

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

**APPROVED**  
May 13, 2013

**Development Review Board – Panel A  
Minutes–March 11, 2013 6:30 PM**

**I. Call to Order**

**Chair Mary Fierros Bower** 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: Mary Fierros Bower, Lenka Keith, Jerry Greenfield, Simon Springall, and Councilor Liaison Susie Stevens. Ken Ruud was absent.

Staff present: Blaise Edmonds, Chris Neamtzu, Barbara Jacobson, Nancy Kraushaar, Daniel Pauly, Amanda Hoffman and Mike Ward.

**VI. 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 Stevens** stated she would be unable to attend the April DRB A meeting and reported about the City Council’s actions with these comments:

- The City sold a surplus house the City owned on property on Tooze Rd after receiving only one offer. The house will be moved off that property, which is part of the Villebois development area.
- An intergovernmental agreement (IGA) was approved to continue the water line to Sherwood north of Kinsman Rd.
- The lease for the West Linn Wilsonville School District for the City property on Town Center Loop for the Art Tech School was postponed to be tweaked. That lease is expected to be approved at the next City Council meeting on March 18.
- A large celebration was held at the SMART Fleet Operations Center on Boberg Rd. The wonderful turnout showed the community’s support for transit and what the City is doing.

**VI. Consent Agenda:**

A. Approval of minutes of February 11, 2013 meeting

**Lenka Keith moved to approve the February 11, 2013 DRB-Panel A meeting minutes as presented. Simon Springall seconded the motion, which passed unanimously.**

**VII. Public Hearing:**

A. **Resolution No. 250. Wilsonville Family Fun Center: Ben Altman, SFA Design Group – representative for Wilsonville Land Partnership and Darren Harmon, Wilsonville Family Fun Center – Owner and Applicant.** Modify condition PDB3 in case file DB12-0071 – Stage II Development Plan to address specific notice and process related issues for the 25 special all-night events for a zip line attraction. The site is located at 28855 SW Parkway Avenue on Tax Lots 100 and 109, Section 14D; T3S R1W; Clackamas County; Wilsonville, Oregon. Staff: Amanda Hoffman and Blaise Edmonds.

**Chair Fierros Bower** called the public hearing to order at 6:38 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.

**Barbara Jacobson, Assistant City Attorney**, reminded that tonight the Board was reviewing an agreement reached between City Staff and the Applicant. She reminded that at the last hearing, the DRB approved the application for the Fun Center's Soaring Eagles zip line. Staff had recommended a condition of a 10 p.m. closure of the zip line. At the hearing, the Applicant requested reconsideration and through discussion, the DRB agreed and amended Staff report to impose the 10 p.m. curfew but allow the zip line to operate up to 24 hours a day for up to 25 days of the year.

- Subsequent to that meeting, additional concerns were expressed about the impact the ride might have on the new development next door, particularly because no definite noise studies or analysis had been done. There was considerable discussion at the hearing about the anticipated noise levels, but enough concern existed that the possibility of calling the matter up before City Council was raised.
- Rather than raising the matter before Council, Staff and the Applicant agreed to test the waters and make sure the new ride did not unreasonably interfere with the residents' sleep next door. The Applicant agreed to reopen his applications only to modify the condition and reinstate the 10 p.m. curfew without any exception being granted through the DRB application process. In exchange, the Planning Director has agreed that the alternative way to get the Applicant those 25 nights a year to operate the ride was to issue a Class I Temporary Use Permit, which requires compliance with the noise ordinance, thus providing the Applicant and the neighborhood a chance to see how the ride works, hopefully, with far fewer complaints.
  - As discussed at the last meeting, if noise ordinance violations occur, the residents could call the police, but no one wants to go down that path without any data to know how this would work. The Applicant did not want to be on bad terms with the new neighbors, so this seemed like a good compromise. Assuming all worked out, the Applicant would be eligible to make that same request to the Planning Director every year. As long as the Applicant complied with noise ordinance criteria and no significant complaints were heard, the Planning Director should grant the application. The Planning Director also agreed to waive the fee for Class I application.
- She reiterated that the Board was only reviewing the original Staff condition regarding the 10 p.m. curfew, which Staff and the Applicant would present.

**Amanda Hoffman, Assistant Planner**, announced 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.

**Ms. Hoffman** noted the PowerPoint regarding the specifics of the application was presented at the previous meeting. She appreciated the coordination and collaboration of the parties involved to get to this point in order to avoid going back to City Council for a call up.

- She entered the letter dated March 11, 2013 from David A. Kingery of The Carlyle Group into the record as Exhibit D3, noting extra copies were available. Also entered into the record was Exhibit A4, the revised Staff report dated March 7, 2013 that replaces Exhibit A4 in the meeting packet.
- The new proposed language reflected Staff's original recommended condition that regulated operation of the zip line ride to not occur between 10 p.m. and regular opening time with the exception of the Applicant being able to get a Class I Temporary Use Permit each year by following the listed criteria.
- She clarified that the new language only applied to the operating hours of the zip line ride and not any other amusements at the Fun Center, which would continue to operate 24 hours during the special events under the original approval of the development itself.

**Ms. Jacobson** entered into the record Exhibit A4, which was distributed to the Board and replaced the Exhibit A4 provided in the packet. The new Exhibit A4 had been emailed to the Board members.

**Simon Springall** asked about the proposed revised condition, which stated the Class I Temporary Use Permit could be granted for the year 2013, although it was stated the Applicant could apply annually in subsequent years.

**Ms. Hoffman** understood the Applicant could apply every year as long as they were in compliance with the Temporary Use criteria.

