

**RESOLUTION NO. 1701**

**A RESOLUTION STAYING THE APPEAL BY AMB PROPERTIES/ TRAMMEL CROW OF THE DECISION OF THE DEVELOPMENT REVIEW BOARD (DRB) AND ACCEPTING A REQUEST FOR VOLUNTARY REMAND OF 01DB01, A DRB RESOLUTION ADOPTING FINDINGS DENYING AN AMENDMENT AND MODIFICATION TO THE STAGE I (PAYLESS DISTRIBUTION CENTER MASTER PLAN) AND DENYING NEW STAGE II SITE DEVELOPMENT PLANS, SITE AND DESIGN REVIEW PLANS, AND SIGNAGE FOR 256,000 SQUARE FOOT HIGH CUBE WAREHOUSE/DISTRIBUTION BUILDING; AND TOLLING THE STATUTORY PERIOD FOR DECISION (120 DAYS) AT THE APPLICANT'S REQUEST.**

WHEREAS, the applicant has requested in writing by letter to the City Council dated March 16, 2001, a copy of which is marked Exhibit A, attached hereto and incorporated by reference as if fully set forth herein, to stay its appeal, toll the 120-day period, and remand to the Development Review Board for further proceedings in accordance with the Assistant City Attorney's letter of March 15, 2001, a copy of which is marked Exhibit B, attached hereto and incorporated by reference as if fully set forth herein; and

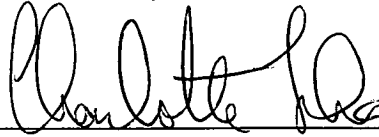
WHEREAS, a remand is also consistent with the record suggestions offered by the DRB that applicant consider a reapplication in that the applicant has the opportunity to substantially revise its application.

NOW, THEREFORE, THE CITY OF WILSONVILLE RESOLVES AS FOLLOWS:

1. As recited above and in accord with applicant's written request of March 16, 2001, Exhibit A, and the Assistant City Attorney's letter of March 15, 2001, Exhibit B, the appeal by AMB Properties/Trammel Crow of the Development Review Board Resolution 01DB01, denying an amendment and modification to Stage I (Payless Distribution Center Master Plan) and denying new Stage II site development plans, site and design review plans, and signage for 256,000 square foot high cube warehouse/distribution building is stayed at the request of the applicant; and

2. The applicant's request for a voluntary remand to the Development Review Board and tolling of the 120-day period is allowed.

ADOPTED by the Wilsonville City Council at a special Council meeting thereof this 19th day of March, 2001, and filed with the Wilsonville City Recorder this same date.



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CHARLOTTE LEHAN, MAYOR

ATTEST:



Sandra C. King, CMC, City Recorder

SUMMARY OF VOTES:

Mayor Lehan	<u>Yes</u>
Councilor Helser	<u>Yes</u>
Councilor Barton	<u>Yes</u>
Councilor Kirk	<u>Excused</u>
Councilor Holt	<u>Yes</u>

**BALL JANIK** LLP

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CHRISTEN C. WHITE

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March 16, 2001

EXHIBIT A

**By Telecopy**

Ms. Joan Kelsey, Office of City Attorney  
City of Wilsonville  
3000 SW Town Center Loop E  
Wilsonville, OR 97070-0220

Re: Appeal by AMB Properties/Trammell Crow Company  
Casefile No. 01DB01

Dear Joan:

This letter responds to your March 15, 2001 outline concerning my clients' request for a continuance of the appeal under 01DB01. As you know, we have requested this continuance so that we can respond to the concerns raised by the DRB in its February 12, 2001 decision and have an opportunity to submit a modified application to the City. We believe it is appropriate under the circumstances to stay the current appeal of 01DB01 and remand the application to the DRB for modification.

