



# ANALYSIS AND FINDINGS

November 20, 2024

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Case #:	SVAR 24-0001
Project:	Cabela's/Bass Pro Shops Sign Variance
Location:	7555 SW Nyberg Street (Tax Lot: 2S124A003100)
Applicant:	Tony McCormick, Meyer Sign Co. of Oregon, Inc.

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## I. INTRODUCTION

### A. Applicable Criteria

The following chapters of the Tualatin Development Code (TDC) are applicable to the subject proposal:

- TDC 32: Procedures
- TDC 33.080: Signs-Permits, Design Review, and Variances
- TDC 38: Sign Regulations

### B. Project Description

The applicant, Meyer Sign Co. of Oregon, Inc., on behalf of Nyberg Center Cal II, LLC, requests approval of a sign variance at the Cabela's/Bass Pro Shops retailer located at 7555 SW Nyberg Street (Tax Lot: 2S124A003100). The proposal requests to place a total of 601.9 square feet of signage on the southern elevation to replace the existing 361.79 square feet of signage. The application also proposes to place a total of 266.6 square feet of signage on the eastern elevation to replace the existing 228 square feet of signage. The existing building is located on 22.74-acre site zoned Central Commercial (CC) and Office Commercial (CO).

The Central Commercial (CC) Planning District permits the following code standards for wall signs under Tualatin Development Code (TDC) 38.220(1)(d):

- (d) Wall Signs Are Permitted. If used, the following standards apply:
- (i) Number: One on each owned or leased wall not to exceed four walls of a building. For walls not oriented toward and not located within 150 feet of the Wetland Protected Area or a Natural Resource Protection Overlay District (NRPO) as shown on Map 72-1, two wall signs are allowed on an owned or leased wall of 4,000-4,999.99 square feet provided the distance between the two signs is greater than 25 feet, and three wall signs on an owned or leased wall equal to or greater than 5,000 square feet.
  - (ii) Number of Sides: No more than one.

- (iii) Height Above Grade: No higher than the height of the sign band on the owned or leased space.
- (iv) Height of Sign Face: No higher than four feet provided no letter or number (does not include logos, caricatures, scenes, non-letters and non-numerical symbols) shall be more than two feet when erected on owned or leased walls whose area is less than 4,000 square feet, and no higher than four feet for letters, numbers, logos, caricatures, scenes and symbols when erected on owned or leased walls equal to or greater than 4,000 square feet. If a sign's square footage is less than ½ the maximum area allowed, then the height of the sign can be doubled. If the sign height is doubled, the height of any logo, symbols, caricatures or scenes may be up to five feet.
- (v) Area: For owned or leased walls whose area is 0 to 400 square feet, a sign area of at least 24 square feet or ten percent of the wall area is allowed, whichever is greater. For walls whose area is 400 to 3,999.9 square feet, a sign area of no more than 40 square feet is allowed. For walls not oriented toward and not located within 150 feet of the Wetland Protected Area or a NRPO District as shown on Map 72-1, a total sign area of up to 100 square feet is allowed for a wall 4,000-4,999.9 square feet provided that when two wall signs are erected neither sign is larger than 75 square feet, and for walls equal to or greater than 5,000 square feet, a sign area of up to 150 square feet is allowed.
- (vi) Illumination: Direct, indirect or internal.
- (vii) Mechanical Readerboard: For churches, cinemas and theaters the sign may be a mechanical readerboard.

The submitted sign plan is included in Exhibit B. The proposed sign plan would require the approval of the following variances:

- 1. A variance to allow five signs (Signs 1-5) on a single elevation (southern elevation) for a total area of 601.9 square feet.**
  - The retailer's southern elevation is 70,300 square feet, therefore the sign code allows three wall signs on an owned or leased wall equal to or greater than 5,000 square feet.
  - The retailer currently has three signs on the southern elevation for a total of 361.79 square feet of existing signage.
  - The proposal requests an additional 2 signs on the southern elevation which is an increase of 240.1 square feet of signage or 66.4%.
- 2. A variance to allow 10'- 4 5/8" height on the proposed Bass Pro Shops Formed Main ID Cabinet (Sign 2) on the southern elevation for a total sign area of 156.8 square feet.**
  - The proposed Bass Pro Shops Formed Main ID Cabinet (Sign 2) is on the southern elevation which is 70,300 square feet, therefore under the sign code a 150 square foot sign with a maximum height of 4 feet is allowed.

- The applicant proposes a sign area of 156.8 square feet with a height of 10' – 4 5/8". The proposed area is 6.8 square feet or 4.5% over the code allowance, and the proposed height is 6' – 4 5/8" or 159.6% over the code allowance
- A previous sign variance (SVAR14-01) for the retailer approved a 264 square foot sign with a height of 8 feet.
- The proposal is a reduction in square feet from the existing sign of 264 square feet, a 107.2 or 40.6% reduction in square footage is proposed, and a height increase of 2' – 4 5/8" or 29.8% is proposed.

**3. A variance to allow 6' – 1/8" height on the proposed Outdoor World Wall Cabinet (Sign 3) on the southern elevation for a total sign area of 198.5 square feet.**

- The proposed Outdoor World Wall Cabinet (Sign 3) is on the southern elevation which is 70,300 square feet, therefore under the sign code a 150 square foot sign with a maximum height of 4 feet is allowed.
- The applicant proposed a sign area of 198.5 square feet with a height of 6' – 1/8". The proposed area is 48.5 square feet or 32.3% over the code allowance. The proposed height is 2' – 1/8" or 52.1% over the code allowance.

**4. A variance to allow 5' height on the proposed Cabela's Channel Letters (Sign 4) on the southern elevation.**

- The proposed Cabela's Channel Letters (Sign 4) is on the southern elevation which is 70,300 square feet, therefore under the sign code a maximum height of 4 feet is allowed.
- The applicant proposed a sign height of 5'. The proposed height is 1' or 25% over the code allowance.

**5. A variance to allow 5'- 6 1/2" height on the proposed Tracker Boats and ATVs (Sign 5) on the southern elevation.**

- The proposed Tracker Boats and ATVs (Sign 5) is on the southern elevation which is 70,300 square feet, therefore under the sign code a maximum height of 4 feet is allowed.
- The applicant proposed a sign height of 5'- 6 1/2". The proposed height is 1'- 6 1/2" or 38.5% over the code allowance.

**6. A variance to allow 13'-4" height on the proposed Bass Pro Shops Cabinet (Sign 6) on the eastern elevation for a total area of 266.6 square feet.**

- The proposed Bass Pro Shops Cabinet (Sign 6) is on the eastern elevation which is 36,765 square feet, therefore under the sign code a 150 square foot sign with a maximum height of 4 feet is allowed.
- The applicant proposes a sign area of 266.6 square feet with a height of 13' – 4". The proposed area is 116.6 square feet or 77.7% over the code allowance, and the height is 8' or 233.3% over the code allowance
- A previous sign variance (SVAR14-01) for the retailer approved a 227 square foot sign with a height of 8 feet.

- The proposal is an increase in square feet from the existing sign of 227 square feet. The proposed area is 39.6 square feet or 17.4% larger and includes a height increase of 5' – 4" or 66.6%.

