

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

**Development Review Board – Panel B  
Minutes–August 22, 2016 6:30 PM**

**Approved**  
February 27, 2017

**I. Call to Order**

**Vice Chair Richard Martens** 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: Richard Martens, Aaron Woods, Samy Nada, Samuel Scull, and Council Liaison Julie Fitzgerald. Shawn O’Neil was absent.

Staff present: Daniel Pauly, Barbara Jacobson, and Steve Adams

**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. City Council Liaison Report**

**Councilor Fitzgerald** reported on the recent City Council meeting as follows:

- In work session, a presentation was given about a potential ordinance or code for the City to consider regarding the aesthetic requirements for the installation of any new cell phone transmitters in the City’s rights-of-way. The objective was to prevent transmitters from interfering with the functions of the City’s rights-of-way. Further proposals would be forthcoming from staff.
  - The Council reviewed the IT Strategic Plan to assess whether the City was sufficiently staffed to keep up with the City’s and the citizens’ IT needs; Council would be deciding how to proceed with Staff’s recommendations over the coming weeks.
  - Council continued discussion on the Town Center Redevelopment Plan contract.
  - Council also discussed and responded positively to a project to reopen the Willamette Falls Locks. While the project would involve a number of different entities, Wilsonville would be positively impacted if the locks were reopened.
- During its regular session, Council approved Ordinance No. 795, an amendment for about three acres in the Villebois Village Center.
- Council discussed Clackamas County Gas Tax measure for the November 2016 ballot. All of the cities in the County were asked to adopt a resolution regarding the gas tax.

**Aaron Woods** inquired about the status of an earlier request by the Council for input on the IT Strategic Plan and whether input was still being taken.

**Councilor Fitzgerald** responded that Council had discussed the final draft of the Plan and she believed there was still opportunity to provide input, particularly with regard to expenditures or important decisions. She encouraged sending input or asking questions via email to the City Manager about the IT Plan. She also suggested that people request a copy of the IT Strategic Plan for review.

**Vice Chair Martens** asked whether the City Council voted to support the gas tax.

**Barbara Jacobson, City Attorney**, clarified the County had asked all the various cities for a resolution to adopt an intergovernmental agreement (IGA), but due to disagreement about the wording and other issues, the County decided not to do an IGA. Council discussed passing a resolution in support of the measure at the next meeting, but so far no action had been taken by Council on the matter.

**Councilor Fitzgerald** added there had been some discussion about whether the cities could issue a joint statement regarding the gas tax, but Council did not have that information at the time of the meeting and the Mayor may still be looking into that. The County was looking for funding to help with a huge shortfall in road repair.

**Vice Chair Martens** asked if the State or Federal governments imposed any constraints limiting what the City could do regarding the regulation of cell phone towers.

**Councilor Fitzgerald** recalled such constraints were already in place, but responding to aesthetics was quite complicated.

**Ms. Jacobson** explained with the new 5G technology was driving a movement to get away from large towers in favor of tall, skinny poles or to attach the cell phone devices to light poles in the right-of-way, which the Council was considering. The City had more ability to control what went on its own property or within its own right-of-way as opposed to private property. The City could not prevent phone companies from attaching the devices to light poles in a right-of-way. Certain constraints under State and Federal Law did limit the City's actions; however, the City could regulate the aesthetics and placement of devices to avoid a blight on the environment.

#### **VI. Consent Agenda:**

A. Approval of minutes of July 25, 2016 meeting

**Aaron Woods moved to approve the July 25, 2016 DRB Panel B meeting minutes as presented.**

**Samy Nada seconded the motion, which passed unanimously.**

#### **VII. Public Hearing:**

##### **A. Resolution No. 331.**

**Black Bear Diner: Michael Rose, Real Income Corp - Owner/Applicant.** The applicant is requesting approval of a Site Design Review request and Class 3 Sign Permit for conversion of an existing restaurant to a Black Bear Diner Restaurant. The subject property is located at 30175 SW Parkway Avenue on Tax Lot 102 of Section 23AA, T3S, R1W, Clackamas County, Oregon.  
Staff: Daniel Pauly.

