed future development on that portion of the property, which would take access from the Supporting Street. Since development was anticipated in the future, striking that condition was not acceptable, and no modification to the condition was warranted.
  - Staff had communicated to the Applicant that the City would consider a modification proposed by them provided it achieved the City's objective of providing that vital connection to SW Day Road for properties in Coffee Creek, but the Applicant had not proposed such a modification.

**Chair Svadlenka** confirmed there were no questions for Staff and called for the Applicant's presentation.

**Garrett Stephenson, Attorney, Schwabe Williamson & Wyatt, 1211 SW Fifth Ave, Suite 1900, Portland, OR, 97204**, stated he represented the Applicant and appreciated the Staff report and the recommendation for approval. Both the Applicant and Staff had worked hard on the project, and he believed the Applicant was 99% in lockstep with Staff regarding the project.

- Regarding Condition PFA 14 requiring the 31-ft easement, he noted of the three options, Option 2 would involve development of the west side parking lot and Staff would not support the proposed access out to the street. Although there was a possibility of accessing the other street in the Coffee Creek Plan in the future, the Applicant determined that plan would not be feasible with a 31-ft easement.
- He encouraged the DRB to focus on Options 1 and 3, noting the main divider between those options was the variance request. He did not believe there was a scenario in which Option 2, even if approved, would work from a development standpoint if the 31-ft easement was required.

**Lee Leighton, Lead Planner, Mackenzie, 1515 SE Water Ave, Suite 100, Portland, OR, 97214,** stated the project had begun in late 2020, noting the design work had been very intensive to figure out how to make the sloping site work for industrial development and for the owner, Delta Logistics, located to the south. Staff had provided a lot of guidance, and while they had not agreed on everything, Staff had been very professional in representing the City, and they had been good dialogue back and forth. The property presented a number of challenges, and the Applicant had worked hard to address them. He presented the Applicant's proposal via PowerPoint with these comments: He highlighted the success story of Delta Logistics, which began as a two-employee start-up over 20 years ago and had since grown into a multi-state, multimodal logistics service company. Delta moved to its current Wilsonville site in 2016 with 57 employees, and now had 113 full-time employees serving more than 2,500 customers, with other locations in Washington and Illinois. In the Northwest, the company served customers within an approximate 270-mile radius of Wilsonville. The Applicant was a great success story for Wilsonville and a regional employer that was growing and doing well. Delta's acquisition of the subject site and its development proposal reflected their success.

- He commended Ms. Luxhoj for her excellent Staff report which covered most of what the Applicant would have covered in their presentation.
- Anyone visiting the site would have seen how steep Day Road was in front of the property and how it transitioned along the frontage. East of the site was an apex vertical curve where a high point in the road prevented seeing oncoming traffic when trying to exit the driveway. Therefore, a driveway any farther to the east was impractical due to unsatisfactory sight distance. As a result, the Applicant had to identify an appropriate driveway location that was operationally safe and would also allow grading within the site to allow for the connection to the south where the existing headquarters operation was located.
  - The result was the initial plan shown by Ms. Luxhoj. He indicated where the connection could be made to the existing Delta Logistics site and come through the site and back out to SW Day Road. The grades could be made to work, but only with substantial excavation of the building's site so the finished floor's elevation would be low enough to allow practical access and circulation for trucks. The grade had to be less than a 3% cross slope through the site to allow safe maneuvering for trucks and trailers. It had been a very difficult design exercise.
- Additionally, the Applicant proposed to protect Tapman Creek, which was in the SROZ and flowed north to south through the site. Option 1 included some impacts to the creek with mitigation of those impacts. Option 3 did not include any impacts on the protected buffers around the creek.
  - Due to a downstream flow constraint in Tapman Creek about a half mile south of the site, the City required the site to have over-and-above stormwater retention, and the proposed raingarden facility was designed to detain more than the standard 25-year storm design. In Option 3, stormwater retention was only designed for the development as seen on the east side of Tapman Creek.
  - The Applicant's 100-year storm rain garden facility would enable the site to outflow water to Tapman Creek at the same rate it did now. The water would be detained in the ponds and slowly released to mimic the downstream flow, which would reduce the



amount of water at the pinch point farther south to help mitigate or at least not contribute to that constraint, even in very high storm events.