The total area of the five signs proposed for the southern elevation of the building is 601.9 sf. The total area of the one sign proposed on the eastern elevation of the building is 266.6 sf. The total square footage of all proposed signs on the building is 868.5 sf.

### C. Previous Land Use Actions

- AR13-07 – Nyberg Rivers
- SVAR14-01 – Cabela's
- SVAR15-01 – Cabela's

### D. Site Description and Surrounding Uses

The subject site is a 22.74-acre lot that is zoned Central Commercial (CC) and Office Commercial (CO). The retailer is located west of Interstate 5, north of SW Nyberg St and south of the Tualatin River. The site includes the Major Commercial Center of Nyberg Rivers which includes various commercial tenants. The square footage of the Cabela's/Bass Pro Shops retailer is approximately 110,093 sf.

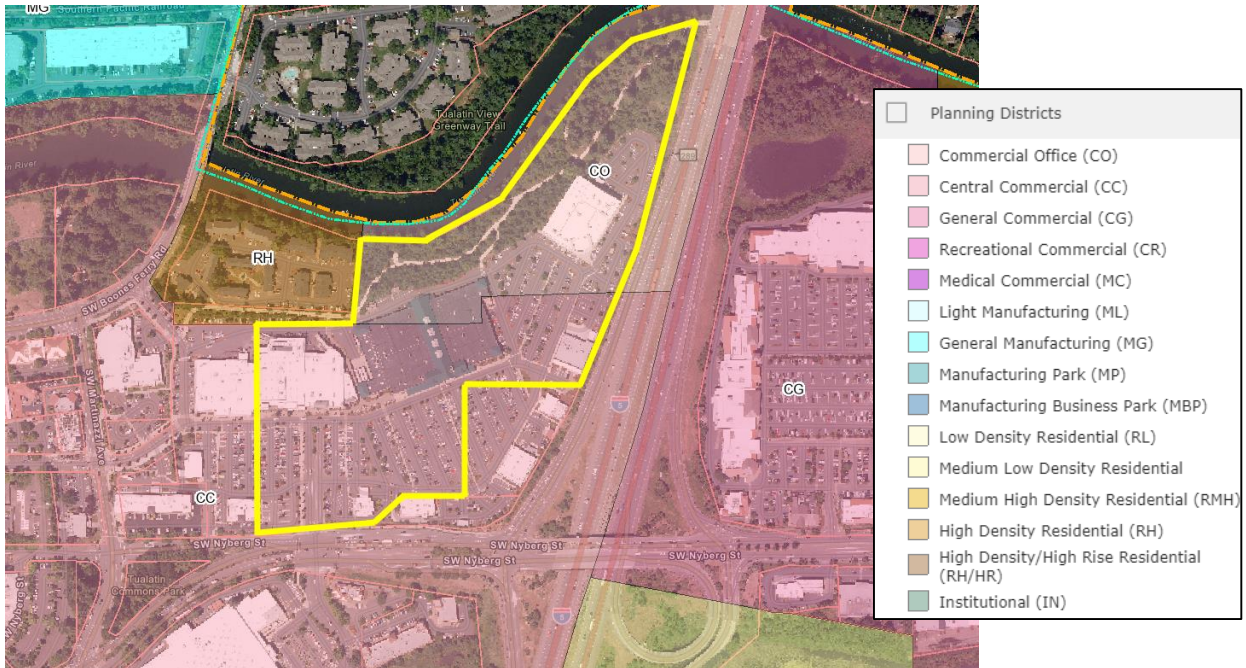


Figure 1: Aerial view of subject site (highlighted)

North: **High Density Residential (RH), Tualatin River, City of Durham**

- River Lofts Apartments
- Tualatin River Greenway, Multi-Use Trail

South: **Central Commercial (CC)**

- SW Nyberg Street

- Fred Meyer
- Commercial Tenants

West: **Central Commercial (CC)**

- Michaels Craft Store
- Commercial Tenants

East: **General Commercial (CG)**

- Interstate 5
- Nyberg Woods Shopping Center

**E. Exhibit List**

- Exhibit A: Application & Narrative
- Exhibit B: Proposed Sign Plan
- Exhibit C: Sign Renderings & Site Photos
- Exhibit D: Supporting Documents
- Exhibit E: Public Notice
- Exhibit F: Nyberg Rivers Architectural Review 13-07
- Exhibit G: Cabela's Sign Variance 14-01
- Exhibit H: Cabela's Sign Variance 15-01

## II. FINDINGS

The Planning Division findings reference the Tualatin Development Code (TDC), unless otherwise noted.

### Chapter 32: Procedures

#### Section 32.010 – Purpose and Applicability.

[...]

**(2) Applicability of Review Procedures.** All land use and development permit applications and decisions, will be made by using the procedures contained in this Chapter. The procedure “type” assigned to each application governs the decision-making process for that permit or application. There are five types of permit/application procedures as described in subsections (a) through (e) below. Table 32-1 lists the City’s land use and development applications and corresponding review procedure(s).

[...]

**(c) Type III Procedure (Quasi-Judicial Review – Public Hearing).** Type III procedure is used when the standards and criteria require discretion, interpretation, or policy or legal judgment. Quasi-Judicial decisions involve discretion but implement established policy. Type III decisions are made by the Planning Commission or Architectural Review Board and require public notice and a public hearing, with an opportunity for appeal to the City Council.

[...]

**(3) Determination of Review Type.** Unless specified in Table 32-1, the City Manager will determine whether a permit or application is processed as Type I, II, III, IV-A or IV-B based on the descriptions above. Questions regarding the appropriate procedure will be resolved in favor of the review type providing the widest notice and opportunity to participate. An applicant may choose to elevate a Type I or II application to a higher numbered review type, provided the applicant pays the appropriate fee for the selected review type.

**Table 32-1 – Applications Types and Review Procedures**

Application / Action	Procedure Type	Decision Body*	Appeal Body*	Pre-Application Conference Required	Neighborhood/Developer Mtg Required	Applicable Code Chapter
[...]						
Variance (including Sign Variance)	III	PC	CC	Yes	Yes	TDC 33.120
[...]						
* City Council (CC); Planning Commission (PC); Architectural Review Board (ARB); City Manager or designee (CM); Land Use Board of Appeals (LUBA).						

#### **Finding:**

*The requested Sign Variance application is classified as Type III Procedure Types according to Table 32-1. The application will be processed according to the applicable code for Type III procedures. This standard is met.*

**Section 32.030 – Time to Process Applications.**

**(1) Time Limit - 120-day Rule.** The City must take final action on all Type II, Type III, and Type IV-A land use applications, as provided by ORS 227.178, including resolution of all local appeals, within 120 days after the application has been deemed complete under TDC 32.160, unless the applicant provides written request or consent to an extension in compliance with ORS 227.178. (Note: The 120-day rule does not apply to Type IV-B (Legislative Land Use) decisions.)  
[...]

