

**Development Review Board – Panel B
Minutes–February 25, 2019 6:30 PM**

I. Call to Order

Acting Chair Samy Nada 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: Samy Nada, Shawn O’Neil, Tracy Meyer and Ellie Schroeder.

Staff present: Daniel Pauly and Miranda Bateschell

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. Election of 2019 Chair and Vice-Chair

- A. Chair
- B. Vice-Chair

Shawn O’Neil moved to have Richard Martens serve as the 2019 DRB-Panel A Vice-Chair and Samy Nada as the 2019 Vice-Chair. Tracy Meyer seconded the motion, which passed unanimously.

VI. Consent Agenda:

- A. Approval of minutes of the November 26, 2018 meeting

Shawn O’Neil moved to approve the November 26, 2018 DRB Panel B meeting minutes as presented. Tracy Meyer seconded the motion, which passed 3 to 0 to 1 with Ellie Schroeder abstaining.

VII. Public Hearing:

- A. **Resolution No. 361. FLIR Systems Flag Pole: Desmond Amper, LRS Architects – Applicant for FLIR Systems, Inc. – Owner.** The applicant is requesting approval of a Class 3 Sign Permit and Waivers to allow a third thirty-five foot flag pole. The subject property is located at 27700 SW Parkway Avenue on Tax Lot 510 of Section 12, T3S, R1W, Clackamas County, Oregon. Staff: Daniel Pauly

Case Files: DB19-0001 Class 3 Sign Permit and Waivers

Chair Nada called the public hearing to order at 6:37 p.m. and read the conduct of hearing format into the record. All 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 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.

Mr. Pauly presented the Staff report via PowerPoint, briefly noting the project's location with these comments:

- The location was on the north side of FLIR Systems building off of Parkway Avenue
- The project entailed three flagpoles, two of which were at 30 feet and one of which was at 35 feet, and a new concrete plaza with a brick-accented seat wall.
- Typically, the two flag poles at 30 feet would be permit exempt, not requiring any permit through the City in terms of land use. The seat wall would normally be a Class I Administrative Review.
- The driving factor for this application to be reviewed by the Development Review Board was the third thirty-five foot flagpole. FLIR desired to have three flags: The Oregon state flag, the FLIR corporate flag, and the American flag.
- This application was for a Class III Sign Permit with three waiver requests:
 - Increase the number of signs on the site. The applicant already had, as code allowed, a monument and freestanding sign along Parkway Avenue.
 - Increase the sign area since by de-facto an additional sign would not have a sign area granted to it.
 - Increase the sign height, as the sign limit for a freestanding sign would be limited to 8 feet in this zone.
- A decade ago, Board members saw a lot of sign permits. Virtually every sign request went to the DRB unless it was an exact match for what the previous sign was. At that time, there was not much guidance to the DRB about these waivers. That changed in the early 2010's. Staff tried to give a bit more direction, but there was still interpretation to be done on the part of the Board. As explained in the sign code the purpose of the sign waivers was to enable to DRB to do a "comprehensive review of the design and function of the entire site to bring about an improved design." The idea was that the design would be improved over what would be allowed without the waiver.
 - In this case, the two flagpoles and the plaza would be allow without the waivers, so it was really about the third flagpole.
- The sign code went on further to explain what the criteria was that a waiver request would need to meet. The intention was to reflect the sign code purpose statement to be able to provide some flexibility while still meeting the purpose of the sign regulation:
 - Improved functional and aesthetic design
 - More compatible and complementary to the site and the surrounding area
 - Improve or not negatively impact safety.

- There were no concerns about safety for this application.
- Content not considered.
 - Legal staff had advised staff over the years to consider the content as a blank slate for decision-making purposes. Some codes had exemptions for American flags, but the City's code, due to legal concerns, did not give preference to the American flag in terms of being a flag or a sign.
- The arguments the applicants had put forward in regards to the waiver criteria were that they wanted the three flags and having three poles for three flags was more functional and aesthetic.
- The height of the flags functioned well in identifying the building, which was located back off the road.
- The wayfinding for customers and clients to find the front of the building was a big consideration put forward by the applicant.
- The height also matched well with the front of the building in terms of compatibility.

Tracy Meyer asked if there was lighting that went up towards the flags

Mr. Pauly answered that lighting of flags was exempt under the outdoor lighting ordinance.

Shawn O'Neil asked if there were other sites within the City with three flagpoles.