- The building's main entrance was located on the northwest corner of the building and was immediately visible when entering the site from the driveway and the visitor parking was clearly visible by the front door to the left. Visitor traffic and trucks comingling was dangerous for everyone, but with only one driveway, the design layout split truck traffic off as soon as they enter the site and gave trucks leaving the site plenty of opportunity to see vehicles entering the site and hold back until it was safe to proceed.
- The crosswalk was located away from the driveway because it was the only place an ADA accessible path from the street could go due to the grades and topography. It also allowed the Applicant to move the pedestrian path and crosswalk of the passenger vehicular drive aisle away from the throat of the driveway which was safer for pedestrians walking to and from the building because they would not cross a truck path to access the main building entrance.
  - There was also room for an incoming vehicle to move aside and wait for a pedestrian to cross without being backed up into the drive aisle. The concentration of bringing things close together was functionally very attractive and important.
- The wayside was located just to the west of the driveway and adjacent to the sidewalk along SW Day Road, presented itself nicely to the street, and would likely be used as an outdoor break area for employees as well as a refuge for pedestrians.

**Adam Goldberg, Project Architect, Mackenzie**, said the Applicant believed the proposed building was a step above the normative, tilt concrete warehouse. They had paid close attention to the Coffee Creek Design Guidelines in a few key ways, paying special attention to the prescriptions of the base, middle, and top elements of the building. The lower 10 ft of the building was accentuated with a darker contrasting paint scheme and a series of perforated corrugated metal panels that stood off the building that met or exceeded the minimum standoff requirements.

- In the main body of the building, some horizontal banding was accentuated and punched openings and glazing were also included. Some of the horizontal bands continued across the building to the bumped-out corner that was the main office and building entrance. The entry was celebrated with a large, wraparound steel canopy that protected the pedestrian access to the building. That datum also carried across to a perforated metal screen wall that screened the visual perspective from the streets to the truck apron. Plantings in front of the screen also beautified the area. The top of the building was met with an 18-in tall painted metal coping which stepped off at least an inch and a half as well.
- At the north and front of the building, the metal panels would run horizontally in the medium/dark gray bands with a 16-ft datum that carried across the entire middle of the building from the top band to the canopy to the top of the screen wall. The color scheme included a series of grays and a callback to the site's natural basaltic rock features, which would also be celebrated in the large retaining wall adjacent to the building. (Slide 9)

**Nicole Ferreira, Landscape Architect, Mackenzie**, stated the Applicant wanted to ensure the site's entrance provided a multi-tiered and naturalized experience. The front tiered landscape

strip included both meadow and stormwater facilities, depending on one's location along the frontage, and separated bicyclists from the street; then another landscape strip with street trees separated bicyclists from pedestrians, and adjacent to that was a generous, 20-ft landscape buffer that also incorporated the wayside, which had a sight-obscuring buffer behind it. The elevation change of the sidewalk helped screen the building from the street. A pedestrian sitting in the wayside would not know they were seated next to a truck court. (Slides 10-11)

- Staff asked the Applicant to consider views of the retaining wall from both offsite into the site and from inside the site outward which challenged the design team to ensure the wall was aesthetically pleasing and that there was sufficient screening at the start and close to full screening of the wall when the plantings matured.
  - Smaller, new trees would be planted at the north side of the building along the property line. The south side of the building had existing trees both to the east and to the south that would be protected. The wall was outside the dripline of all of the existing trees. The Applicant worked with their geotech and the City to come to a solution that helped protect the neighbors' trees for their ability to develop their property in the future. She indicated where the Applicant bumped a portion of the wall out to accommodate the dripline of an existing tree. She noted the soil nail wall technology did not require the Applicant to over excavate to construct the retaining wall.
- Three different wall options were considered. (Slide 17) The Applicant preferred Option 1 which had a 10-ft offset so the soil nails would not cross over the property line. The wall in Option 2 would be compliant with the current standards, but the tiers would start 6 ft to 10 ft away from the wall and could not be done in a way to allow both trees and fire access behind the building. The compromised reached with Staff was to have a lower pedestrian-scale wall to create a space for people to enjoy. (Option 3) However, her concern was that trees were needed to prevent a wind tunnel.
- During construction, an arborist would be on site to assess the situation and ensure the trees were substantially preserved. Soil nails would be positioned to minimize the risk of affecting significant roots of existing trees. The arborist had been an integral part of the development plan for the wall, as well as the Applicant's geotech.

**Janet Jones, Traffic Engineer, Mackenzie**, reiterated there were several challenges related to site design and the offsite impacts of visibility along SW Day Road. To provide an adequate driveway that was both safe and efficient for the site, the Applicant had to address site grading, circulation, separating trucks from passenger vehicles, and ensuring safe mobility onto SW Day Road with respect to the vertical crest on Day Road to the east. Various site access points were reviewed for sight distance, which had been verified both in person at the site and by utilizing AutoCAD modeling with Metro-provided topographical data to ensure the proposed driveway location was, in fact, safe and allowed for clear visibility through the roadway surface. (Slide 18-19)

**Mr. Stephenson** noted Chair Svadlenka's opening remarks stated that it was incumbent upon the Applicant to raise any potential constitutional issues before the end of the hearing process,

adding he would briefly touch on those items now and referenced Exhibit B15, which discussed Conditions PFA 3, 11, and 14 that Staff had already mentioned.