**Ms. Jacobson** confirmed the Applicant could apply every year. Approval tonight assured that a Temporary Use Permit would be issued for 2013. If things work well and the Applicant was within the noise ordinance limitations, they would be free to apply in 2014 and future years for a Class I permit, which lasts up to 30 days. A Class II permit would allow for more days, but was a more onerous process.

**Mr. Springall** asked about the email from Mr. Holland's partner, David Kingery, which he had left at work.

**Ms. Hoffman** read Exhibit D3, the email dated March 11, 2013 from David Kingery of the Carlyle Group, into the record.

**Jerry Greenfield** asked if the first night proved to be too noisy, would there be a way to go back.

**Mr. Edmonds** replied each complaint would be reviewed and investigated. The police would likely be called first and the issue would be brought up for the planners to investigate. Staff would talk with the complainant and Fun Center to find a fair and balanced, reasonable solution to mitigate the problem. It was unlikely the facility would be closed down on the night of an incident, unless the City police believed a health or safety issue existed.

**Ms. Jacobson** added that this way, if numerous noise complaints are received, the City had the time and option to conduct noise studies and determine the actual decibel levels. Department of Environmental Quality (DEQ) guidelines exist about what are acceptable noise levels. In this case, one issue regarded the noise of the freeway versus the noise of the ride, the direction the ride faces, etc.

- That determination would be more difficult to adjust because the prior DRB approval was just a flat approval. As proposed, the DRB is stating the curfew is 10 p.m., period, and that would be the base regulation. The Planning Director would then decide whether to issue the temporary use permit based on the circumstances. The compromise was to see how this would work for a season. If not, the zip line might not operate throughout the night, or perhaps, everything would be fine. She clarified that although the permit was for one year, most events occur in the spring and early summer. If noise levels were being exceeded, the police had the authority to close the facility and the City could revoke the permit should several such offenses occur. The City wanted to continue working with the Fun Center, who did not want complaints or police arriving every night either.

**Lenka Keith** asked what the time frame was for the process of deciding whether or not the permit should be revoked if there are complaints.

**Mr. Edmonds** replied it depended on the severity of the complaint. Should a complaint arise, Staff would communicate with the Fun Center and property management of the apartment complex to determine the severity of the complaint and then try to resolve the problem. The process would not be as lengthy in situations where a business owner wants to comply and do the right thing, because it isn't good for business to be a continuous violator. The timeframe would be different from typical complaints in

Wilsonville like a barking dog and neighbors that do not get along.

**Ms. Keith** asked if it was possible for the temporary permit to be separated into a certain number of nights, for example, if the permit is approved for 25 nights a year it would be broken down to 10-10-5 or something similar.

**Mr. Edmonds** suggested waiting for the Applicant's testimony, noting previous testimony about Grad Night bookings. The temporary use permit could extend into the summer. While 25 nights were discussed, a Class I allowed up to 30 nights and could be spread out under the one temporary use permit. The condition only required that there be proper notification before the event.

**Chair Fierros Bower** called for the Applicant's testimony.

**Darren Harmon, General Manager, Family Fun Center, 29111 SW Town Center Lp, Wilsonville, OR**, asked Staff to clarify who raised concerns that the application was brought before the Board.

**Mr. Edmonds** responded Staff, the city manager and city attorney.

**Mr. Harmon** said he wanted to clarify it was not the public coming back at Staff.

**Mr. Edmonds** clarified it was not a Council call up by a particular City Councilor.

**Mr. Harmon** said he wanted the Board to know the proposal did not come from the outside, but was Staff's recommendation which the Applicant worked with Staff on to straighten out. While the Board had made its decision, the Applicant agreed with Staff's proposal. He clarified this only regarded the zip line and not the rest of the operation. The Fun Center has done Grad Nights for the last 19 years and 17 nights have already been booked since a year ago that would be running. The Applicant would look bad if no one could use the new attraction, which was why they agreed with the new alternative.

**Ms. Keith** commended the Applicant for his willingness to work with the City.

**Mr. Harmon** noted Wilsonville has a tremendous Staff who did a fantastic job of putting this together, even including the city manager and Planning Director Chris Neamtzu. The Staff was always willing to work things through.

**Chair Fierros Bower** called for public testimony in favor of, opposed and neutral to the application.

**Brenner Daniels, Holland Partner Group, 1111 Main St, Suite 700, Vancouver, WA**, stated he was an employee of Holland Partner Group, owner of Jory Trail Apartments due north of the Family Fun Center. He provided a letter of general support on behalf of the Family Fun Center dated February 11, 2013, which gave three exceptions including their request to close the zip line at 10 p.m. He read the letter into the record as follows:

- "Holland Partner Group and our financial partners are adamantly opposed to the exception of PD3 that allows 25 days a year, 24 hours a day operation of the zip line. Twenty five days is an extensive amount of time, considering that this is our community's backyard and very close to people's homes and where they will be sleeping or trying to sleep. I understand there are several occasions for 24 hours a day currently. This has proved to be an issue with our residents. We didn't have occupancy at the south end of the project until September 2012 and once people moved into the buildings on the south end, we started receiving complaints from those people regarding the noise past 10 p.m.
- It is likely that the zip line will meet the unreasonable noise definition in the Wilsonville Code Noise Ordinance 6.2.042.A and also meet nearly every factor for whether a sound is loud or raucous noise,

6.2.04 Section 1. The obvious ones are the following and others may be met as well: the proximity of the sound to sleeping facilities, whether residential or commercial areas; the time of day or night the sound occurs; the duration of the sound; and whether the sound is recurrent, intermittent or constant. Noise from the music, many times after hours, is currently an issue and this has been an issue with our residents at the south end of the property. The visual and noise impacts from the zip line will negatively affect marketability of the vacant units at the south end of the property, especially if word gets out about the zip line noise. This will make leasing these units difficult and pricing will be affected.