**Finding:**

*The application was deemed complete on October 2, 2024. The 120th day will be January 30, 2025. The hearing for SVAR 24-0001 is scheduled for November 20, 2024. The final action will take place within the 120 days unless the applicant requests an extension in compliance with ORS 227.178. This standard is met.*

**Section 32.110 – Pre-Application Conference.**

**(1) Purpose of Pre-Application Conferences.** Pre-application conferences are intended to familiarize applicants with the requirements of the TDC; to provide applicants with an opportunity discuss proposed projects in detail with City staff; and to identify approval criteria, standards, and procedures prior to filing a land use application. The pre-application conference is intended to be a tool to assist applicants in navigating the land use process, but is not intended to be an exhaustive review that identifies or resolves all potential issues, and does not bind or preclude the City from enforcing any applicable regulations or from applying regulations in a manner differently than may have been indicated at the time of the pre-application conference.

**(2) When Mandatory.** Pre-application conferences are mandatory for all land use actions identified as requiring a pre-application conference in Table 32-1. An applicant may voluntarily request a pre-application conference for any land use action even if it is not required.

**(3) Timing of Pre-Application Conference.** A pre-application conference must be held with City staff before an applicant submits an application and before an applicant conducts a Neighborhood/Developer meeting.

**(4) Application Requirements for Pre-Application Conference.**

**(a) Application Form.** Pre-application conference requests must be made on forms provided by the City Manager.

**(b) Submittal Requirements.** Pre-application conference requests must include:

**(i) A completed application form;**

**(ii) Payment of the application fee;**

**(iii) The information required, if any, for the specific pre-application conference sought; and**

**(iv) Any additional information the applicant deems necessary to demonstrate the nature and scope of the proposal in sufficient detail to allow City staff to review and comment.**

**(5) Scheduling of Pre-Application Conference.** Upon receipt of a complete application, the City Manager will schedule the pre-application conference. The City Manager will coordinate the involvement of city departments, as appropriate, in the pre-application conference. Pre-application conferences are not open to the general public.

**(6) Validity Period for Mandatory Pre-Application Conferences; Follow-Up Conferences.** A follow-up conference is required for those mandatory pre-application conferences that have previously been held when:

- (a) An application relating to the proposed development that was the subject of the pre-application conference has not been submitted within six (6) months of the pre-application conference;**
- (b) The proposed use, layout, and/or design of the proposal have significantly changed; or**
- (c) The owner and/or developer of a project changes after the pre-application conference and prior to application submittal.**

**Finding:**

*A Pre-Application Meeting is mandatory for Type III Sign Variance applications. The applicant participated in a Pre-Application Meeting on September 24, 2023. The applicant remained in contact with City Staff and has had subsequent follow-up meetings to maintain the validity of the initial Pre-Application Meeting. These standards are met.*

**Section 32.120 – Neighborhood/Developer Meetings.**

- (1) Purpose.** The purpose of this meeting is to provide a means for the applicant and surrounding property owners to meet to review a development proposal and identify issues regarding the proposal so they can be considered prior to the application submittal. The meeting is intended to allow the developer and neighbors to share information and concerns regarding the project. The applicant may consider whether to incorporate solutions to these issues prior to application submittal.
- (2) When Mandatory.** Neighborhood/developer meetings are mandatory for all land use actions identified in Table 32-1 as requiring a neighborhood/developer meeting. An applicant may voluntarily conduct a neighborhood/developer meeting even if it is not required and may conduct more than one neighborhood/developer meeting at their election.
- (3) Timing.** A neighborhood/developer meeting must be held after a pre-application meeting with City staff, but before submittal of an application.
- (4) Time and Location.** Required neighborhood/developer meetings must be held within the city limits of the City of Tualatin at the following times:
  - (a) If scheduled on a weekday, the meeting must begin no earlier than 6:00 p.m.**
  - (b) If scheduled on a weekend, the meeting must begin between 10:00 a.m. and 6:00 p.m.**
- (5) Notice Requirements.**
  - (a) The applicant must provide notice of the meeting at least 14 calendar days and no more than 28 calendar days before the meeting. The notice must be by first class mail providing the date, time, and location of the meeting, as well as a brief description of the proposal and its location. The applicant must keep a copy of the notice to be submitted with their land use application.**
  - (b) The applicant must mail notice of a neighborhood/developer meeting to the following persons:**
    - (i) All property owners within 1,000 feet measured from the boundaries of the subject property;**
    - (ii) All property owners within a platted residential subdivision that is located within 1,000 feet of the boundaries of the subject property. The notice area includes the entire subdivision and not just those lots within 1,000 feet. If the residential subdivision is one of two or more individually platted phases sharing a single subdivision name, the notice area need not include the additional phases; and**
    - (iii) All designated representatives of recognized Citizen Involvement Organizations as established in TMC Chapter 11-9.**
  - (c) The City will provide the applicant with labels for mailing for a fee.**



**(d) Failure of a property owner to receive notice does not invalidate the neighborhood/developer meeting proceedings.**

**(6) Neighborhood/Developer Sign Posting Requirements.** The applicant must provide and post on the subject property, at least 14 calendar days before the meeting. The sign must conform to the design and placement standards established by the City for signs notifying the public of land use actions in TDC 32.150.

**(7) Neighborhood/Developer Meeting Requirements.** The applicant must have a sign-in sheet for all attendees to provide their name, address, telephone number, and email address and keep a copy of the sign-in sheet to provide with their land use application. The applicant must prepare meeting notes identifying the persons attending, those commenting and the substance of the comments expressed, and the major points that were discussed. The applicant must keep a copy of the meeting notes for submittal with their land use application.

**Finding:**

*The applicant has provided evidence that a Neighborhood/Developer Meeting was held on October 24, 2023. The applicant has provided documentation of sign posting and notification in compliance with this section, as well as a sign-in sheet and notes from the meeting in Exhibit D. These standards are met.*

**Section 32.130 – Initiation of Applications.**

**(1) Type I, Type II, Type III, and Type IV-A Applications.** Type I, Type II, Type III, and Type IV-A applications may be submitted by one or more of the following persons:

- (a) The owner of the subject property;**
- (b) The contract purchaser of the subject property, when the application is accompanied by proof of the purchaser's status as such and by the seller's written consent;**
- (c) A lessee in possession of the property, when the application is accompanied by the owners' written consent; or**
- (d) The agent of any of the foregoing, when the application is duly authorized in writing by a person authorized to submit an application by paragraphs (a), (b) or (c) of this subsection, and accompanied by proof of the agent's authority.**

[...]