- Regarding Conditions PFA 3 and 11, he appreciated that Staff had stated the Applicant did not have to connect the waterline down to Commerce Circle. However, he would maintain their objection to those two conditions, because he did not know what a looped waterline would require of the Applicant at this point. The objection to Condition PFA 11 was not because they did not think stormwater lines needed to be in easements, but mainly because Condition PFA 11 lived with the condition for a loop down to the Commerce Circle waterline, so it made sense to address both conditions together. He believed they could potentially work through those two conditions, but it was not yet apparent to the Applicant since they had just seen the revised condition today and did not yet know how it would work.
- Condition PFA 14 regarding the 31-ft public easement had a number of problems and was the key condition. First and foremost, it would effectively prohibit doing anything from a practical matter to the west side, which was why he had asked the DRB not to consider Option 2. The constitutional issue was that under no scenario would the Applicant be able to access the new street that the Coffee Creek Plan may or may not locate directly adjacent to the Applicant's property. (Slide 20)
  - Oregon case law stated if a developer was not proposing to access a street and would not be using it in any way, they did not have to dedicate right-of-way or build that street. There could be a future scenario where the City wanted to build the street and the Applicant could be a partner in that, but at this point, the constitutional problem was that the Applicant did not need the street connection to make Option 3 work.
  - If the street was not needed by the Applicant nor impacted by the Applicant, the City could ask that it be built but had to pay for it. Unlike a condition that required design alterations or to meet a code, this condition asked for an interest in property for a goal that was unrelated to the application before the DRB, which was why the Applicant objected as explained in his letter. (Exhibit B15)
- He believed the Applicant had a good application, and they agreed with Staff on the vast majority of the elements. If the DRB imposed Condition PFA 14, the Applicant had the option to appeal and then seek damages in circuit court or go to the Land Use Board of Appeals, as set out under Oregon law.
- He had racked his brain about how the Applicant could use the site with that condition but based on the image on the Alternative Site/Access Plan – Option II (Slide 20), he could not envision the Applicant coming back for a Phase 2, which Staff had alluded to that, but a completely different accommodation on the location of that street was needed for the Applicant to be in a position to come back with a future development plan.
- Unless the DRB approved the requested variance, there was no potential for any development on the west side of the site in the near future. The Applicant had some ideas about the street's location, but they were not before the DRB tonight. The Applicant requested that the DRB approve the application, and if the Board did not find that the variance was warranted, that Option 3 be approved.

**Mr. Leighton** noted the parking spaces were special; they were not for cars or trailers, but rather for the tractors and were a special size and shape; however, they still required a 24-ft drive aisle behind them for two-way circulation to maneuver in and out of the parking spaces. With a 31-ft wide easement for the future right-of-way dedication plus the required 10-ft landscaping setback from the street, it was not possible to achieve a single-loaded parking area for any type of vehicle because the corridor would be too narrow to make the two-way circulation and parking spaces work. Consequently, there was no scenario in which the western part of the property would be usable.

**Clark Hildum** asked if the western parking lot was necessary for part of the subject project.

**Mr. Leighton** explained it was part of Option 1, the Applicant's preferred plan, because it would add overall capacity so the site could better accommodate the Applicant's growth and the equipment required to meet those needs. Option 1, which required the variance for the crossing, would allow the Applicant to internalize all the truck and unit movements, allowing a tractor to drop off a trailer at the dock door and park without going back out to the street, which would add trips on the arterials of the street network. Achieving that internal circulation would enable the Applicant to do a better job of reducing trip generation and friction on the streets, which was why Option 1 was preferred.

- Because the Applicant wanted to find a path forward and avoid a dispute, they decided to take the western development piece off the table for now and move forward with what could be approved now and take up that issue later, in a separate application, which would also have to come before the DRB, especially if it needed a variance, waiver, or approval.
- Consequently, the City would get another opportunity to determine whether this was the appropriate alignment for the Supporting Street. There was correspondence in the record about whether that was the case, but Applicant believed that would sort itself out as more development happened to the west of this site in Coffee Creek where 100 or more acres were available for future development. He believed it made more sense to determine the correct alignment for the Supporting Street during future development.
- The Applicant's driveway needed to be located as proposed for proper operation and safety, as far as sight distances, etc. Staff's location for the Supporting Street was 500 ft away, even though the Staff report noted the desired spacing for Supporting Streets, broadly speaking, was 1,000 ft. There was a lot of room to achieve that 1,000 ft west of the subject property, and 1,000 ft beyond that to Garden Acres Road. Therefore, the situation would likely resolve itself favorably as more development projects came forward in the future.
- Not having the tractor parking in the western part of the site was disappointing, but it was tolerable and better than the project not moving forward. He asked that the DRB make a decision to enable the project to keep moving forward.
- He confirmed the Applicant had no ownership, interest, or control of the property west of the subject site.