- We are concerned about the unnecessary enforcement and cost burden this will put on the Wilsonville Police Department. Questions such as how will the noise ordinance be enforced and it's also likely that when the police department is called and shows up the noise issues will have ceased.
- Holland Partners Group is also concerned about how this affects the value of our property. People need to keep in mind this is in close proximity to people's homes and bedrooms and need to visualize this happening 24 hours a day for almost a month out of the year in their backyard. If the exception survives, it makes sense to have the acceptable noise study prior to the 10 p.m. deadline.
- We urge you to consider our request to eliminate the exception allowing the zip line to be operated about the clock 24 hours a day. Thank you."

**Heidi Potts, Property Manager, Holland Residential at Jory Trail Apartment Homes, 8710 SW Ash Meadows Blvd, Wilsonville, OR**, concurred with Mr. Daniels' statement with regard to the noise levels. The management has been able to ease dealing with current situations because residents already know the Fun Center is next door, which is sometimes a selling point, but concerns do arise when residents hear music playing from afar. They were nervous when they learned about the zip line coming in and how it would impede on their boundary line. They were fine with the 10 p.m. curfew, but the new proposition of having the zip line open 24 hours was a scarier issue because management was already having issues leasing some of the homes directly across from the Fun Center. She noted that as the parking lot ~~also~~ gets busier, it interferes with noise as well. She wanted to ensure it was put into effect that Holland is very concerned about the 25 days that the zip line would be open 24 hours.

**Chair Fierros Bower** called for the Applicant's rebuttal. There was none.

**Mr. Springall** understood from the amended report that the prohibition is back from 10 p.m. and then it was up to Staff to grant the license. Testimony has been heard from a number of people and an email received about not having the facility operate after 10 p.m., which he believed approving Staff's proposal tonight would accomplish, and then the Applicant and Staff would discuss whether to grant the temporary use permit. He asked if the Board's approval tonight would make the temporary use permit effective immediately for 2013.

**Mr. Edmonds** explained the Board would be approving the revised condition and the Applicant still needed to apply for a temporary use permit which involves a Class I administrative review. That approval requires no public notice other than the notification requirements to the residents as required in the condition of approval.

**Ms. Jacobson** clarified the Class I is issued at the discretion of Planning Director. She understood the Planning Director intends to grant the temporary use permit once the application is made in order to have a trial summer and see how it works. The application is subject to the noise ordinance, so if the noise ordinance is violated, the Planning Director can revoke the permit or work with the Applicant to mitigate the noise level.

- She noted that although the approval is to operate 24 hours, it might not operate for 24 hours. At the last hearing, the Applicant testified that on the 24-hour nights there may be nights when the Fun Center operates just an hour or two past the 10 p.m. curfew time. She noted that the Planning Director

was in attendance and could discuss more details.

**Mr. Springall** replied that was not necessary.

**Ms. Keith** asked if it was possible to have the temporary use permit for 10 days at a time or did it have to be for all 25 days at once.

**Ms. Jacobson** replied the Applicant testified that he knows when 17 of the 25 days are scheduled, though she did not know if those nights were scheduled consecutively.

**Ms. Hoffman** reiterated that if the zip line operates five of 25 nights, for example, and there are noise issues that exceed the noise ordinance, then the Planning Director has ability to revoke the permit at any point, meaning the zip line could not operate anymore, so it did not have to be broke up into 10 or five days.

**Mr. Greenfield** asked how objective the noise ordinance enforcement measurement was made.

**Ms. Hoffman** responded it was made according to a reasonable person; no absolute decibel level was set.

**Ms. Jacobson** believed the noise ordinance references following DEQ recommended standards. It is an odd situation because of the zip line's proximity to the freeway as the ambient noise level might keep the zip line from being heard nearly as much. Having the noise ordinance to fall back was certainly not an easy, cut-and-dried way to deal with the issue, however, the approval made two weeks ago would not be nearly as much flexibility to correct the situation if it did not work well. Tonight's proposal was a compromise on the part of the Applicant to be proactive as opposed to waiting for City Council to call it up.

**Mr. Harmon** said the schedule was currently from May 28 through June 17, and about 17 nights were scheduled by groups scattered throughout that time. He did not have a calendar to give the exact dates. If using 10 day blocks, the Fun Center would go a day without something, and then there would be three days in a row, then nothing, and then a weekend. The schedule was scattered.

**Ms. Keith** clarified she was implying 10 events at a time, rather than 10 consecutive days.

**Chair Fierros Bower** closed the public hearing at 7:15 p.m.

**Mr. Springall** stated the scope of the temporary use permit provided that the Planning Director would be able to monitor the situation and revoke the temporary use permit if deemed necessary, therefore there was no need to break it into smaller chunks because the 25 days would not even happen if there were noise complaints.

**Ms. Keith** asked how long it takes to process a Class I Temporary Use Permit application.

**Mr. Edmonds** replied one to two days to process. It would not be a long disruption because the normal legal notice from the City to 250 ft around is not required. A lot of the burden was on Applicant to notify the appropriate property owners in the vicinity. He confirmed the one application was for the entire year, explaining that a Class I provided for a certain number of days, but they did not need to be consecutive. Camping World, for example, has annual events for trailer sales periodically throughout the year.

**Chair Fierros Bower** stated the temporary use permits allows residents to come forward if they are bothered by the noise and the Planning Director to revoke the permit. She believed was good as it considered both sides.