Case Files: DB16-0037 Site Design Review  
DB16-0038 Class 3 Sign Permit

**Vice Chair Martens** called the public hearing to order at 6:43 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.

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

**Mr. Pauly** presented the Staff report via PowerPoint, briefly reviewing the site's history of restaurant tenants, and noting the project's location and surrounding features, with these key comments:

- Site Design Review. Because the proposed restaurant had a similar style and the same footprint as the existing restaurant, the traffic report and parking requirements were not being used as criteria since the use was essentially staying the same. No changes were being made to the building's footprint or use that would trigger such reviews. The traffic report was prepared for information about the streets and to use in future reports. The scope of what the Board was considering included the changes to the architecture and site design, the landscaping, as well as the sign permit request.
- He reviewed the proposed architectural changes, which included sloped canopies, sloped roofs over the entry area and adding architectural lighting as well as detail along the cornice. The architectural elements adapted to this building were very indicative of the Black Bear brand throughout the region. The western outdoor motif with wood beams and river-rock-type detail fit the site. (Slides 5-7)
  - The proposed colors and materials were appropriate and met the Site Design Standards, including the long-lasting siding and stone veneer elements.
- Class III Sign Permit. As an existing site, the Applicant could either follow the previous sign approvals or use the current Sign Code, which the Applicant decided to do. This allowed for 48 sq ft of signage on the north side facing the parking area, and 60 sq ft facing Parkway Ave, but no building signage was allowed to face I-5 or on the south side of the building.
  - The Applicant already received a permit through Administrative Review to put up a slightly smaller Black Bear sign to replace the old Denny's freeway sign which had already been removed.
  - Although the trademark black bear statutes would have visual interest and a purpose, whether or not they were holding a sign, the bears were not considered a sign. However, the signs the bears were holding were considered directional signs, which have square footage and height limitations, so the bears would need to be carved in a way to meet those Code limitations.
- Landscape Improvements. The Applicant was already working on enhancing the landscaping to mirror the enhancements to the building, including adding landscape areas to replace some pavement.
- He noted that under the current Code, a nonconforming site condition existed in relation to parking. The Applicant was maintaining the pavement area, so there was no trigger to require meeting current parking standards; however, pavement markings and additional changes to the parking were being done due to recent changes to the I-5 Interchange, which took property from the site eliminating 18 parking spots on the west side of the site due to the need to provide vehicle circulation behind the building. (Slides 11 to 13)
  - As currently striped, the parking stalls did not meet the City's required dimensions to be classified as a parking space. Based on recommendations in the Traffic Report, the site would be striped to include 51 parking spaces, reflecting the recommendation to eliminate one parking space to provide greater access for trash collection on the south side of the site. (Slide 14)
  - When reviewing the parking area to ensure it functioned in the best way possible, Staff considered what could be done on the adjacent street, Parkway Ave. Currently, Parkway Ave had a wide area in the middle striped as a turn lane. The city engineer confirmed there was not enough traffic volume to warrant a turn lane. Therefore, Staff suggested closing the south driveway and restriping Parkway Ave to add street parking where none currently existed. This change would also provide a couple more onsite parking spaces, resulting in the site having more legal parking spaces than what existed after the interchange improvements.
- He entered the City Prepared Striping Plan (Slide 15) into the record as Exhibit C3 and explained the technically detailed drawing showed the engineered construction of Exhibit C2, which was included in the Staff report. He explained which striping costs would be the responsibility of the Applicant.
- He clarified that the plans currently showed 51 parking spaces and that eight more would be added with the closure of the driveway along Parkway Ave and at least two more spaces on site for a total of 61 spaces.

**Aaron Woods** asked why the traffic study was done midweek between 4 pm and 5 pm.

**Mr. Pauly** replied the standard practice was to perform traffic studies on a Tuesday or Wednesday.

**Steve Adams, Development Engineering Manager**, explained Mondays and Fridays were not considered typical traffic days, but Tuesday through Thursday reflected a more typical traffic pattern. Traffic studies are done Tuesday through Thursday or over a seven-day period. The time of day for the study was per the City Code, which required that development did not overly impact the streets during the 4:00 to 6:00 PM Peak Hour.

**Mr. Woods** explained he was concerned about traffic congestion, which was especially bad closer to the weekend. Given there was only one way to enter and exit the site, he asked if the lunch and dinner hours had been considered since there would be more traffic in and out of the site.