**Finding:**

*The application has been signed by an agent of Nyberg CenterCal II, LLC, who serves as the property owner's legal representative. This standard is met.*

**Section 32.140 – Application Submittal.**

**(1) Submittal Requirements.** Land use applications must be submitted on forms provided by the City. A land use application may not be accepted in partial submittals. All information supplied on the application form and accompanying the application must be complete and correct as to the applicable facts. Unless otherwise specified, all of the following must be submitted to initiate completeness review under TDC 32.160:

- (a) A completed application form.** The application form must contain, at a minimum, the following information:
  - (i) The names and addresses of the applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof;**
  - (ii) The address or location of the subject property and its assessor's map and tax lot number;**
  - (iii) The size of the subject property;**

- (iv) The comprehensive plan designation and zoning of the subject property;
  - (v) The type of application(s);
  - (vi) A brief description of the proposal; and
  - (vii) Signatures of the applicant(s), owner(s) of the subject property, and/or the duly authorized representative(s) thereof authorizing the filing of the application(s).
- (b) A written statement addressing each applicable approval criterion and standard;
- (c) Any additional information required under the TDC for the specific land use action sought;
- (d) Payment of the applicable application fee(s) pursuant to the most recently adopted fee schedule;
- (e) Recorded deed/land sales contract with legal description.
- (f) A preliminary title report or other proof of ownership.
- (g) For those applications requiring a neighborhood/developer meeting:
- (i) The mailing list for the notice;
  - (ii) A copy of the notice;
  - (iii) An affidavit of the mailing and posting;
  - (iv) The original sign-in sheet of participants; and
  - (v) The meeting notes described in TDC 32.120(7).
- (h) A statement as to whether any City-recognized Citizen Involvement Organizations (CIOs) whose boundaries include, or are adjacent to, the subject property were contacted in advance of filing the application and, if so, a summary of the contact. The summary must include the date when contact was made, the form of the contact and who it was with (e.g. phone conversation with neighborhood association chairperson, meeting with land use committee, presentation at neighborhood association meeting), and the result;
- (i) Any additional information, as determined by the City Manager, that may be required by another provision, or for any other permit elsewhere, in the TDC, and any other information that may be required to adequately review and analyze the proposed development plan as to its conformance to the applicable criteria;
- (2) Application Intake. Each application, when received, must be date-stamped with the date the application was received by the City, and designated with a receipt number and a notation of the staff person who received the application.
- (3) Administrative Standards for Applications. The City Manager is authorized to establish administrative standards for application forms and submittals, including but not limited to plan details, information detail and specificity, number of copies, scale, and the form of submittal.

**Finding:**

*The applicant submitted an application for SVAR 24-0001 on August 28, 2024. The application was deemed complete on October 2, 2024. The general land use submittal requirements were included with this application. These standards are met.*

**Section 32.150 - Sign Posting.**

- (1) When Signs Posted. Signs in conformance with these standards must be posted as follows:
- (a) Signs providing notice of an upcoming neighborhood/developer meeting must be posted prior to a required neighborhood/developer meeting in accordance with Section 32.120(6); and
  - (b) Signs providing notice of a pending land use application must be posted after land use application has been submitted for Type II, III and IV-A applications.
- (2) Sign Design Requirements. The applicant must provide and post a sign(s) that conforms to the following standards:

(a) Waterproof sign materials;

(b) Sign face must be no less than eighteen (18) inches by twenty-four (24) inches (18" x 24"); and

(c) Sign text must be at least two (2) inch font.

(3) On-site Placement. The applicant must place one sign on their property along each public street frontage of the subject property. (Example: If a property adjoins four public streets, the applicant must place a sign at each of those public street frontages for a total of four signs). The applicant cannot place the sign within public right of way.

(4) Removal. If a sign providing notice of a pending land use application disappears prior to the final decision date of the subject land use application, the applicant must replace the sign within forty-eight (48) hours of discovery of the disappearance or of receipt of notice from the City of its disappearance, whichever occurs first. The applicant must remove the sign no later than fourteen (14) days after:

(a) The meeting date, in the case of signs providing notice of an upcoming neighborhood/developer meeting; or

(b) The City makes a final decision on the subject land use application, in the case of signs providing notice of a pending land use application.

**Finding:**

*The applicant provided certification within Exhibit D that signs in conformance with this section were placed on site in accordance with this section. These standards are met.*

**Section 32.160 – Completeness Review.**

(1) Duration. Except as otherwise provided under ORS 227.178, the City Manager must review an application for completeness within 30 days of its receipt.

(2) Considerations. Determination of completeness will be based upon receipt of the information required under TDC 32.140 and will not be based on opinions as to quality or accuracy. Applications that do not respond to relevant code requirements or standards can be deemed incomplete. A determination that an application is complete indicates only that the application is ready for review on its merits, not that the City will make a favorable decision on the application.

(3) Complete Applications. If an application is determined to be complete, review of the application will commence.

(4) Incomplete Applications. If an application is determined to be incomplete, the City Manager must provide written notice to the applicant identifying the specific information that is missing and allowing the applicant the opportunity to submit the missing information. An application which has been determined to be incomplete must be deemed complete for purposes of this section upon receipt of:

(a) All of the missing information;

(b) Some of the missing information and written notice from the applicant that no other information will be provided; or

(c) Written notice from the applicant that none of the missing information will be provided.

(5) Vesting. If an application was complete at the time it was first submitted, or if the applicant submits additional required information within 180 days of the date the application was first submitted, approval or denial of the application must be based upon the standards and criteria that were in effect at the time the application was first submitted.

(6) Void Applications. An application is void if the application has been on file with the City for more than 180 days and the applicant has not provided the missing information or otherwise responded, as provided in subsection (4) of this section.

[...]

**Finding:**

*The applicant submitted an application for SVAR 24-0001 on August 28, 2024. The application was deemed complete on October 2, 2024. These standards are met.*

**Section 32.230. - Type III Procedure (Quasi-Judicial Review—Public Hearing).**

Type III decisions involve the use of discretion and judgment and are made by the Planning Commission or Architectural Review Board after a public hearing with an opportunity for appeal to the City Council. The decision body for each application type is specified in Table 32-1. A hearing under these procedures provides a forum to apply standards to a specific set of facts to determine whether the facts conform to the applicable criteria and the resulting determination will directly affect only a small number of identifiable persons.

(1) **Submittal Requirements.** Type III applications must include the submittal information required by TDC 32.140(1).

(2) **Determination of Completeness.** After receiving an application for filing, the City Manager will review the application will for completeness in accordance with TDC 32.160.

(3) **Written Notice of Public Hearing—Type III.** Once the application has been deemed complete, the City must mail by regular first class mail Notice of a Public Hearing to the following individuals and agencies no fewer than 20 days before the hearing.

**(a) Recipients:**

(i) The applicant and, the owners of the subject property;

(ii) All property owners within 1,000 feet measured from the boundaries of the subject property;

(iii) All property owners within a platted residential subdivision that is located within 1,000 feet of the boundaries of the subject property. The notice area includes the entire subdivision and not just those lots within 1,000 feet. If the residential subdivision is one of two or more individually platted phases sharing a single subdivision name, the notice area need not include the additional phases;

(iv) All recognized neighborhood associations within 1,000 feet from the boundaries of the subject property;

(v) All designated representatives of recognized Citizen Involvement Organizations as established in TMC Chapter 11-9;

(vi) Any person who submits a written request to receive a notice;

(vii) Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City and any other affected agencies, including but not limited to: school districts; fire district; where the project either adjoins or directly affects a state highway, the Oregon Department of Transportation; and where the project site would access a County road or otherwise be subject to review by the County, then the County; and Clean Water Services; Tri Met; and, ODOT Rail Division and the railroad company if a railroad-highway grade crossing provides or will provide the only access to the subject property. The failure of another agency to respond with written comments on a pending application does not invalidate an action or permit approval made by the City under this Code;

(viii) Utility companies (as applicable); and,

(ix) Members of the decision body identified in Table 32-1.