**Chair Svadlenka** understood the public easement and Supporting Street would be located at the very westernmost section of the Applicant's property. Some diagrams seemed to show a

potential supporting road going through the property but still some available space to the west of it near the existing residence.

**Mr. Leighton** explained that the Portland General Electric power lines corridor came up through the property, and the Applicant could cross under that easement as long as a building was not built. With subject property line and the Bonneville Power Administration (BPA) corridor, which pivoted and formed a funny angle in the southwestern part of the property, there was only a small triangle on the neighboring property immediately to the west between SW Day Road, the subject property line, and the BPA corridor. No industrial building could occur anywhere close to that alignment for a Supporting Street and vehicles would either be driving underneath the BPA lines or a long way to get to the parking lot and building. Any building would have to be built on the far west side, so from a design standpoint, that area to the west was not a good opportunity to achieve the kind of street-facing, street relationships desired in Coffee Creek. That concept would work well farther west with the BPA corridor in the back.

- Similarly, if the Supporting Street was back up against the BPA corridor, he questioned whether a developer would build the east side of a Supporting Street that was right against the BPA powerlines corridor where no industrial development would occur.
- The Applicant believed time was likely to work the situation out. He reminded that if Delta decided to develop the western property in the future, another review procedure would be required. There might be an impact that warranted a dedication, construction, etc., but the Applicant was not proposing to make that access happen as part of Option 3, so there was no impact on that corridor that made it appropriate to ask the Applicant to commit to a dedication at this time.

**Mr. Stephenson** stated if the Applicant were to provide right-of-way in the City's preferred location, he believed the alignment of the street would be too close to one of BPA's current or future supporting towers. A tower was needed where a transmission line turned, and those towers required substantial easements on both sides so they could be accessed regardless of traffic. While there could be a situation in which a street could go perpendicular under some lines, if a line turned, it could be a problem based on how the easement was laid out.

- He agreed this was not the process through which to plan the road. The Applicant's proposed Options 1 and 3 neither required nor accessed the future Supporting Street. While the Applicant believed Option 1 was warranted, they would not stand between the City realizing its street program and the Applicant doing their development. The difference was if the City wanted a street built there, it would have to pay for the street, which was how the Constitution worked in this case.
  - The Supporting Street was very much in contrast with the frontage improvements the Applicant was making along SW Day Road, which Delta currently accessed and used. Staff's position had been that the Applicant could not cross the SROZ to access it and could not have a direct access on the west side from SW Day Road. The Applicant would have to build the street, but as a practical matter, aside from Constitutional matters, the Applicant could not make that work.
- He asked the DRB to carefully consider Options 1 and 3, adding the City did not need to require Condition PFA 14 at this point. If the Applicant came back with a plan to somehow

develop the area, the City and Applicant could discuss how that street could be built, and how the Applicant could participate, but now was not the time.

- He did not believe the condition was constitutionally permissible, adding a lot more planning and design work should go into clarifying where the alignment needed to be based upon the potential or lack of development as mentioned.

**Chair Svadlenka** confirmed the Applicant's design included a separate bike lane and pedestrian lane, as required by the City, and that the bike lane was completely separate from the street with a curb as opposed to a typical bike lane. She understood the Applicant would construct the separated bike lane along Delta's section of Day Road and asked how the transition between the new separated bike lane and the existing sidewalk would work.

**Amy Pepper, Engineering Development Manager**, confirmed the separate bike lane would extend the entire length of SW Day Road. Some interim transitions would be used until the properties to the west and east were developed, but the Applicant would construct their portion and then as development occurred, the entire section of SW Day Road would be improved. The Applicant would also construct the transition from what currently existed to their new improvements.

**Chair Svadlenka** asked if there was currently a bike lane, and if not, how a transition from no bike lane to a bike lane and back to no bike lane would occur.

**Mr. Hildum** noted there was about a 3-ft wide space between the road and the curb that would support the transitions.

**Chair Svadlenka** asked if the trees on the south property line were new plantings because it looked like all the trees on the south property line were being removed. (Slide 16)

**Ms. Ferreira** replied there were trees on the adjacent property that would be retained. Some trees on the Applicant's side of the property could not be protected so they would be removed and replaced with new trees.