**Mr. Greenfield** asked if that recourse would be available in any case.

**Mr. Edmonds** answered all temporary use permits are revocable and are the only permit in City Code that is revocable.

**Chair Fierros Bower moved to approve Resolution No. 250 with the addition of Exhibit D3 and replacing Exhibit A4 in the packet with revised Exhibit A4 dated March 7, 2013. The motion was seconded by Jerry Greenfield and passed unanimously.**

**Chair Fierros Bower** read the rules of appeal into the record.

- B. Resolution 248. Old Town Single Family: Mark and Darla Britcliffe – owner/ applicant.** The applicant is requesting approval of a Site Design Review for two (2) single-family dwellings with attached accessory dwellings and a ~~Type A Tree Removal Permit for two trees~~. The subject parcels are located at ~~9415~~ **9155** and 9185 SW 4<sup>th</sup> Street on Tax Lots 500 and 501, Section 23AC; T3S-R1W; Clackamas County; Wilsonville, Oregon. Staff: Amanda Hoffman

Case Files: DB13-0002 – Site Design Review  
~~TR13-0006 – Type A Tree Removal Permit~~

Address corrections were made and TR13-0006 was removed on the revised agenda.

**Chair Fierros Bower** called the public hearing to order at 7:20 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. Jerry Greenfield stated he grieved the removal of the two fir trees; however he declared no bias. No board member participation was challenged by any member of the audience.

**Amanda Hoffman, Assistant 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.

**Ms. Hoffman** presented the Staff report via PowerPoint with these key additional comments:

- Revised front elevations from the Applicant that were emailed to the Board and distributed at the meeting were entered into the record as Exhibit B6. The color materials board was available for review.
- Because the single-family dwelling was proposed in Old Town, the Old Town Overlay Zone required site design review for architecture. Typically, single-family dwellings are not subject to architectural review, except in Villebois. This was the first application in Old Town since the Old Town Overlay went into effect.
- She reviewed a table created to compare how the proposal stacked up to the various requirements governing the application. She noted that a Pattern Book was adopted by City Council in September 2011 to provide guidance in creating code for Old Town; however, that code had not been developed yet. The Applicant met or exceeded all Development Code requirements, including PDR-4 Zoning and the Old Town Overlay Zone.
  - Accessory dwelling units (ADUs) were proposed for each single-family structure. PDR-4 and other residential zones of the Development Code allow for 800 sq ft accessory dwellings. The Old

Town Overlay does not address ADU size requirements, so the underlying zoning is used, which would be 800 sq ft. The Pattern Book suggests 600 sq ft as the ADU size the neighborhood would like to see and the Applicant has proposed 600 sq ft for both ADUs, even though he is allowed 800 sq ft.

- She presented the Site Plan noting the two, single-family dwellings of 1,400 sq ft and 1,200 sq ft were not large homes and were in character with other development in the area. Both homes had ADUs and three-car garages were proposed for each home to provide one garage space for the ADU and two spaces for the single-family home.
- She reviewed the styles of the homes shown in the new and improved elevation drawings, noting the Craftsman and ranch style homes were called out in the Pattern Book.
- Several photos showing the subject site and surrounding properties were reviewed. She noted the two trees proposed for removal with a Type A Tree Removal Permit, which would be approved by Staff if the subject application was approved by the Board tonight.
- She corrected the Location on Page 1 of 12 of the Staff report to state, “9155 & 9158-9185 SW 4<sup>th</sup> Street...”

**Jerry Greenfield** asked about the likelihood of a future application being required to pave the street.

**Ms. Hoffman** replied paving the street would only be required if the property to the north with the single-family home ever developed into enough lots to create enough traffic to allow the City to condition that the street be improved based on traffic trips. The neighbors could also collectively create some type of local improvement district to improve the street.

**Lenka Keith** asked about the location of the trees in relation to the proposed dwellings.

**Ms. Hoffman** displayed the Site Plan and identified the location of the trees. The trees sit in the middle of one of the properties and would have to be removed in order for the property to develop.

**Chair Fierros Bower** called for the Applicant’s presentation.

**Mark Britcliffe, 27485 SW Xanthus Ct, Sherwood, OR**, stated the trees take up about 80% of the buildable area of the lot. One tree could not be removed when the two have grown together for that long because the likelihood of the other tree getting blown over was substantial, so building around them was not an option.

**Chair Fierros Bower** called for public testimony in favor of, opposed and neutral to the application.

**Barbara Bergmans, 9250 SW 4th St, Wilsonville, OR**, stated she lived just up the street from where the property is planning on being developed. She thanked Staff and the Applicant for spending so much time reviewing the Old Town Plan and Pattern Book, which her core group spent many years putting together. They appreciated the Applicant’s narrative responding to the lot coverage, setback and architectural concerns. For the record, the purpose of trying to limit ADUs in Old Town was to continue to reduce the use of them being proposed to increase density and add family units to the neighborhood. She asked that this be considered in future applications and noted ADUs would also increase traffic.

- She understood these are challenging lots to build on. The smaller lot has much higher percentage of lot coverage than desired. When she and her husband moved to their home in 1995, there was a 14-ft mobile home on the lot with no add-ons. All homes on 4th Street are owned and lived in by the owners, therefore the turnover of renters and the additional traffic concern them, as well as the property owner not living in the town.
- She thanked the Applicant for contacting the neighborhood and taking their plans and goals into consideration.

- She also grieved the loss of the trees because they are beautiful and help block noise from the freeway. Some trees behind her home were lost due to the redevelopment of the sewage plant.
- One concern was the turnover of renters due to being so close to the freeway and the sewage treatment plant, which sometimes does smell.

**Rose Case, 9150 SW 4<sup>th</sup> St, Wilsonville, OR**, stated her family has been talking with the new neighbors, and overall, because they were so impacted by this construction, the family agreed they could live with the proposed development. The trees would be a major loss to the community and impact wildlife, such as osprey, in the neighborhood. There used to be seven deer in the neighborhood and now there were four.