We understand that the appeal in 01DB01 currently pending before the City Council will be stayed and that the applicant will submit a revised application to the City for review. The City of Wilsonville's Zoning Code, revised in June of 1997, will continue to apply to the remanded application and the remand will not affect the 24 trips contemplated under the original proposal. The City will accept the revised application, schedule a remand hearing and expeditiously process the modified application through public hearings. If the DRB approves the remanded application and such approval is acceptable to the applicant, the suspended appeal will be withdrawn by the applicant. If the DRB decision is not acceptable, the applicant may either appeal the DRB decision on remand or notify the City that it wishes to continue with the appeal currently stayed. Accordingly, the applicant will waive the 120-day processing rule on the suspended appeal. The 120-day period will resume and tolling shall cease within 30 days of notice of appeal on remand or notice of resumption of the stayed appeal.

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PORTLAND, OREGON WASHINGTON, D.C. BEND, OREGON

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BALL JANIK LLP

Ms. Joan Kelsey, Office of City Attorney  
City of Wilsonville  
March 16, 2001  
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Lastly, in the event the applicant withdraws the remanded application prior to the close of the first public hearing by the DRB, the applicant will be permitted to submit a new application as provided under WC 4.024. In the event a new application is submitted, the applicant will withdraw the stayed appeal.

We appreciate this opportunity to work with the City on a development proposal that meets the applicants' objectives and is responsive to the City's concerns.

If you have any question regarding this response, please feel free to give me a call.

Very truly yours,



Christen C. White

CCW:crs

Cc: Steven T. Klein  
Jill Blechschmidt  
Stephen T. Janik

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Wilsonville, Oregon 97070  
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March 15, 2001

EXHIBIT B

Christen C. White  
Ball Janik LLP  
One Main Place  
101 SW Main Street, Suite 1100  
Portland, OR 97204-3219

Re: Appeal by AMB Properties/Trammell Crow of Resolution 01DB01

Dear Christen:

This letter is in response to your letters of March 13, 2001 and March 14, 2001 requesting a continuance of an appeal of 01DB01 by AMB Properties/Trammel Crow Company, currently scheduled for public hearing by the City Council on March 19, 2001.

As you know, city staff has already expended considerable time and effort preparing for this hearing. However, if the applicants are requesting to submit revised plans to address the concerns raised in the DRB public hearing, then the City Council would have good cause to stay the appeal and remand the application to the DRB, according to the following terms:

1. The appeal in 01DB01 currently pending before the Wilsonville City Council will be stayed;
2. The applicant will submit a revised application to the DRB for review. The former City of Wilsonville Planning and Zoning Code will continue to apply in review of the application. The city will accept the revised application, schedule a remand hearing, and work with the applicant to expeditiously move the revised application through to public hearing(s);
3. Subject to paragraph 5, the applicant agrees to waive the 120-day processing rule for the suspended appeal in order to submit a revised application and provide for the city to review such application;
4. In the event the DRB approves the revised application for development and such an approval is acceptable to the applicant, the suspended appeal will be withdrawn by the applicant;



5. In the event the DRB decision on the revised application is not acceptable, the applicant may a) appeal the DRB decision on remand, or b) notify the city within the 14-day appeal period that it wishes to continue with the appeal currently stayed. There will be only one appeal. Within 30 days of notice of appeal on remand or notice of resumption of the stayed appeal, the 120-day period will resume and tolling shall cease. .
  
6. In the event the applicant withdraws the revised and remanded application prior to the close of the first public hearing by the DRB on the application, the applicant may submit a new application for good cause as provided for under WC 4.024. Before a new application is accepted for review by the City, the applicant shall provide notice in writing to the City that the appeal filed February 22, 2001 is withdrawn. The stayed appeal of 01DB01 shall automatically terminate upon receipt of such notice.

Thank you for your courtesy.

Very truly yours,



Joan S. Kelsey  
Assistant City Attorney

jsk:dp

cc: Blaise Edmonds, Senior Planner/Manager of Current Planning  
Arlene Loble, City Manager