

**Wilsonville City Hall
29799 SW Town Center Loop East
Wilsonville, Oregon**

**Development Review Board – Panel A
Minutes– August 12, 2019 6:30 PM**

Approved
September 9, 2019

I. Call to Order

Chair **Joann Linville** called the meeting to order at 6:30 p.m.

II. Chair's Remarks

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

III. Roll Call

Present for roll call were: Joann Linville, Fred Ruby, Daniel McKay, and Angela Niggli. Jennifer Willard was absent.

Staff present: Daniel Pauly, Barbara Jacobson, and Kimberly Rybold

IV. Citizens' Input: This is an opportunity for visitors to address the Development Review Board on items not on the agenda. There were no comments.

V. Consent Agenda:

A. Approval of minutes of July 8, 2019 DRB Panel A meeting

Fred Ruby moved to approve the July 8, 2019 DRB Panel A meeting minutes as presented. Daniel McKay seconded the motion, which passed unanimously.

VI. Public Hearing:

A. **Resolution No. 367. Industrial Focus: Gavin Russell, CIDA Architects & Engineers – Representative for David Nicoli, Nicoli Pacific LLC – Owner.** The applicant is requesting approval of a Stage II Final Plan, Site Design Review, Class III Sign Review and Type C Tree Removal Plan for development of Phase I of a new three-phase multi-tenant industrial complex. The subject site is located on Tax Lots 300 and 500 of Section 14A, Township 3 South, Range 1 West, Clackamas County, Oregon. Staff: Cindy Luxhoj

Case Files:	DB19-0013	Stage II Final Plan
	DB19-0014	Site Design Review
	DB19-0015	Class III Sign Review
	DB19-0016	Type C Tree Removal Plan

This item was continued to this date and time certain at the July 8, 2019 DRB Panel A meeting.

The applicant has requested that this item be postponed to the September 9, 2019 DRB Panel A meeting, date and time certain.

Daniel Pauly, Planning Manager, noted a letter was received from the Applicant's attorney dated August 2, 2019 that requested another continuation to the DRB's next meeting on September 9, 2019. That date was not an issue as it was still within the allotted 120 days and

would allow additional time to work through the questions that surrounded the appropriateness of the Public Works requirements. Planning Staff had no other comments.

Barbara Jacobson, City Attorney, added that the letter was in the packet, so the Board could read the exact language of the letter. She clarified there was still a dispute regarding the same condition previously discussed between the Applicant and Staff, so it had been suggested that the Applicant and Staff meet again to work it out. The Applicant's attorney had indicated they were willing to meet, but they were not available to meet in time for tonight's hearing. Therefore, it was mutually agreed upon that the matter would be continued to the next hearing.

Chair Linville stated that generally a continued hearing would not be open to comments, but she believed that the Applicant, wished to comment and invited him to come forward to speak.

Dave Nicoli, 17888 SW McEwan, Lake Oswego, OR, pointed out that at the end of the last meeting on July 8, it was decided and a commitment was made, that a meeting would be held last month. On July 10, the Applicant sent an email to Cindy Luxhoj, the Planner and point person they were working with, and asked her if she would help facilitate or make the meeting happen. The Applicant was told on July 17, that the City could not meet with them due to time constraints. And, a couple weeks later, the Applicant received a letter from the City's attorney that gave them options. The Applicant did not ask for the meeting to be moved or postponed, which was frustrating. because the City Attorney just framed it in the letter as if the Applicant had asked for the meeting to be postponed. He reiterated it as the Applicant had asked the meeting to be postponed. They had not. The Applicant was backed into a corner and given options, one of which they had to choose. His preference was to decide the issue tonight. His actual preference was to have had the meeting last month as previously agreed to. He stated again, for the record, that they had not asked to go to next month; they were forced into it.

- He stated he was a landowner and had lived in the area, in Tigard, his entire life. His father had been on the Planning Board, and his brother, the mayor. As such, he had driven by the subject property for years, and thought he could build a beautiful monument that was something he could give back to the community. The process had been good, and people had been receptive. But as a businessman, he had set aside assets to go forward, and had the application been approved in August, he would have been committed and full steam ahead. In his opinion, it had been delayed because the City was trying to force him to do something that was not constitutional, but he had a Plan B and a Plan C. The construction season for 2019 was over, as everybody was too busy, and ground had to be broken prior to the rainy season. There was no way he could get started this year, so the soonest he could begin was May 2020. He was not under any serious pressure to move, so that was not a problem; however, he had other opportunities in which to spend that money and thought it was a shame that he and the City were at this point. He reiterated that he had not asked for a delay. The four weeks the City took to respond to an attorney's letter and not conduct a meeting because they were too busy, in his opinion, demonstrated an unwillingness to work with him, as a developer, to try to get something done.