- She expressed gratitude that the Applicant was trying to put the overlay into effect. She was part of the earlier Westside Planning Task Force that initially put in the overlay, and also worked in the neighborhood community to work on the Pattern Book, so saying the family could live with the development was no light matter. She also has a degree in archeology and history, and the neighborhood was very dear to her. Her family and most others chose to live in the neighborhood because it was historic.
- They were happy with where the street light would go because it would not shine into their room, which was a main concern.
- They have talked about paving the road with many people and no Old Town residents could afford to pave the road, even as a group. Because the Overlay states no curbs with sidewalks, only the flat sidewalk seen in front of the church could be used if the street were paved. Pot holes were not fun to drive in, so Old Town residents have looked very hard at the issue. She concluded if the Board recommended that the City pave that road, no one would complain.

**Monica Keenan, 9460 SW 4<sup>th</sup> St, Wilsonville, OR**, stated she was in attendance with her neighbors and comrades from the Steering Committee for the Old Town Plan. She reiterated for the record that one of the primary issues for Old Town and the number one goal in the Pattern Book and the Plan was not having ADUs used a mechanism to increase density or increase rental properties in the single-family neighborhood.

- Based on the subject lots and the great work done by the Applicant and Staff on the application in maintaining the 600 sq ft and having great off-street parking to the support that area of the neighborhood, the Steering Committee had no issue with those things at this time.

**Chair Fierros Bower** called for the Applicant's rebuttal.

**Mr. Britcliffe** stated the lots have been developed for more than 40 years and he was not creating a subdivision. The two trees were nice, but they took up the whole lot. A nice stand of trees exists to the west on public property owned ODOT and those substantial trees should continue to grow.

- He noted that the Code requirements regarding coverage issue had been met but, the recommendation of 35% was very difficult on the smaller lot, which is the smallest lot in the area, half the size of the average lot. Of the closest 16 lots, the average size was just more than a quarter acre, almost double the size of the small lot. Therefore, trying to get good coverage was difficult with a single-story home. While a two-story home would be easier, he anticipated having older people in the homes, which were on flat lots and good access would be provided. The entire area was single-story, so the proposed homes would fit right in, bring good value to the neighborhood and start new development that the area had not seen in many years.

**Chair Fierros Bower** closed the public hearing at 7:50 p.m.

**Ms. Hoffman** clarified the revised agenda showed that the Temporary Type A Tree Removal Permit was deleted, because it would be addressed by Staff following approval by the Board; it was not part of the resolution. The revised agenda also included the correction to the street number.

**Jerry Greenfield moved to adopt Resolution No. 248 with the addition of Exhibit B6 and correcting the Location on Page 1 of 12 of the Staff report to state, “9155 & 9158-9185 SW 4<sup>th</sup> Street...”. Lenka Keith seconded the motion, which passed 4 to 0.**

**Chair Fierros Bower** read the rules of appeal into the record.

**Ms. Keith** thanked Ms. Hoffman for preparing the table, noting it was helpful to see the existing requirements and the proposed requirements of the Pattern Book.

- C. Resolution No. 249. Boones Ferry Pointe - Carl’s Jr Restaurant and Multi-Tenant Commercial Building: Ben Altman, SFA Design Group and CB Anderson Architects – Representatives for Josh Veentjer, Wilsonville Devco LLC - Applicant/Owner and Garry LaPoint, LaPoint Business Group - Owner.** The applicant is requesting approval of a Stage II Final Plan, Site Design Review and Master Sign Plan for development of a new 2,867 square foot drive-thru fast food restaurant and 3,150 square foot multi-tenant commercial building. The site is located on Tax Lots 300 and 302, Section 02DB; T3S-R1W; Washington County; Wilsonville, Oregon. Staff: Daniel Pauly

Case Files:      DB12-0074 – Stage II Final Plan  
                      DB12-0075 – Site Design Review  
                      DB12-0076 – Master Sign Plan

**Chair Fierros Bower** called the public hearing to order at 8:55 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, Associate 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, reviewing a brief history of the subject site, which is part of the Edwards Business Center Industrial Master Plan, and key components of each application with these additional comments:

- Stage II Final Plan:
  - The Applicant informed that the proposal would be developed in a single phase.
  - He reviewed the site plan and proposed features of the restaurant and multi-tenant building.
  - The shared driveway from 95<sup>th</sup> Ave would provide vehicle access to the site and is currently shared with Holiday Inn and Chevron. A development agreement was created between the Applicant, those private property owners and the City regarding the access. He read an excerpt from the agreement that regarded improvements on 95<sup>th</sup> Ave that were done by the City.
  - He reviewed traffic, parking, vehicle circulation, as well as pedestrian circulation and bike facilities. All public intersections involving the site met the level of service standards set in the Development Code. The 48 parking spaces, which were identified on the site, exceeded the minimum requirement.
  - Key vehicle circulation movements included vehicles exiting the drive-thru onto the shared driveway and the turning radius required for deliveries to Carl’s Jr, which would occur next to the trash enclosures on edge of property. The Applicant demonstrated that pattern worked.