**Mr. Adams** deferred to the Applicant to explain how customer traffic patterns during different times of day were determined. He explained that the traffic study was done more as a reference point since the site predated the City and no traffic studies had been done. The traffic study showed the development would not create any adverse effects on the intersections involved. The Town Center Loop West/Wilsonville Rd intersection would be most the most heavily traversed, however, half of the traffic would go straight through or right and would not impact the interchange area. The City Code did not permit the application to be denied due to differences in traffic impacts between one type of franchise owner and another.

**Samuel Scull** confirmed one of the site's two driveways would be blocked and asked if that was adequate for 61 parking spaces at peak time.

**Mr. Adams** replied the change was discussed with DKS Associates before talking about it with the Applicant. DKS had verified that for the amount of traffic on Parkway Ave and Main St, the one existing driveway being shared with the gas station would be sufficient.

**Mr. Pauly** added that from an engineering and safety standpoint, limiting the number of conflicts and access points to streets was preferred. Many parking lots much larger than the Applicant's only had a single access, so there were no concerns about stacking or blocking people in with the amount of proposed parking limited to one access point.

- He confirmed Staff was comfortable with the amount of space available for garbage or large supply trucks to access the site, adding restaurants generally work to schedule deliveries during off-peak hours.

**Mr. Adams** added that in his experience, trash collection was also timed during off-peak hours.

**Mr. Scull** asked if the configuration was also adequate for the fire department and emergency vehicles.

**Mr. Pauly** answered yes. The fire or emergency access would be through the main access at the north side of the building.

**Samy Nada** asked if the garbage collection company reviewed the proposed design to ensure enough space was available for their trucks to turn around, especially with one driveway.

**Mr. Pauly** replied obviously, sites like this were not ideal for garbage service, but DKS had reviewed the site plan, specifically with regard to trash pickup and circulation, and the traffic engineers had no issues.

**Mr. Nada** noted the City's minimum requirement for parking was 121 spaces and even with the street modification and restriping, there would only be 61 total spaces. He asked how many other restaurants in

town had similar circumstances. With at least 20 or more employees also needing parking, he did not know how this would work.

**Mr. Pauly** replied the Applicant might be able to discuss their parking management or experience at other similar restaurants and how many spaces are used at peak hours. He noted according to today's parking requirements, a lot more spaces would be required; however, the scope of review was limited to the architectural changes. The Applicant had a similar layout of booths and tables inside. He understood the office space or lounge area upstairs would not be occupied, so less square footage would be used than previously approved. Although the proposal did not meet Code, the Code did allow the use to be continued with the existing legally created conditions.

- He cited Boones Junction Pizza and the Red Robin/Wanker's Corner parking lot as examples of restaurants that did not have the required parking spaces; though he did not do any official counts. Some restaurants in General Commercial, multi-tenant shopping centers would not likely meet the parking requirements for a restaurant either as it was difficult to know when the tenant space would be a restaurant or a dry cleaner.

**Vice Chair Martens** asked if the Code specifically provided for use as a restaurant, in terms of parking, or was it more of a commercial use based on square footage.

**Mr. Pauly** responded parking requirements for General Commercial were a lot less than for restaurants. General Commercial or Retail parking was usually spread throughout the day while restaurant traffic was more concentrated during peak hours. Substantially more parking spaces were required for restaurants per 1,000 sq ft than for General Commercial or Retail spaces.

**Mr. Scull** asked about the reason for closing one driveway.

**Mr. Pauly** explained the driveway was not needed, though it could remain open and still be approvable. In considering the overall conditions and the pavement available, closing the driveway still allowed for adequate truck circulation while also providing more space for parking and eliminating one potential conflict space for vehicles. Because parking was a major need on the site, the tradeoff was closing one driveway which still provided adequate truck circulation.

**Mr. Adams** added that closing the driveway added four to six additional parking spaces. ??

**Vice Chair Martens** called for the Applicant's testimony.

**Thomas Bowen, 10601 NE 97<sup>th</sup> Circle, Vancouver, WA**, explained that deliveries from Sysco, which would bring about 90 percent of the restaurant's food and paper products would be between 3:00 am and 4:00 am, and it might be possible to schedule trash pickup early in the morning as well. The restaurant had 34 tables and 11 counter seats. Most of the time, occupants for each table come in one vehicle, so he believed the 51 parking spaces would accommodate the available table seating, noting it was about the same as when the restaurant operated as a Denny's. He noted he was the general manager at the Denny's and would now be the general manager for Black Bear.