- She clarified the trees with the green overlay were the existing trees to remain. The displayed Tree Protection and Mitigation Plan did not show the trees to be removed. The larger black symbols showed trees proposed for planting and the smaller symbols surrounded by green were trees to remain and be protected. The green represented the dripline, the root protection zone. (Slide 16)

**Chair Svadlenka** asked if Condition PFA 3 was acceptable with the second line removed.

**Mr. Stephenson** replied the modifications to the conditions had only been received today, so the Applicant had not yet had a chance to see if they could make them work. The Applicant had to preserve their objections to them because they did not know if they were workable or not. He suspected they might be, which was why he preserved his objection to Conditions PFA 3 and 11 together. The Applicant understood the conditions required a new waterline connection.

The waterline the Applicant would use for the project came off SW Day Road, and the original condition stated it needed to be looped in with Commerce Circle to the south, which was a much longer line than ever anticipated, making it a pretty expensive improvement that did nothing to serve the property, but did appear to fix a deficiency in SW Day Road.

- The Applicant had preserved their objection to the easement because they believed they would not only have to build the waterline, but also determine how get an easement for the City to preserve that line. He understood the condition now allowed the Applicant to loop within the boundaries of the property. If that was feasible from an engineering standpoint and they could provide an easement, it should be fine, except for a water easement that ran through the building.
- He reiterated the need to maintain their objections as they had not had time to review the modifications.

**Daniel Pauly, Planning Manager**, added Staff had received the letter Thursday, noting there was time to continue the hearing, if more time was needed to iron out the modifications.

- He confirmed the only change was striking the second sentence in Condition PFA 3. Condition PFA 11 remained the same and was essentially tied to PFA 3. Though the words were the same, it was a substantially smaller ask with the change in PFA 3.

**Mr. Stephenson** reiterated the change might be entirely acceptable, the Applicant just did not know yet. He stated he did not want to continue hearing because June 18th was the deadline for getting the initial approval of the zoning and annexation. He asked the DRB to make its decision tonight to keep the project moving forward. If the conditions were retained, the Applicant could consider whether to appeal to City Council. He did not believe Conditions PFA 3 and PFA 11 would likely be appealed as they could be figured out; however, he did not see how PFA 14 was a sustainable condition under the Constitution. He was concerned about pushing out any further in case the Applicant still needed to appeal. He asked that the DRB approve either Option 1 or 3, regardless of the conditions.

**Amanda Guile-Hinman, City Attorney**, stated that Legal's recommendation was to continue the hearing, particularly for PFA 14, because Option 3 was listed as potential future development whereas other developers in Coffee Creek did phases for their Stage 2 plan; for example, presenting a Stage 2 plan just for Phase 1 that was not connected to a Supporting Street; therefore, a dedication or building a right-of-way was not discussed because that was not a consideration for Phase 1. Whereas the Applicant's materials state there is potential future development, so there probably was some proportionality, which was the Constitutional analysis mentioned by Mr. Stephenson that could be applied. City Staff had not conducted a proportionality analysis due to only receiving the letter on Thursday. If that condition was going to stand as is, and it was likely the Applicant would continue to raise that objection, the proportionality analysis needed to be in the record. Without that, she was not comfortable advising the Board to make a decision today if there was going to be an objection to it. The hearing should be continued so Staff could conduct that analysis and put it in the record. Alternatively, the application could be modified to not show that possibility of future development, although she was unsure if that could be accomplished tonight.

**Mr. Stephenson** responded with all due respect to Staff's legal counsel, he had two problems with that. If there was a continuance, the Applicant might not be able to get the project to work. He did not want the City to put the Applicant in the position to either accept the condition or it would not be approved, and the zoning would go away. He doubted Ms. Guile-Hinman was suggesting that, but he did not want to get to that point, practically speaking. He had made it clear earlier in the hearing that there was no way the Applicant could do an option where they access the new street. Therefore, unless the DRB was prepared to approve Option 1, there was no scenario in which the City would be able to make a case for a nexus in proportionality because the Applicant would never be able to get over that SROZ to access that street. He disagreed that potential future development was an adequate basis to make a case for the City. The Applicant did not have a future development to show anyone, and as a practical matter, there was no way to develop the project and meet Condition PFA 14 on the little parking lot to the east.

- He noted it was the City's burden to establish the nexus and proportionality, and if Condition PFA 14 was imposed and the Applicant appealed, the City would have the opportunity to do that in preparation for the appeal to City Council. He did not want to get to that point, but he did not think a continuance was the right decision for the City. He did not believe it was required by Delta's application. If the DRB approved only Option 3, as Staff requested, there was no opportunity, from a practical standpoint with Condition PFA 14 in place, for the Applicant to develop the additional parking area. He did not think that Staff having the additional opportunity to prepare findings to try to make a case for this was warranted unless the Applicant could actually develop something there and could access it, but the Applicant could not; it was just not possible.