**(b) The Notice of a Public Hearing, at a minimum, must contain all of the following information:**

- (i) The names of the applicant(s), any representative(s) thereof, and the owner(s) of the subject property;
  - (ii) The street address if assigned, if no street address has been assigned then Township, Range, Section, Tax Lot or Tax Lot ID;
  - (iii) The type of application and a concise description of the nature of the land use action;
  - (iv) A list of the approval criteria by TDC section for the decision and other ordinances or regulations that apply to the application at issue;
  - (v) Brief summary of the local decision making process for the land use decision being made and a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings;
  - (vi) The date, time and location of the hearing;
  - (vii) Disclosure statement indicating that if any person fails to address the relevant approval criteria with enough detail, he or she may not be able to appeal to the Land Use Board of Appeals on that issue, and that only comments on the relevant approval criteria are considered relevant evidence;
  - (viii) The name of a City representative to contact and the telephone number where additional information may be obtained; and
  - (ix) Statement that the application and all documents and evidence submitted to the City are in the public record and available for review, and that copies can be obtained at a reasonable cost from the City; and
  - (x) Statement that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at reasonable cost.
- (c) Failure of a person or agency to receive a notice, does not invalidate any proceeding in connection with the application, provided the City can demonstrate by affidavit that required notice was given.

**Finding:**

*After submittal and completeness review as required by this section, notice for the Type III hearing concerning SVAR 24-0001 was mailed by city staff on October 9, 2024, containing the information required by this section (Exhibit E). These standards are met.*

**(4) Conduct of the Hearing—Type III.** The person chairing the hearing must follow the order of proceedings set forth below. These procedures are intended to provide all interested persons a reasonable opportunity to participate in the hearing process and to provide for a full and impartial hearing on the application before the body. Questions concerning the propriety or the conduct of a hearing will be addressed to the chair with a request for a ruling. Rulings from the chair must, to the extent possible, carry out the stated intention of these procedures. A ruling given by the chair on such question may be modified or reversed by a majority of those members of the decision body present and eligible to vote on the application before the body. The procedures to be followed by the chair in the conduct of the hearing are as follows:

- (a) At the commencement of the hearing, the person chairing the hearing must state to those in attendance all of the following information and instructions:
  - (i) The applicable substantive criteria;
  - (ii) That testimony, arguments and evidence must be directed toward the criteria described in paragraph (i) of this subsection or other criteria in the plan or land use regulation which the person believes to apply to the decision;

**(iii) That failure to raise an issue accompanied by statements or evidence sufficient to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to the State Land Use Board of Appeals based on that issue;**

**(iv) At the conclusion of the initial evidentiary hearing, the decision body must deliberate and make a decision based on the facts and arguments in the public record; and**

**(v) Any participant may ask the decision body for an opportunity to present additional relevant evidence or testimony that is within the scope of the hearing; if the decision body grants the request, it will schedule a date to continue the hearing as provided in TDC 32.230(4)(e), or leave the record open for additional written evidence or testimony as provided TDC 32.230(4)(f).**

**(b) The public is entitled to an impartial decision body as free from potential conflicts of interest and pre-hearing ex parte (outside the hearing) contacts as reasonably possible. Where questions related to ex parte contact are concerned, members of the decision body must follow the guidance for disclosure of ex parte contacts contained in ORS 227.180. Where a real conflict of interest arises, that member or members of the decision body must not participate in the hearing, except where state law provides otherwise. Where the appearance of a conflict of interest is likely, that member or members of the decision body must individually disclose their relationship to the applicant in the public hearing and state whether they are capable of rendering a fair and impartial decision. If they are unable to render a fair and impartial decision, they must be excused from the proceedings.**

**(c) Presenting and receiving evidence.**

**(i) The decision body may set reasonable time limits for oral presentations and may limit or exclude cumulative, repetitious, irrelevant, or personally derogatory testimony or evidence;**

**(ii) No oral testimony will be accepted after the close of the public hearing. Written testimony may be received after the close of the public hearing only as provided by this section; and**

**(iii) Members of the decision body may visit the property and the surrounding area, and may use information obtained during the site visit to support their decision, if the information relied upon is disclosed at the beginning of the hearing and an opportunity is provided to dispute the evidence.**

**(d) The decision body, in making its decision, must consider only facts and arguments in the public hearing record; except that it may take notice of facts not in the hearing record (e.g., local, state, or federal regulations; previous City decisions; case law; staff reports). Upon announcing its intention to take notice of such facts in its deliberations, it must allow persons who previously participated in the hearing to request the hearing record be reopened, as necessary, to present evidence concerning the newly presented facts.**

**(e) If the decision body decides to continue the hearing, the hearing must be continued to a date that is at least seven days after the date of the first evidentiary hearing (e.g., next regularly scheduled meeting). An opportunity must be provided at the continued hearing for persons to present and respond to new written evidence and oral testimony. If new written evidence is submitted at the continued hearing, any person may request, before the conclusion of the hearing, that the record be left open for at least seven days, so that he or she can submit additional written evidence or arguments in response to the new written evidence. In the interest of time, after the close of the hearing, the decision body may limit additional testimony to arguments and not accept additional evidence.**

**(f) If the decision body leaves the record open for additional written testimony, the record must be left open for at least seven days after the hearing. Any participant may ask the decision body**

in writing for an opportunity to respond to new evidence (i.e., information not disclosed during the public hearing) submitted when the record was left open. If such a request is filed, the decision body must reopen the record, as follows:

- (i) When the record is reopened to admit new evidence or arguments (testimony), any person may raise new issues that relate to that new evidence or testimony;
- (ii) An extension of the hearing or record granted pursuant to this section is subject to the limitations of TDC 32.030, unless the applicant waives his or her right to a final decision being made within the required timeframe; and
- (iii) If requested by the applicant, the decision body must grant the applicant at least seven days after the record is closed to all other persons to submit final written arguments, but not evidence, provided the applicant may expressly waive this right.

**Finding:**

*The Tualatin Planning Commission will follow the hearing requirements set forth by this section in hearing SVAR 24-0001. These standards will be met.*

**(5) Notice of Adoption of a Type III Decision.** Notice of Adoption must be provided to the property owner, applicant, and any person who provided testimony at the hearing or in writing. The Type III Notice of Adoption must contain all of the following information:

- (a) A description of the applicant's proposal and the City's decision on the proposal, which may be a summary, provided it references the specifics of the proposal and conditions of approval in the public record;
- (b) The address or other geographic description of the property proposed for development, including a map of the property in relation to the surrounding area;
- (c) A statement that a copy of the decision and complete case file, including findings, conclusions, and conditions of approval, if any, is available for review and how copies can be obtained;
- (d) The date the decision becomes final, unless a request for appeal is submitted; and
- (e) The notice must include an explanation of rights to appeal the decision to the City Council in accordance with TDC 32.310.

**Finding:**

*A final decision and any appeal will follow the requirements of this section. These standards will be met.*

## **Chapter 33: Applications and Approval Criteria**

### **Section 33.080 – Signs – Permits, Design Review, and Variances.**

- (1) ***Purpose.*** To implement the standards of TDC Chapter 38. Sign Variance review provides a public hearing process to review special situations that are not anticipated by the Sign Regulations in TDC Chapter 38, including TDC 38.100, 38.110, 38.120 and 38.140-38.240.
- (2) ***Applicability.*** The requirements of this section apply to sign permits, sign design review and sign variances as required in accordance with TDC Chapter 38.