Chair Linville noted the letter received from Attorney Michael Connors at Hathaway Larson requesting a continuance to postpone the hearing until September 9, 2019 to accommodate a meeting was in the packet.

Fred Ruby moved to continue Resolution No. 367 to the September 9, 2019 DRB-Panel A meeting date and time certain. Daniel McKay seconded the motion, which passed unanimously.

Mr. McKay thanked the Applicant for his comments.

B. Resolution No. 368. Bullwinkle's Class 3 Sign: Meyer Sign Company of Oregon – Applicant for Wilsonville Land Partnership – Owner. The applicant is requesting approval of a Class 3 Sign Permit and Waiver for a new electronic reader board on a new pylon sign along I-5. The subject property is located at 29111 SW Town Center Loop West on Tax Lot 100 of Section 14D, Township 3 South, Range 1 West, Willamette Meridian, City of Wilsonville, Clackamas County, Oregon. Staff: Kimberly Rybold

Case Files: DB19-0028 Class 3 Sign Review

Chair Linville called the public hearing to order at 6:47 p.m. and read the conduct of hearing format into the record. All Board members 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.

Angela Niggli declared that she worked for Bullwinkle's from 2002 to 2011; however she had no...

Kimberly Rybold, Senior Planner, announced that the criteria applicable to the application were stated on page 1 and 2 of the Staff report, which was entered into the record. Copies of the report were made available to the side of the room.

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

- Bullwinkle's, formerly known as the Family Fun Center, had requested a Class III Sign Permit, which was required because of the requested waiver. Some recent architectural modifications to the Bullwinkle's building included the approval of new exterior signs and a rebranding, so the Applicant proposed converting the existing pylon sign, currently along the highway, to a new pylon sign with a cabinet for a digital changeable copy sign, which required a waiver and the Class III Sign Permit.
- Slide 4 showed the history of the evolution of the current pylon sign to the present. The current sign was approved by DRB in 2009 with a waiver to the maximum height and size requirements. The proposed new sign was 29 ft, 9 in in height and 72.5 sq ft in size.
- To coordinate with the new building signs and renovation of the building, the Applicant applied for and received a Class I Sign Permit earlier this year to install a new sign cabinet on the existing poles and foundation. The Applicant had since modified that proposal and now wanted to shrink the first pylon sign cabinet and install a digital changeable copy sign underneath.
- Digital changeable copy signs, as well as a few other types of signs, were listed in the Sign Code as prohibited; however, they were approached more as conditionally permitted, allowable in certain circumstances, and subject to limitations. As such, a digital changeable copy sign required a waiver, as well as a sign proposal that demonstrated that it met the sign waiver criteria. Specific criteria also had to be met for the changeable copy sign itself which included luminance that did not exceed 5,000 candelas per sq meter between sunrise and sunset with a reduction to 500 candelas per sq meter between sunset and sunrise, dimming technology, and a time limit in which a message could be displayed.
 - The Code prohibited changing image signs with movement or copy change at an interval of less than once every 15 minutes was. Changeable copy was defined in the Code as

something that could be conditionally permitted by the DRB with a hold time of at least 15 minutes.

- The sign waiver criteria that applied to all sign waiver requests reflected the Sign Code purpose statement, so in evaluating the proposed request, Staff looked at how the sign would meet those criteria.
 - The proposed sign coordinated with other recently approved signage on the site and was typical in size and placement to other signs along the I-5 frontage in the area.
 - The digital sign would allow the Applicant to display messages that would otherwise require the hanging of temporary banners, which would have also required separate permits, thus providing an enhanced aesthetic to the sign.
 - In meeting the conditions of approval included with the Staff report, the digital changeable copy sign would not negatively impact safety.
 - In addition to meeting the City's Sign Code requirements, the City received comments from ODOT, which had requirements for signs along I-5 as well. The proposed sign as presented before the DRB met those ODOT requirements, which were included in the packet as Exhibit C1.
- Staff recommended approval of the Class III Sign Permit and waiver with the conditions as noted in the Staff report.

Daniel McKay asked if the changing requirement included scrolling text.

Ms. Rybold confirmed that was correct, the image had to be held for at least 15 minutes.

Chair Linville asked for more details about the dimmable feature.

Ms. Rybold stated that although she did not know how the technical aspects worked specifically, she believed this type of digital sign could be controlled from inside with a timer to assign a time for the sign to dim. She confirmed the sign would be brighter during daylight hours.

Mr. McKay understood there were two requirements that needed to be met, minimum and maximum candelas during the day as well as dimming technology that would measure the ambient light and adjust the sign accordingly within the minimum and maximum parameters.

Ms. Rybold believed that was the concept, but deferred to the Applicant to address the technical details.