**Chair Svadlenka** asked if Staff had a preference for a continuance of Condition PFA 14 versus keeping it in the application and going to appeal.

**Ms. Guile-Hinman** replied she was worried about the timeframe to accomplish that as she believed the appeal timeframe to Council was 14 days. She. The main question was the Applicant stating there was no possibility of future development while the application materials showed potential future development. She understood that Ms. Luxhoj had done a mockup that included the 31-ft easement and that there was a possibility for future development, which was why this had become an issue.

**Mr. Stephenson** noted, as a procedural point, that the record was open and the fact that the application materials showed three options did not mean the Applicant could not state tonight that the options for that western development were not on the table, which had been stated. The Applicant was unaware this condition was going to come down until they saw the Staff report, so they were not in a position to design around it. Had they known about the condition earlier, they likely would have withdrawn the other options.

He suspected he knew the answer to approving Option 1, but unless the DRB approved a crossing of the SROZ, the Applicant was not representing to the DRB that there would be a future development that looked anything like what they had for the parking unless something



changed in a future application. At this point, it was not practical to withdraw options, but after seeing Staff's proposed condition, they had to walk away from that.

**Ms. Guile-Hinman** recommended taking a short recess so Staff could attempt to work out some language to codify the representations being made.

**Chair Svadlenka** called for a brief recess at 8:14 pm and reconvened the meeting at 8:50 pm.

**Ms. Guile-Hinman** stated Staff was typing up the agreed-upon modified condition of approval for the DRB, but essentially City Staff and the Applicant had recommended changing Condition PFA 14 to essentially state that any future development west of the SROZ would include the Applicant providing the appropriate right-of-way, dedication, easement, or improvements reflective of their proportionate share of the impact of their development. If the DRB moved to approve, it would be with the amendments to both Conditions PFA 3 and PFA 14 with Option 3. She asked the Applicant's representative to comment on the record about the agreement.

**Mr. Stephenson** stated this was a much better option for both the DRB and the Applicant, which was under a huge time pressure, and it was substantially risky for both sides to perpetuate the original version of Condition PFA 14. He and City Attorney Guile-Hinman had discussed the change, cleared it with their respective clients, and he supported the proposed amendment. He reiterated that the Applicant really wanted a decision tonight, and he believed the DRB now had everything it needed to resolve the matter and issue a decision.

**Chair Svadlenka** confirmed the Board had no questions of the Applicant.

**Mr. Hildum** stated the building was a beautiful project and would be a nice asset to the community. [inaudible] He continued noting that SW Day Road was rapidly becoming very busy, and the City would likely want to limit ingress and egress from that road in the future. Consequently, he did not think the mythical road west of the subject development would ever be built. Additionally, he could not see how the road would be required for future development, so he did not believe Condition PFA 14 was necessary.

- Regarding Condition PFA 3, he would be very hesitant as a property owner to give anyone a water right-of-way through his property, so he did not think that was necessary for the City.
- In terms of Option 3, as a property owner, he would object strongly to giving up that much property to a wetlands or undeveloped area. Option 2 had been eliminated, which left Option 1, which he believed was very good, and the preferred choice. It would allow trucks to use either SW Day Road or cut through the Applicant's other property to Commerce Circle.

**Jordan Herron** understood Option 1 involved going over the creek noting plans were in place, such as the raingarden, to minimize impact to the creek. He asked if that was the only potential impact being minimized or were there additional impacts to the creek the DRB had not yet heard about.

**Mr. Stephenson** stated the Applicant decided to use a bridge to cross the wetland as the objective was to avoid damage to the wetland itself. There were likely some mitigation elements to the riparian area around the wetland as well.

**Mr. Leighton** stated the Applicant's initial application included a wetland delineation and a biological assessment by Kim Biafora, now Kim Carpenter, of Shott & Associates, who conducted a thorough inventory, and the Applicant had calculated the impact. Although they were using a bridge to cross the actual wetlands, pavement was needed on either side to access the bridge, which would cause impacts on the buffer areas around the wetlands, so they calculated the area needed for those as well as the appropriate mitigation ratios, and the proposed Option 1 exceeded the required mitigation ratios. If there was an impact in one area, in another area adjacent to the wetland, plantings could be installed or improved conditions established to mitigate those impacts. The Applicant had accomplished all of that entirely with onsite mitigation, as opposed to paying a fee into a mitigation bank that would enact changes elsewhere in the watershed. As part of the application for Option 1, that mitigation plan was integral to the proposal and achieved ratios in excess of the minimum requirements.