Mr. Pauly answered that he was not aware of any.

Mr. O'Neil asked if the third pole was going to be taller than the building.

Mr. Pauly confirmed that it would be taller by 3 feet.

Chair Nada asked the applicant to present their testimony.

Donald Billings, Facilities Operations Manager for FLIR Systems, 27700 SW Parkway, Wilsonville, OR 97070, spoke on behalf of the applicant.

- Most of FLIR Systems staff were ex-military and flags meant a lot to them.
- The reason for the request for three flags was so that FLIR could hang the American flag, the Oregon flag and the FLIR flag, as this was the corporate headquarters.
- Mentor Graphics and Rockwell Collins also had three flagpoles.
- As to the height difference, the flags would be directly in front of the building, whereas the other two sites had flagpoles on an island some distance from the building itself. The size to them (Mentor Graphics and Rockwell Collins) did not mean as much as it would for FLIR considering the building height.
- The desire was for the American flag to be above the FLIR sign on the building itself and higher than the other two flags to show recognition of it.

Ellie Schroeder commented that the picture showed the American flag in the middle and noted that the flag code said that the American flag should be to the right.

Mr. Billings answered that was for the two-pole flag system.

Ms. Schroeder disagreed and said it was for any flagpole system.

Mr. Billings apologized and said he did not know that.

Ms. Schroeder noted that her comment was an aside and nothing that the Board could control but thought that veterans would notice.

Chair Nada asked for testimony from audience. There was none. He declared the Public Hearing closed at 6:52 pm.

Tracy Meyer moved to approve Resolution No. 361. Ellie Schroeder seconded the motion.

Mr. O'Neil noted that the law required them to pretend that the American flag was not a topic of conversation. He had to consider the height and number of poles in relationship to what could happen down the road with other projects- what would happen with respect to the next applicant that came in with a similar request? He could not support a motion with a pole that was taller than the building. He had to assume that it could be any type of flag. He could not address the improper location of the flag, because the Board had to make a decision based on content neutrality. He could not support the current motion as it was presented based on the height, but had no problem with a third pole.

Ms. Schroeder asked if he would support a pole at the same height.

Mr. O'Neil answered that he would consider it. That was his view based on the current motion that was put forth.

Ms. Schroeder noted that the American flag would not fly higher than the other two.

Mr. O'Neil said that his decision would not be based on the type of flag. He could not lawfully be concerned about that. He was sympathetic to the veterans and to the processes, but by law he could not consider it. He struggled with it, because he would love to have the American flag high, but he could not consider it as part of the decision.

The motion passed 3 to 1, with Shawn O'Neil opposed.

Chair Nada read the rules of appeal into the record.

VIII. Board Member Communications:

- A. Results of the February 11, 2019 DRB Panel A meeting
- B. Recent City Council Action Minutes

Daniel Pauly, Senior Planner, shared that Panel A had recently approved another Frog Pond subdivision, which would be in front of City Council on March 4.

Chair Nada asked when the construction process for the bridge at Boeckman Road would start.

Mr. Pauly answered that there were specific timelines for the intersection to be constructed. There was still some discussion about whether to build the intersection by itself and then build the bridge. By code, the intersection had to be complete within two years.

IX. Staff Communications:

A. Welcome Ellie Schroeder!

Daniel Pauly, Senior Planner, updated the board on post-DRB developments with the Clermont application:

- There had been some controversy with trees and park space. After Council gave additional direction for removing some lots and reorienting a pathway, staff gathered initial feedback from neighbors regarding their preferences and shared it with the design team.
- The new design was sent to the interested parties. Staff had received positive feedback thus far from everyone that had commented.
- The decision would remove two lots. There was an existing bump out where a trail came between lots on the south side of Berlin Avenue. The trail would continue directly across the bump out and go through the additional groves that had been preserved and up to intersect with the new larger park with tree preservation.

He felt that it ended up a better design in the end.

Tracy Meyer asked if there was any change to the trees.

Mr. Pauly answered that two additional lots had been taken out to preserve the Doug Fir.

Shawn O'Neil noted that it was a concession made by the developer at City Council.

Mr. Pauly said that there would now be 87 lots rather than 89 lots.

He welcomed Ellie Schroeder to the Board.

X. Adjournment

The meeting adjourned at 7:09 p.m.

Respectfully submitted,

Shelley White, Planning Administrative Assistant