- A pedestrian plaza would be located at the north of the site and have benches and a trash receptacle. The plaza would serve as an entry marker on the north end of the city.
- Exhibit B5 was a letter received from the Chevron owner and Allied Waste expressing concerns about the cover required for the Chevron waste enclosure due to handling issues related to the type of large collection containers Chevron uses.
  - The covers were required via a condition from the Natural Resources Division to help prevent contaminants from entering the public storm sewer system based on Subsection 8.210 (9) of the Wilsonville Code. The requirement was also mentioned by Public Works in Exhibit C5. The ability to waive or grant a variance to this requirement was not under the DRB's authority because Chapter 8 is under the authority of the Public Works Director.
  - Initially, Staff understood Chevron was working with Public Works and Natural Resources to get an exemption from the cover requirement. Since publishing the Staff report, correspondence was received from Public Works Director Delora Kerber, stating she was unable to waive the requirement. He entered the correspondence from the Public Works Director into the record as Exhibit C8.
  - After conferring with the Assistant City Attorney, Staff proposed that references to the potential option of no cover on outside storage areas be removed from the Staff report as follows:
    - On Page 8 of 60, the last two sentences in the last paragraph of the cover and closure discussion.
    - On Page 9, the fourth sentence of Condition PDB 2.
    - On Page 35, the last sentence of the second bullet in Finding A49.
    - On Page 38, in Finding B6, the first sentence of the Explanation of Findings, along with associated commas and punctuation.
  - He entered the memorandum dated March 11, 2013 from Mike Ward, Civil Engineer, clarifying details regarding changes to Engineering Conditions PFB 5 (d), PFB 6 (o), and PFB 14 into the record as Exhibit C7.
- Site Design Review
  - The Applicant's compliance narrative explained the choices behind the architectural design goal, which was to identify with the general pattern of commercial development in Wilsonville, such as that found at Argyle Square and Old Town Square and also reflect a small town feel. The architectural elements and building materials of both buildings were briefly reviewed.
    - Exact coloring was not shown in the submitted plans for the trash enclosures, so a proposed condition required that the coloring and roofing materials of the enclosures match or complement the buildings.
  - The Applicant designed a plaza with plantings at the north end of the site to acknowledge the gateway on the northern edge of the city. The remainder of the landscaping was typical of parking lots and commercial areas in Wilsonville, and met the applicable code requirements.
    - A 6-ft tall evergreen hedge was proposed along a portion of 95<sup>th</sup> Ave to screen the drive-thru signs from off-site view.
  - The various outdoor lighting fixtures proposed around the site complied with the performance option. One recommended condition of approval would ensure one fixture on the Carl's Jr. building did not include uplighting. Another condition clarified the lighting curfew for the multi-tenant building.
- Master Sign Plan
  - He reviewed the process for determining the allowed square footages for building signs, noting that 36 sq ft of signage was allowed and proposed for each façade of the Carl's Jr. building. The Sign Code provided flexibility of signage for the different tenants of the multi-tenant building.
  - Examples of the types of signage proposed were displayed and discussed.
  - An important component of master sign plans is to have consistent and compatible design throughout a development. Recommended conditions would help ensure consistency in the use of

raceways, which was unclear with regard to the multi-tenant building, as well as consistency in the color of sign returns.

- Calculations regarding freestanding signs were reviewed. One new freestanding sign was proposed on Boones Ferry Rd north of the multi-tenant building. Another freestanding sign would be collocated on an existing Chevron pylon sign at the shared driveway along SW 95th Ave. This sign was addressed in the development agreement because the existing pylon needed to be moved slightly to allow for the new driveway configuration.
  - The remaining unused freestanding sign area would be used for a monument sign in the north plaza area identifying the development as Boones Ferry Pointe.
- A number of easements exist on the northern portion of the site. The Applicant hoped to reach an agreement with the easement holders to place the sign within the easements, subject to the easement holder not being liable for costs involving the signs or related work in the easement.
  - A condition of approval prevents the issuing of a sign permit for signs within the easement if no agreement exists with the easement holder. A sign might not be installed if no alternative location could be found outside an easement.
  - Because the sign's final placement was unknown, a condition ensured sign placement would meet the setback requirements defined by the Sign Code and that appropriate landscaping was installed around the base of the sign.
- The Development Code allows signs not visible from off-site to be exempt from sign regulations. In order to apply this non-visible exemption to the drive-thru signs, a six-foot arborvitae screening hedge was proposed along 95<sup>th</sup> Ave.

**Chair Fierros Bowers** requested clarification about covering the trash enclosures.

**Mr. Pauly** explained that according to Exhibit B5, the size of the containers used by Chevron required the truck to back out and then dump the containers over the cab, rather than staying in place. The garbage trucks back up into the travel lane where cars exit the pump, which was a safety concern as expressed by Mr. LaPoint and in the letter from Allied Waste. However, the requirement to cover the enclosures was not in the Development Code and could not be addressed at this stage.

- The Applicant was working on the issue through the avenues available, talking with Natural Resources and Public Works to see about any available options. Exhibit C8 stated the requirement could not be waived by Staff. In order to remove confusion from the Staff report, Ms. Jacobson recommended that language be removed.

**Lenka Keith** asked if the Development Code addresses how much driveway is required leading up to the menu boards. She was concerned about traffic circulation, traffic backing up through the parking lot, and vehicles being unable to back out of parking spaces, etc.

**Mr. Pauly** replied no specific queuing requirements exist. The Development Code contains general language about proper function the site. DKS & Associates also addressed such items in the traffic report.

**Simon Springall** noted bike parking was identified on site but the shared driveway had no bike lanes. He asked how bicycles would access the buildings.

**Mr. Pauly** displayed the Pedestrian Circulation and Bike Facilities slide and indicated that bike lanes exist on 95<sup>th</sup> Ave, which connect directly to the sidewalk, with direct access to bike parking.

**Mike Ward, Civil Engineer**, confirmed the bike lane is adjacent to the sidewalk on 95<sup>th</sup> Ave. Bicycles could get off 95th Ave at the shared use driveway and use the sidewalk to access the site. There are also bike ramps at Boones Ferry Rd for bicyclists to leave the bike lane and access the sidewalk. Alternatively, traffic was not anticipated to move very quickly down the driveway so experienced bikers could join

traffic as a viable option.