**Finding:**

*A sign variance is requested to the Central Commercial (CC) sign standard requirements of TDC 38.220. The proposed sign plan including the requested variances for sign height and area are included in the applicant's submitted sign plan (Exhibit B). The requested variances are outlined below:*

- 1. A variance to allow five signs (Signs 1-5) on a single elevation (southern elevation) for a total area of 601.9 square feet.

- The retailer's southern elevation is 70,300 square feet, therefore the sign code allows three wall signs on an owned or leased wall equal to or greater than 5,000 square feet.
  - The retailer currently has three signs on the southern elevation for a total of 361.79 square feet of existing signage.
  - The proposal requests an additional 2 signs on the southern elevation which is an increase of 240.1 square feet of signage or 66.4%.
- 2. A variance to allow 10' - 4 5/8" height on the proposed Bass Pro Shops Formed Main ID Cabinet (Sign 2) on the southern elevation for a total sign area of 156.8 square feet.**
- The proposed Bass Pro Shops Formed Main ID Cabinet (Sign 2) is on the southern elevation which is 70,300 square feet, therefore under the sign code a 150 square foot sign with a maximum height of 4 feet is allowed.
  - The applicant proposes a sign area of 156.8 square feet with a height of 10' - 4 5/8". The proposed area is 6.8 square feet or 4.5% over the code allowance, and the proposed height is 6' - 4 5/8" or 159.6% over the code allowance
  - A previous sign variance (SVAR14-01) for the retailer approved a 264 square foot sign with a height of 8 feet.
  - The proposal is a reduction in square feet from the existing sign of 264 square feet, a 107.2 or 40.6% reduction in square footage is proposed, and a height increase of 2' - 4 5/8" or 29.8% is proposed.
- 3. A variance to allow 6' - 1/8" height on the proposed Outdoor World Wall Cabinet (Sign 3) on the southern elevation for a total sign area of 198.5 square feet.**
- The proposed Outdoor World Wall Cabinet (Sign 3) is on the southern elevation which is 70,300 square feet, therefore under the sign code a 150 square foot sign with a maximum height of 4 feet is allowed.
  - The applicant proposed a sign area of 198.5 square feet with a height of 6' - 1/8". The proposed area is 48.5 square feet or 32.3% over the code allowance. The proposed height is 2' - 1/8" or 52.1% over the code allowance.
- 4. A variance to allow 5' height on the proposed Cabela's Channel Letters (Sign 4) on the southern elevation.**
- The proposed Cabela's Channel Letters (Sign 4) is on the southern elevation which is 70,300 square feet, therefore under the sign code a maximum height of 4 feet is allowed.
  - The applicant proposed a sign height of 5'. The proposed height is 1' or 25% over the code allowance.
- 5. A variance to allow 5' - 6 1/2" height on the proposed Tracker Boats and ATVs (Sign 5) on the southern elevation.**
- The proposed Tracker Boats and ATVs (Sign 5) is on the southern elevation which is 70,300 square feet, therefore under the sign code a maximum height of 4 feet is allowed.



- The applicant proposed a sign height of 5' - 6 ½". The proposed height is 1' - 6 ½" or 38.5% over the code allowance.

**6. A variance to allow 13'-4" height on the proposed Bass Pro Shops Cabinet (Sign 6) on the eastern elevation for a total area of 266.6 square feet.**

- The proposed Bass Pro Shops Cabinet (Sign 6) is on the eastern elevation which is 36,765 square feet, therefore under the sign code a 150 square foot sign with a maximum height of 4 feet is allowed.
- The applicant proposes a sign area of 266.6 square feet with a height of 13' – 4". The proposed area is 116.6 square feet or 77.7% over the code allowance, and the height is 8' or 233.3% over the code allowance
- A previous sign variance (SVAR14-01) for the retailer approved a 227 square foot sign with a height of 8 feet.

**(3) Procedure Type. Sign permits, sign design review and variances are processed in accordance with the procedures in TDC Chapter 32 as follows:**

- (a) Sign Permits are subject to Type I review.**
- (b) Sign Design Reviews are subject to Type I review.**
- (c) Sign Variances are subject to Type III review.**

**(4) Specific Submittal Requirements. In addition to the general submittal requirements in TDC 32.140 (Application Submittal), the applicant must submit the information required by TDC 38.070 (Sign Permit Process).**

**Finding:**

*The subject proposal is a Type III land use case, subject to a quasi-judicial hearing before the Tualatin Planning Commission.*

**(5) Approval Criteria.**

[...]

- (c) Sign Variances. All six of the following criteria must be met before a variance can be granted:**
  - (i) A hardship is created by exceptional or extraordinary conditions applying to the property that do not apply generally to other properties in the same zone, and such conditions are a result of lot size or shape or topography over which the applicant or owner has no control;**

**Finding:**

*The applicant's narrative (Exhibit A) noted the subject site is located within a required master plan area. The Nyberg Rivers shopping mall was reviewed and approved under Architectural Review 13-07. The applicant stated that based on the master plan area, the property was subject to extensive design review proceedings in comparison to other properties in the Central Commercial (CC) and Commercial Office (CO) Planning Districts located outside of the subject site. The applicant stated the master plan and Architectural Review Board (ARB) requirements created significant alterations to the store's standard design. The changes resulted in unique façade features that align with the proposed sign package, distinguishing the store from others in the area. The narrative stated the sign standards of the Central Commercial (CC) Planning District prevent adequate visibility and readability from major arterials due to*

*the sign size restrictions. The applicant suggested the restrictive sign sizing would not match the scale of the existing approved façade.*

*The narrative cited location-specific issues as a hardship. The applicant wrote that the Cabela's/Bass Pro Shops location is positioned in the furthest northeastern corner of the development. The applicant stated the location was influenced by existing retail placements, parking requirements, and a desire to harmonize with neighboring uses. The current location contributes to visibility problems, which the applicant stated as a need for a sign variance to enhance the store's identity along SW Nyberg Street. The applicant asserted that they had no influence over the property's size or layout. The site is bordered by the Tualatin River, I-5 and Nyberg Street which complicates the access and visibility of the site.*

- (ii) The hardship does not result from actions of the applicant, owner or previous owner, or from personal circumstances, or from the financial situation of the applicant or owner or the company, or from regional economic conditions;**

**Finding:**

*In the submitted narrative (Exhibit A), the applicant discussed that the hardship is not a result of action by the applicant, owner or previous owner. The applicant stated the described hardships are also not a result of the financial situation of the applicant, owner, or company or from the regional economic conditions.*

*The narrative noted that the Tualatin Development Code created the process and procedures of the land use application that approved the Nyberg Rivers shopping mall under Architectural Review 13-07. The site was previously developed prior to Cabela's/Bass Pro Shops taking interest in the site and the location of the Cabela's/Bass Pro Shops retailer was determined through the land use and Architectural Review Board process. The narrative also stated the road locations and thus the bifurcation of the site were due to the Tualatin Transportation System Plan and are out of the control of the applicant team.*

- (iii) The variance is the minimum remedy necessary to eliminate the hardship;**

**Finding:**

*The applicant's narrative (Exhibit A) stated that the requested variances are the minimum remedy necessary to maintain adequate visibility for the business. The applicant also provided that the variance would be the minimum remedy to integrate the proposed signs with the architectural scale of the façade without creating sign clutter. The applicant submitted a rendering of the proposed sign plan with the requested variances applied versus a rendering of the proposed sign plan without the requested variance applied in Exhibit C.*

*The applicant submitted site photos (Exhibit C) that depict the current signage site conditions when viewed from 300 feet and 525 feet. The narrative reported that the proposed sign package does not appear out of scale with the existing façade and the requested variances would be reasonably readable at 300 feet. The applicant continued by stating at over 525 feet along SW Nyberg Street, the signage would become much less readable and would not appear out of proportion with the existing architectural features. The narrative noted the proposed signage would be integrated into the entry way sign so that it would appear expected and familiar rather than out of place or out of scale.*

City Staff noted the two previous sign variance applications (Exhibit G and H) submitted and reviewed for the Cabela's/Bass Pro Shops location.