**Mr. Pauly** explained that the bar was set higher for variances as opposed to waivers. Due to the specificity of variance criteria, an argument that worked for a waiver would not always work for a variance such that it was unique to the site and was the minimum necessary to relieve the hardship. For the subject application, Staff had looked at it seriously and believed the variance criteria themselves were not met and those positive findings could not be made, which was why Staff had recommended denial. Had this been a waiver situation, Staff would have looked at it differently.

**Kerry Rappold, Natural Resources Manager**, stated that he administered the SROZ. He noted a variance had never been approved in regard to the SROZ. The City had a fairly restrictive Code that protected three categories of resources. The buffer seen on the subject property was the buffer from Tapman Creek. The wetlands identified within the project area were not locally significant wetlands so did not receive the same 50-ft buffer which was a requirement the City implemented as part of Metro's requirements for Title III.

- Doing something that spanned the area more completely was the only way to significantly minimize the crossing. Extensive retaining walls were being used to construct the bridge, so it had a fairly significant footprint within the buffer area as it crossed the creek. Impacts to the downstream system had to be offset based on having the larger stormwater management facility, so this was probably the most constrained drainage system within the city. It had been an ongoing problem for years. So, the denial was not really a consideration in terms of the variance, but any type of crossing in the area would create constraints in terms of how the stormwater conveyance system was addressed in the future. It was not an ideal location for a crossing either. The proper function of this drainage system in terms of conveyance would also be an ongoing issue as Basalt Creek developed in the future.

**Chair Svadlenka** 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.

**Yara Alatawy** understood Option 3 with no future potential development was the only option on the table.

**Mr. Pauly** confirmed Option 1 with a variance was also still available but would require specific language from the Board to change the variance findings to make findings that the variance criteria were met. The variance criteria were used when codes were not meant to have a waiver available or be easily changed. The bar was high, so the Board would have to look carefully at the findings if they wanted to go in that direction. [2:34:18]

**Ms. Alatawy** understood Option 1 might be considered if—

**Mr. Pauly** interjected yes, adding in Staff's opinion, those findings could not be—

**Mr. Stephenson** interjected the Applicant had an application that had detailed sets of an explanation of why this variance was justified. The issue here was that the Applicant applied and told Staff why they met the criteria for a variance, and Staff did not agree. If the DRB approved the variance, the Board could simply approve the language in the application, and he believed there was a supplement as well. He did not want it to sound like there was no explanation of why they believed the variance was met; it was part of their application. The issue was Staff would not provide the DRB with that because Staff did not think it was needed. If the DRB wanted to approve the variance, the Board would essentially be agreeing with the application as written by the Applicant.

**Mr. Pauly** noted the Applicant did not have Goal 5 findings, because a Goal 5 resource was being impacted, Goal 5 findings were still needed.

**Mr. Stephenson** replied specific Goal 5 findings were not needed because both the SROZ program and the variance process were acknowledged to comport with Goal 5. The only time a Goal 5 finding was needed was if there was not an approved Goal 5 program, and Wilsonville had one.

**Mr. Pauly** responded that essentially the variance would be ignoring the Goal 5 program, and he did not think the City's Goal 5 approval directly addressed the use of a variance to go away from the Goal 5 program.

**Ms. Alatawy** asked for further clarification about Goal 5 in relation to the variance requested for Option 1.

**Mr. Rappold** explained Goal 5 came in to play because the SROZ program was adopted by the City to be in compliance with that statewide planning goal. The City put together its own Code

and allowed for the variance process to be entertained in regard to a situation such as this where there was no other way to approve it. That said, the City had never had an application before that sought a variance in regard to something like this.

**Kimberly Rybold, Senior Planner** added that she believed Ms. Luxhoj had researched the application of the adopted State standard relative to the Safe Harbor. She did not know if Ms. Luxhoj or Mr. Rappold had anything further to add on that topic and how it related to the SROZ.

**Mr. Rappold** replied there were a number of ways to comply with Goal 5 in terms of procedures to follow or the means by which to comply, and Safe Harbor was one of those approaches an applicant could apply to protect the resources of a protected area. However, with this application, they were complying with Metro's Title III requirements in terms of the buffer that the City added. The City protected every single stream in the city, whether it was manmade or natural, with a minimum 50-ft buffer, and the Code was constructed such that impacts were allowed only to a very small portion of the SROZ, which had to be within an area called the Area of Limited Conflicted Use and that did not include waterways, which only left the option of having some an exempt use or activity, or request a variance; however, the variance criteria still had to be met in terms of compliance.

**Chari Svadlenka** noted Conditions PFA 3 and 14 were being changed. Because she was not in favor of approving the variance, she was in favor of Option 3.