**Mr. Woods** asked what the peak hours were for customers at Black Bear.

**Mr. Bowen** explained Black Bear restaurants generally see the highest customer traffic occurs during the dinner hours, which were generally 6 pm to 9 pm on weekdays. On weekends, the breakfast flow was heavy from 8 am to 3 pm, as was dinner from 4:30 pm or 5 pm to 9 pm or 10 pm. The hours of operation would be 6 am to 10 pm seven days a week.

**Mr. Nada** asked how many customers the restaurant could serve overall.

**Mr. Bowen** replied the restaurant was set up for 168 customers, however, that number would not be served all the time. For example, a four-seat booth would be occupied by two people. The hourly guest counts would usually be about 120 guests per hour. He noted that guest counts were tracked, and he had done so at Denny's.

**Vice Chair Martens** said he counted roughly 160 seats including the meeting or banquet room, and asked if any industry standards existed for occupancy at peak times, including employees or others waiting to be seated, to estimate how many vehicles would be parking at peak times.

**Mr. Bowen** replied did not know how many vehicles, only the hourly guest counts. Generally, banquets would not be scheduled during peak hours because so much of the parking would be used. Banquets usually ran two to three hours and were usually scheduled in the mornings or afternoons Monday through Friday; none were booked on Saturdays and Sundays because of the parking issue. Sunday evenings might be a possibility.

**Mr. Scull** asked what the average staff count was per shift.

**Mr. Bowen** stated Denny's had about 11 employees per shift, but Black Bear would probably have about 28 employees per shift because many food items at Black Bear were prepared from scratch, which required 2 prep cooks, a baker, and 5 cooks on the line. There would also be 9 to 10 servers and 7 or 8 bus helpers and hostesses.

**Mr. Scull** noted employees could consume 25 percent of the parking.

**Mr. Bowen** replied the Applicant hoped to have the staff park in the circle on Parkway Ave.

**Mr. Nada** stated this was important. He did not know if the Applicant could get approval to park there, but he roughly estimated that with a 120 guest count and assuming the best, at four people per car, there would be 30 cars; adding 24 or 28 staff would exceed the current parking capacity.

**Mr. Bowen** clarified that half the staff would probably not be driving, but get dropped off. A lot of young people would be washing dishes, bussing tables and hostessing, and most did not drive. At Denny's on the weekends, for example, with 18 people on shift, there would be 8 or 9 staff cars parked out front, where he had the Denny's employees park. In between the restaurant and I-5 to save the other parking for the guests.

**Mr. Nada** said given a similar 50 percent ratio for Black Bear, 14 or 15 parking spots would be needed for staff. He did not believe the parking in the Parkway Ave circle was not mentioned in the traffic study.

**Mr. Pauly** explained the circle was far enough way that it would not have been considered in the traffic study. He confirmed Parkway Ave had typical on street public parking.

**Mr. Bowen** noted he had seen people park there all the time. He guessed about 8 to 10 parking spaces were available.

**Mr. Pauly** clarified that Main Street had bike lanes, so no parking was allowed there.

**Vice Chair Martens** called for public testimony in favor of, opposed, and neutral to the application. Seeing none, he confirmed there were no further questions from the Board and closed the public hearing at 7:21 pm.

**Samuel Scull moved to adopt Resolution No 331 with the addition of Exhibit C3. Samy Nada seconded the motion.**

**Vice Chair Martens** stated that while the Board had discussed parking, which was a point of interest, it was not a criterion for approval for the subject application.

**The motion passed unanimously.**

**Vice Chair Martens** read the rules of appeal into the record.

#### **VIII. Board Member Communications**

There were none.

#### **IX. Staff Communications**

**Daniel Pauly, Senior Planner**, noted the email he sent about his recent promotion, adding he looked forward to working with the Board in his new role, adding he would be introducing new planners soon.

The Board congratulated Mr. Pauly on his promotion.

#### **X. Adjournment**

The meeting adjourned at 7:26 p.m.

Respectfully submitted,

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