- **SVAR 14-01:** *Granted the request for a sign variance for Cabela's store located at 7555 SW Nyberg Street. Cabela's be allowed to obtain two variances for sign permits and erect two wall signs with up to eight (8) foot high letters and a total of 658 square feet of sign face area for the entire store inclusive of the following:*
  1. *Cabela's west elevation will have a "Customer Pick-up" Sign at 58 square feet.*
  2. *The south elevation will have three signs:*
    - a. *"Cabela's," at 227 square feet with up to 8-foot high lettering and "World's Foremost Outfitter" for a total of 264 square feet.*
    - b. *"Hunting – Fishing," at 62 square feet with up to 2-foot high lettering.*
    - c. *"Outdoor Gear," at 47 square feet with up to 2-foot high lettering.*
  3. *The east elevation will have one sign, "Cabela's" at 227 square feet and up to 8-foot high lettering.*
  
- **SVAR 15-01:** *Granted the request for a temporary banner sign variance for Cabela's store located at 7555 SW Nyberg Street. Cabela's is granted a variance from the height requirements in TDC 38.110(5)(f) and a variance from the maximum square foot requirements in TDC 38.110(5)(f) related to temporary banner signs, subject to the following conditions:*
  - o *Prior to installation of any temporary banner sign, Cabela's must apply for, and receive, a sign permit;*
  - o *Temporary banners signs cannot exceed 10-feet in height;*
  - o *Temporary banners signs cannot exceed 120 square feet of total sign face;*
  - o *Temporary banner signs are only allowed on the front face of the building (the southeast elevation);*
  - o *Only one temporary banner sign may be erected on the building at any one time;*
  - o *The total amount of time that a temporary banner sign, or combination of temporary banner signs, may affixed to the building is 60 days in any one calendar year.*
  - o *This variance only applies to Cabela's and does not apply to any new tenants of this building.*

**(iv) The variance is necessary for the preservation of a property right of the owner substantially the same as is possessed by owners of other property in the same zone however, nonconforming or illegal signs on the subject property or on nearby properties does not constitute justification to support a variance request;**

**Finding:**

*The submitted narrative (Exhibit A) provided the response that the requested variances for the intended signage size would preserve the property rights of Cabela's/Bass Pro Shops to have visual access to their signage. The applicant stated the proposed size of the signage would be just as legible as the signage of the other tenants in the shopping center who are sited closer to the arterial streets in comparison to the Cabela's/Bass Pro Shops location.*

**(v) The variance must not be detrimental to the general public health, safety and welfare, and not be injurious to properties or improvements in the vicinity; and**

**Finding:**

*The submitted narrative in Exhibit A stated the proposed sign variances would not cause detriment to the public health, safety and welfare and would not be injurious to properties or improvements in the vicinity. The applicant described how the sign variance would equalize visible access to the onsite business identities of the Nyberg Rivers shopping mall and would allow Cabela's/Bass Pro shops signage to be appropriately adjusted in relation to the site location and size of the façade's architectural features and unique design. The narrative included that the Cabela's/Bass Pro Shops retailer provides a large draw of business, and acts as an anchor to the Nyberg Rivers shopping mall. The applicant concluded that other tenants in the shopping center would also benefit from the increased visibility of the Cabela's/Bass Pro Shops sign variance.*

**(vi) The variance must not be detrimental to any applicable Comprehensive Plan goals and policies.**

**Finding:**

*The applicant stated the proposed sign variances would not cause detriment to the applicable Comprehensive Plan goals and policies, but rather upholds and enhances the goals and policies.*

*On Page 5 of the submitted narrative (Exhibit A) the applicant cited dated policies of the Comprehensive Plan. The applicant referenced enhancing the quality of streetscapes, architecture, landscaping, and urban character. The narrative stated the Cabela's/Bass Pro Shops development was approved as part of an Architectural Review Board decision, Architectural Review 13-07 (Exhibit F). Through the review the Nyberg Rivers shopping center resulted in high quality architectural features, streetscapes, and met the Tualatin Development Code approval criteria at the time of decision which protected and enhanced the urban character of Tualatin. The applicant noted the proposed signage would be well integrated into the façade of the approved building and is part of the quality architecture and streetscape that was approved under the master plan in further support of the design objectives.*

*The applicant also discussed protecting and enhancing the City's economy and property values. The narrative stated the requested sign variances are the minimal remedy necessary to allow for the commercial signage for Cabela's/Bass Pro Shops to have visibility from the surrounding road system. The applicant discussed how visible signage contributes to the protection and enhancement of commercial property values. The narrative concluded that the increased signage would help ensure the commercial success of a major store at the Nyberg Rivers shopping center and would in turn protect and enhance the property value of other retailers in the vicinity and contribute to the City's economy.*

*City staff noted the Tualatin Comprehensive Plan goals and policies below as applicable to the deciding body's decision making.*

- GOAL 2.3 Balance the right of free speech, business needs, public wayfinding, safety for all modes, and diverse aesthetic interests, through a functional sign regulation program.
  - o POLICY 2.3.1 Protect public health and safety by limiting distracting signs, ensuring that signs do not interfere with multi-modal transportation safety, and ensuring safe construction and installation of signs.
  - o POLICY 2.3.2 Align the range of allowed sign types with the urban design context, such as additional small signs in pedestrian-oriented development areas.