**Jerry Greenfield** said he was uncertain about the status of the trash area covering.

**Mr. Pauly** confirmed that covering was required by a condition of approval as well as Chapter 8 of the City Code.

**Mr. Greenfield** asked how that would be addressed without interfering with circulation.

**Mr. Pauly** replied that as discussed in Exhibit B5, no better location exists, so the impact to circulation was an issue. No alternative was available that is supported in the Development Code. He and the Applicant discussed scheduling pick up at off peak times, and the Applicant could also speak to other options that might be available. While the Applicant raised valid points in Exhibit B5, the Board did not have the ability to waive the requirement for the cover.

**Barbara Jacobson, Assistant City Attorney**, clarified it was not within the Board's authority to waive that condition, so the Applicant would have to work within the scope of the Board or talk with those parties at the City with that authority.

**Mr. Pauly** understood the question was whether an alternative existed in the Code resolve the safety issue regarding trucks backing up into the traffic lane, such as changing the site, other than not having the cover

**Mr. Greenfield** said he was concerned the Board's approval would set up a collision of approvals with no clear resolution to a problem the Board was helping to create by approving it.

**Mr. Pauly** replied he had no additional answer to Mr. Greenfield's question at this point.

**Chair Fierros Bower** called for the Applicant's presentation.

**Ben Altman, SFA Design Group, 9020 SW Washington Square Dr, Suite 505, Portland, OR, 90223**, representing the Applicant, Josh Veentjer, who was in attendance, as was Garry LaPoint, the owner of the Chevron station, commended Mr. Pauly, Mr. Ward and Ms. Jacobson for their excellent work on the proposal, even before the application.

- He explained the joint access was created by ODOT when the last interchange upgrade was done that cut off east side access from Boones Ferry Rd to the Holiday Inn, which imposed the joint driveway on the Chevron without working out the details. The proposed project provided the opportunity to work out a resolution with a much improved driveway that provided two lanes in and two out.
  - The new exit curb line with a 50-ft radius would allow trucks to enter and exit as well as cars. He described how the road improvements on 95th Ave removed the left turn causing trucks to encroach into the southbound lane when leaving the site. Once the site is improved and the driveway opened, the problem would be resolved and would substantially improve the traffic flow for all three properties.
  - Resolving the access issue was a key piece of making the site work. The site had a history of failed project attempts over the last 15 years and this was the first plan to move this far forward and actually provide some solutions.
- He described the challenge the Applicant would have with the trash enclosure for the Chevron site. As currently designed, the roof line would not work because the existing trash containers were too tall and would hit the roof when lifted. The trash container was almost 6.5 ft tall and actually had a lid. The Applicant would have to work with Staff to either raise the roof line, although having one side higher would look weird, or work something out with Staff or City Council, if necessary. The

Applicant understood the Board had no authority to address the issue. If anything, the Applicant would return with a different design for the structure, but hopefully, it could be resolved with Staff in coordination with Republic, who had to make it work, not the Applicant.

- The size of the trash containers are greatly dictated by the flow of waste from the Chevron convenience store which has a high level of cardboard and recyclables, which are already picked up multiple times per week, and this was the biggest Allied Waste could provide at this point.
- He believed the development would be a substantial enhancement for this particular corner as an entry to the city. A couple nice looking buildings would clean up the entry point at the intersection and provide a complete development with a driveway that works.
- He noted this was the first Master Sign Plan proposed under the newly adopted Sign Code and it took time to make it work and without any waivers involved. He again commended Mr. Pauly for his work.

**Ms. Keith** asked about the issue of vehicles in the drive-thru lane backing up into the parking area. She was concerned that in peak hours, vehicles would block the parking and that parked vehicles, including those of multi-tenant retail customers, would not be able to get out. She also asked if studies were available with information regarding peak hours and how many vehicles typically need to be allowed for in a drive-thru lane. She noted the Burger King off I-5 had a very challenging drive-thru. She appreciated that the site was very challenging to work with given the access, shape and easements.

**Mr. Altman** responded this was not a usual layout for a fast food restaurant with a drive-thru, adding quite a bit of stacking lane was provided. There were bound to be points of conflict, but he did not see it as a continual thing or something that would cause vehicles to back out into the street. No specific design criteria exist for drive-ups. The Applicant worked with DKS & Associates on traffic and site circulation to ensure adequate turn radiuses were provided for all movements in and out of the site. The layout would be similar to the Burger King on the west side, in terms of having access through a double-loaded parking area and then a drive lane around, although the Burger King exited on the other side. The parking area conflicts would be very similar, so he did not see a problem.

**Mr. Pauly** noted that Page 20 of the traffic report included the following comment, "If the drive-thru queue extends beyond the designated drive-thru area, then the queued vehicles could impede circulation of vehicles accessing the retail facility."

**Mr. Altman** added the Applicant did not expect that to occur on a continual basis; there would be gaps for parked vehicles to work through.

**Ms. Keith** asked if the Applicant considered switching the two buildings. Although there was excellent exposure, the restaurant would have even better exposure being at the tip of the site.

**Mr. Altman** replied the drive-thru did not work up there. Many different options were considered to make the site work but because the site narrows down and so many easements exist, the Carl's Jr. facility had to be on the south end of the site.

**Mr. Edmonds** asked where employee parking would be located.

**Mr. Altman** presumed employee parking would be on the angled parking toward the north end of the site.

**Chair Fierros Bower** inquired about the operating hours for Carl's Jr.

**Mr. Altman** replied the restaurant would operate 24 hours, as did the Chevron.

**Chair Fierros Bower** said she was trying to clarify the circulation of the trash enclosures. If the Chevron was not open 24 hours, perhaps traffic would not be going through that driveway into the Carl's Jr. site.