Chair Linville called for the Applicant's presentation.

Rob Breazile, Sales Representative, Meyer Sign Company, 2800 SW74th Ave, Tigard, OR stated in response to questions regarding the lums and dimming that the sun was 4,800 lums during the day and the sign was automatically preset to run at 5,000 so the content on the sign would be visible. At night, the signs were automatically preset to run at 300, as anything higher became blinding. Those two automatic settings were called Sunset and Sunrise, and the settings were preprogrammed in, but were changeable by wireless control that Bullwinkle's would have access to, although there was no reason to do so except to turn the screen to all white in order to conduct maintenance. Another positive aspect of the proposed sign was the aesthetics, as it would eliminate the need for temporary banners. Bullwinkle's intended have only one message and that image would only change every 24 hours.

Chair Linville asked what would be seen onscreen if the signal was interrupted or the digital portion malfunctioned.

Mr. Breazile replied that in his years of selling the message center, there had only been one incident of malfunction. The screen had gone stagnant and kind of shook; however, businesses had control to immediately turn off the sign if that or anything else occurred. It would only be turned back on once tech support was present to provide maintenance.

Chair Linville asked if the digital display would be on both the park side and freeway side.

Mr. Breazile confirmed the sign would be perpendicular to I-5 and have two sides.

Angela Niggli asked if the text would scroll and how many lines of text there would be.

Mr. Breazile stated scrolling was not permitted per ODOT and City Code. He reiterated that there would be one message per day that would remain stagnant.

Ms. Niggli asked how much information could be displayed on the proposed sign.

Mr. Breazile responded on the proposed sign, Bullwinkle's could display up to four lines with 28 letters each, using letters that were 5½ -in high.

Mr. McKay understood those letters would appear pretty small from the freeway.

Mr. Breazile agreed, stating traffic went by at 75 or 80 mph, and one needed 35 or 40 feet to read each inch of text. Bullwinkle's would most likely opt for only one line with 2-ft letters, such as "Bowling" or "Free Tokens", which would be easily visible from I-5.

Chair Linville called for public testimony in favor of, opposed and neutral to the application. Seeing none, she confirmed the Applicant had no rebuttal.

Mr. McKay asked if the City had any requirements regarding sign maintenance.

Ms. Rybold replied she did not believe the Code addressed maintenance aspects. She noted that prior to making a motion, the second line of the Resolution title language should read, "digital changeable copy sign," instead of the current "electronic reader board," to maintain consistency with the Sign Code language.

Fred Ruby noted Condition PD2 on Page 5 stated that, "The Applicant shall ensure that the sign is maintained in a commonly accepted, professional manner."

Ms. Rybold stated if a malfunction resulted in flickering lights, for example, the City could declare that a public nuisance and abated accordingly.

Chair Linville confirmed with Staff that the Sign Code stated the sign could not flash or be movable.

Chair Linville confirmed that Board members had no recommendations or changes to the conditions and closed the public hearing at 7:08 pm.

Fred Ruby moved approval of Resolution No. 368, amending the Resolution title to state, “...FOR A NEW ELECTRONIC READER BOARD DIGITAL CHANGEABLE COPY SIGN ON A NEW PYLON SIGN ALONG I-5...” and adopting the Staff report as presented. The motion was seconded by Angela Niggli and passed unanimously.

Chair Linville read the rules of appeal into the record.

VII. Board Member Communications

A. Recent City Council Action Minutes

Kimberly Rybold, Senior Planner, stated the only action related to land use was the adoption of the ordinance for the Zone Map Amendment at the June meeting for the Nicoli Site. She confirmed it was approved at both the first and the second reading, adding that the ordinance was now effective.

VIII. Staff Communications

Kimberly Rybold, Senior Planner, announced that tonight was Fred Ruby's last meeting. He had served on DRB Panel A since 2016, including serving as Chair, and Staff was appreciative of the time he had spent with the City and wished him success in his new home in Tigard. She then presented Mr. Ruby with a gift of appreciation.

Chair Linville thanked Mr. Ruby, on behalf of the Board, for his service and great leadership; adding he would be missed and the Board wished him all the best.

Fred Ruby thanked Chair Linville and said the DRB A had been a great Board to serve on.

Mr. McKay thanked Mr. Ruby also, stating that he had looked to Mr. Ruby when learning proper Board decorum, adding that Mr. Ruby had been a great instructor.

Mr. Ruby thanked Mr. McKay for his comment, noting that the Board had had wonderful membership. He had been on the Board long enough to see many changes and thought the City of Wilsonville really appreciated its volunteers. He believed that reputation helped attract qualified people to the Board and it had been his pleasure to serve.

IX. Adjournment

The meeting adjourned at 7:13 p.m.

Respectfully submitted,

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