**Mr. Herron** stated he was also in favor of Option 3.

**Mr. Hildum** replied that he was still in favor of Option 1.

**Ms. Alatawy** supported Option 3.

**Mr. Herron** added he did not like any impact to the wetlands that could be avoided. They were a huge part of why he had moved to Wilsonville, and that highly shaped his decision.

**Mr. Hildum** agreed that impacts on wetland areas should be minimized, but the City had taken an agricultural area and converted it to an industrial zone and some of that was just going to have to be impacted if they were going to continue with the Canyon Creek Industrial Zone. He believed the building a bridge like the one proposed was minimal, and the impact was minimal.

**Chair Svadlenka** noted that Mr. Rappold had spoken about the impacts related to the retaining wall and all the concrete that would go in, which resulted in a significant impact overall.

**Mr. Hildum** replied overall, the impact would be relatively insignificant to the size of the area.

**Chair Svadlenka** disagreed, adding she believed the impact was significant because the SROZ there was not huge.

**Mr. Hildum** agreed, but believed it was large enough to withstand that, although he did not know the importance of that SROZ.

**Mr. Herron** stated he had not heard a strong enough case for approving a variance when Wilsonville had a history of not doing so in that area. He did not think any impact was worth it and protecting the land was more important in this case.

**Ms. Guile-Hinman** confirmed Option 3 included the possibility of future development.

**Ms. Alatawy** suggested that with potential future development there might be other workarounds and solutions for the area for potential growth or development as long as the Applicant had the developed area.

**Ms. Guile-Hinman** replied that the Applicant's point about the agreement regarding the easement right-of-way dedication discussion on the western portion was the City did not have a clear idea yet of what the street alignment should be and that ultimately, the alignment could result in more potential opportunities for future development farther to the west. The fact that the development agreement included that this issue would be addressed in the event future development occurred, showed that additional discussion could occur about that right-of-way to the west and what that orientation would look like.

**Mr. Hildum** stated future development would increase traffic on SW Day Road, and he did not know how much traffic SW Day Road could accommodate. Consequently, he did not believe that westside street would ever be necessary or built.

**Mr. Pauly** replied Staff had those conversations and the street was essential in some connections and not just a line on a map. The City was very serious about it as part of the Transportation System Plan. There were long properties located on Garden Acres Road, so to enable development behind them, some there would be another street; otherwise the block would be too big. Although the exact alignment was currently unknown, there would definitely be another street there likely sooner rather than later, due to development pressure.

**Chair Svadlenka** confirmed there were no further questions or discussion and closed the public hearing at 9:16 pm.

**Mr. Pauly** stated he wanted to put on record that the exhibits contained plans that had the different options, so when stamped approved, the City would only stamp approved the drawings and plans that reflected the option that was adopted. He clarified that typically when a Staff report was adopted, all the exhibits reflected what was being adopted but in this case, the exhibits had other drawings based on options that were not being adopted.

**Ms. Guile-Hinman** added that the language regarding Condition PFA 14 was in the email Board members received, and that email had also been provided to the Applicant.

Chair Svadlenka stated that the modified Staff report included the Option 3 design and proposed changes to Conditions PFA 3 and PFA 14.

**Chair Svadlenka moved to approve the amended Staff report, including the modifications of Design Option 3, adding Exhibits A7 and B15 and the amendments to Conditions PFA3 and PF14 as provided by Staff. Jordan Herron seconded the motion.**

*(Note: the following changes were made to the record with additional language in bold, italic text and deleted language struck through.)*

- **PFA 3. With the Public Works Permit:** The construction drawings shall show all necessary temporary water line looping to avoid long dead-end water lines. ~~Water line looping to the existing water line across the SW Commerce Circle site is required to improve system performance and reliability.~~
- **Revised PFA 14. Prior to Final Building Certificate of Occupancy Prior to issuance of Public Works Permit:** The Applicant shall dedicate a 31-foot wide public access and utility easement along the western property line for the purposes of a future Supporting Street. ***Applicant agrees that if Applicant applies to do development west of the SROZ, the Applicant will provide adequate right-of-way/easement/improvements reflective of its proportionate share of its impact, which agreement will be reflected in a development agreement.***

The motion passed unanimously.

**Chair Svadlenka moved to adopt Resolution No. 411 including the amended Staff report. The motion was seconded by Jordan Herron and passed unanimously.**

Chair Svadlenka read the rules of appeal into the record.

#### **BOARD MEMBER COMMUNICATIONS:**

3. Results of the April 24, 2023 DRB Panel B meeting
4. Recent City Council Action Minutes

There were no comments.

#### **STAFF COMMUNICATIONS**

**Daniel Pauly, Planning Manager,** announced that DRB Panel B was undergoing the Transportation Training that Panel A had already done.

#### **ADJOURN**

The meeting adjourned at 9:23 p.m.

Respectfully submitted,

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