**Mr. Altman** noted the peak hours were not in the evening. The original location approved for the Chevron site was off the screen, north of the convenience store, and people had problems getting in and out due to conflicts with the gas pumps and parking at the store. The current site works better, but the Applicant would have to work with Republic on resolving the layout. He confirmed the mechanical units sat on the flat roof portion of the retail store building and would be screened behind the parapet.

**Ms. Keith** inquired about the number of employees at Carl's Jr. during peak hours, noting that could be a problem without any on street parking

**Josh Veentjer, Wilsonville Devco, LLC, 4188 SW Greanleaf Dr, Portland, OR, 97221**, replied there would be approximately 8 to 10 employees during peak hours. He was not very familiar with the operations, but had developed several Carl's Jr. restaurants.

**Mr. Pauly** confirmed the Applicant exceeded the Parking Code requirement by six spaces. The Code required a minimum of 41 non ADA parking spaces and 1 ADA space. The Applicant proposed 46 non ADA parking spaces and 2 ADA parking spaces for a total of 48 parking spaces versus the 42 required parking spaces.

**Chair Fierros Bower** called for public testimony in favor of, opposed and neutral to the application.

**Garry LaPoint, 25410 SW 95th Ave, Wilsonville, OR, Chevron**, said he really supported the project and all that Mr. Veentjer had done. He understood the Board had concerns about traffic flow, site plan, etc , but he and the Applicant had worked hard together to make the proposal work. He believed it was the best that could be done at this point. He also commended City Staff for their contributions. He once owned all the property in 1992, then initially sold half and then all of it to his partner and land broker, but that project failed. He had always envisioned the current proposal on the property.

- He stated his only concern regarded trash enclosure. He was told the roof would need to be 16-ft high and asked if it would have to come back to the Board for approval because of the height.
- He noted he had spoken with Frank at Allied Waste who was concerned about employees getting distracted and the hydraulic lifts lifting through the roof.

**Mr. Edmonds** replied he was uncertain where this was heading with Staff; it might have to go to City Council to revise Chapter 8 regarding roofs. If it went through that process, he believed an administrative review would be done through Staff, not through a full public hearing.

**Mr. LaPoint** stated he did not want Mr. Veentjer's proposal held up in any way because of this. He would rather work in any other possible direction without putting any condition on Mr. Veentjer as far as the rest of the project. He wanted to see the project developed and have something there besides wild grass that was out of control most of the year.

**Tom Nesbitt, Wilsonville Devco, LLC**, stated he as built probably more than 100 of these restaurants and that at least seven or eight cars fit in the stacking lane. He did not foresee a problem because the restaurant was efficient enough that cars would go through and the other cars could back out. He noted that the franchisee for the Carl's Jr. is a Wilsonville resident. People often think such developments are from corporate America, but the restaurant would be locally owned.

**Mr. Greenfield** noted if stacking became a problem, the restaurant would be doing extraordinarily well.

**Mr. Nesbitt** added that it could also mean it was very slow.

**Chair Fierros Bower** called for the Applicant's rebuttal. There was none.

**Mr. Greenfield** stated he had concerns about traffic flow after his site visit. He read the entire traffic report and was satisfied with the detail provided. He was very enthusiastic about the plan altogether.

**Chair Fierros Bower** closed the public hearing at 8:55 p.m.

**Mr. Greenfield** added his admiration of the thorough presentation prepared by the City. He believed the project would be an attractive introduction to the city from the north.

**Chair Fierros Bower** said she was glad to see new development occurring at the intersection.

**Mr. Edmonds** said it was a huge improvement from four years ago, when the Mr. Pauly addressed a Code enforcement issue due to an abandoned car in the middle of the site.

**Mr. Springall** said he was glad to see the shared access driveway was being widened and made more accessible for trucks and much longer vehicles.

**Chair Fierros Bower moved to adopt the Staff report as amended with the addition of Exhibits C7 and C8, and removing references to the potential option of no cover on outside storage areas such that the Applicant will comply with the City Code with respect to the trash enclosures.**

The following references regarding the potential option of no cover on outside storage areas were removed from the Staff report:

- On Page 8 of 60, the last two sentences in the last paragraph of the cover and closure discussion.
- On Page 9, the fourth sentence of Condition PDB 2.
- On Page 35, the last sentence of the second bullet in Finding A49.
- On Page 38, in Finding B6, the first sentence of the Explanation of Findings, along with associated commas and punctuation.

**Simon Springall seconded the motion, which passed 4 to 0.**

**Lenka Keith moved to adopt Resolution No. 249. The motion was seconded by Jerry Greenfield and passed 4 to 0.**

**Chair Fierros Bower** read the rules of appeal into the record.

## **VIII. Board Member Communications**

### **A. Results of the February 25, 2013 DRB Panel B Meeting**

**Mr. Edmonds** briefly reviewed the DRB Panel B results, noting several row homes were approved in Villebois, and that the Le Bois Row Homes were continued to the next public hearing.

## **IX. Staff Communications**

**Mr. Edmonds** stated the Board's April 8<sup>th</sup> meeting would be combined with DRB Panel B for a training session. Dinner would be served at 5:30 p.m. and the meeting would start at 6 p.m. The meeting was anticipated to last until about 8:30 p.m. or 9:00 p.m. depending on questions. The training session would involve reviewing the City's unique planning development process, discussion about the legalities of the design review process, and a presentation on master plans and how they interact with the Development Code.

**X. Adjournment**

The meeting adjourned at 9:03 p.m.

Respectfully submitted,

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