- *POLICY 2.3.3 Encourage attractive, creative, and unique sign types through the City's review program. Encourage the improvement and maintenance of non-conforming signs.*

*Signs submitted to the city are reviewed for compliance against the sign standards of Tualatin Development Code Chapter 38. Legal nonconforming signs are reviewed for compliance against TDC 35.200.*

## **Chapter 38: Sign Regulations**

### **Section 38.100 - General Provisions.**

- (1) **Location.** Except for traffic control devices, public signs and special event banner signs, signs shall be located on private property outside of the public right-of-way and shall not extend over or into the public right-of-way. Signs shall not be constructed in or extend over or into easements for public sewer, water or storm drain lines or within five feet of such lines, or within the dripline of existing trees. Shingle signs in the Central Tualatin Overlay District may extend over the publicly owned promenade, public sidewalks and private walkways.
- (2) **Vision Clearance Area.** Signs may be located in vision clearance areas provided they do not extend into the space from higher than 24 inches above the curb, or if no curb exists from higher than 30 inches above grade, to lower than eight feet above the curb or grade, except as noted below in this subsection. Support structures, such as posts, for freestanding signs which extend higher than eight feet above grade may be located in a vision clearance area only if the combined total width of the support structures in the vision clearance area is one foot or less and the combined total depth of support structures in the vision clearance area is one foot or less.
- (3) **Pedestrian Area Clearance.** Signs erected over or extending over private or public pedestrian walkways or paths shall provide a vertical clearance of at least eight feet from the surface of the walkway or path to the lowest portion of the sign.
- (4) **Signs Incorporated Into Fences.** Except for signs at subdivision entrances located in a private tract median island within a public right-of-way, monument signs may be affixed to and be part of a masonry fence. Pole signs shall be affixed only to the ground.
- (5) **Copy.** Copy shall be placed only on the sign face.
- (6) **Dedication for Right-of-Way.** Signs and their structures and foundations shall be removed from property subject to dedication to the public before such dedication shall be accepted by the City.
- (7) **Illumination.**
  - (a) Lights providing indirect illumination onto signs shall be directed so the source of light is not visible from the public right-of-way or from properties in residential planning districts.
  - (b) Neon or LED lighting is the only permitted lighting for direct illumination of all sign types except for electronic signs as described in TDC 38.140(2)(e). Neon, LED incandescent and fluorescent lighting are permitted for indirect or internal illumination.
  - (c) The surface brightness of any sign shall not exceed that produced by the diffused output obtained from 800 milliamperes fluorescent light sources spaced not closer than eight inches on center.
- (8) **Sign Maintenance and Repair.** All signs shall be maintained in good order and repair at all times. Signs which have become faded, worn, damaged or are unsafe or pose a danger to the public shall be maintained, repaired or removed.

- (9) **Signage For Additional Uses in the Central Urban Renewal District and the Leveton Tax Increment Financing District.** In specific situations the Tualatin Development Code permits selected uses from a given "home" planning district to locate in another "receiving" planning district as an additional use when the "receiving" district is in the Central Tualatin Overlay District or the Leveton Tax Increment Financing District. When an additional use exists in a "receiving" planning district, the sign regulations of the "home" planning district shall apply to the additional use.

**Section 38.110 - Sign Types.**

**(3) Wall Sign Provisions.**

**(a) Sign Bands.**

- (i) A sign band shall be designated for each building by the building/property owner as part of the first sign permit application for that building after the effective date of this ordinance.
  - (ii) The sign band shall be located on a wall or awning, or the fascia of a canopy or marquee, or in the space between posts or columns which are directly below with the wall above and in the same vertical line as the wall above. The sign band shall not include windows. The sign band shall be no greater in height from top to bottom than the allowed wall sign height.
  - (iii) The sign band for existing wall signs with an approved sign permit shall be that portion of the wall where the existing sign is located.
  - (iv) The sign band shall be located in the same relative position on each elevation; however, the band may reflect architectural elements and grade changes. The band may include, but is not limited to, a continuous horizontal painted band, a continuous horizontal architectural feature, a continuous horizontal band of similar exterior material such as courses of colored or textured brick, or concrete block. The sign band shall not extend above the top of a wall or a parapet. Except as provided in TDC 38.225, sign bands on awnings, canopies and marquees shall not extend above the top of nor below the bottom of the awning, canopy or marquee.
- (b) Except for window signs, shingle/blade signs attached to a wall, and wall mounted plaque and directory signs, permanent wall signs shall be erected within the sign band.
  - (c) Wall signs may be erected on doors, provided the sign band includes the door.
  - (d) **Wall Sign Extensions.** Wall signs shall not extend above the top of nor below the bottom of the sign band.
  - (e) **Wall Sign Depth.** Wall signs shall not extend out from the wall greater than 1.33 feet (16 inches). Except as provided in TDC 38.225, shingle/blade signs attached to a wall may extend no greater than four feet.
  - (f) **Wall Sign Face Orientation.** Wall sign faces shall be parallel to the wall to which they are attached. Except as provided in TDC 38.225, shingle/blade signs attached to a wall shall be perpendicular to the wall to which they are attached.

**Findings:**

*Any future submission of wall signs would reviewed for compliance with these standards.*

**Section 38.220 - Signs Permitted in the Central Commercial (CC) and General Commercial (CG) Planning Districts.**

- (1) Additional sign types are allowed on Multi-story Buildings, on buildings within a Major Commercial Center, and within the Central Design District. No sign shall be permitted in the CC or CG Planning Districts for permitted and conditional uses except the following:**
- (a) Monument signs are permitted. If used, the following standards apply:**
- (i) Number: One for a single frontage lot. Two for a single frontage lot with a minimum of 1.5-2.0 acres in lot area and 500 feet of frontage on one public street, provided the signs are not less than 300 feet apart from each other. Two for a corner lot with two or more frontages, provided the signs are not less than 300 feet apart from each other. Two for a through lot with two or more frontages, provided no more than one sign is on each frontage.**
  - (ii) Number of Sides: No more than two.**
  - (iii) Height Above Grade: No higher than eight feet, except a Major Commercial Center sign may be up to ten feet.**
  - (iv) Area: No more than 40 square feet, except a Major Commercial Center sign may be up to 55 square feet.**
  - (v) Letter, Symbol, Logo, Size: Letters, symbols and logos shall be at least one foot high measured from the top of the letter/symbol/logo to the bottom of the letter/symbol/logo. Numbers may be less than one foot high.**
  - (vi) Illumination: Subject to Sign Design Review Standards of TDC 38.075, direct, indirect or internal.**
  - (vii) Location: No greater than 30 feet from the frontage property line along the public right-of-way.**
  - (viii) Design: Subject to Sign Design Review Standards of TDC 38.075.**
- (b) Monument signs in addition to those allowed in TDC 38.220(1)(a) above are permitted for separate buildings in Major Commercial Centers of greater than 3.0 acres. If used, the following standards apply:**
- (i) Location on Site: At least 150 feet shall separate additional monument signs from each other. At least 100 feet shall separate additional monument signs from the monument and pole signs permitted in TDC 38.220(1)(a) above and 38.220(1)(c) below.**
  - (ii) Number: One per separate building up to a maximum of four buildings.**
  - (iii) Number of Sides: No more than two.**
  - (iv) Height Above Grade: No higher than six feet.**
  - (v) Area: No more than 32 square feet.**
  - (vi) Letter, Symbol, Logo, Size: See TDC 38.220(1)(a)(v).**
  - (vii) Illumination: Subject to Sign Design Review Standards of TDC 38.075, indirect or internal.**
  - (viii) Design: Subject to Sign Design Review Standards of TDC 38.075.**
- (c) Pole signs are permitted in place of the monument signs allowed in TDC 38.220(1)(a) above, except on an Arterial Street frontage. If used, the following standards apply:**
- (i) Number: One for a single Collector or Local Street frontage lot. Two for a corner lot with two or more Collector or Local Street frontages, provided the signs are not less than 300 feet apart from each other. Two for a through lot with two or more Collector or Local Street frontages, provided no more than one sign is on each frontage. Notwithstanding the preceding sentences in TDC 38.220(1)(c)(i), a Major Commercial Center is limited to one freestanding pole sign.**

- (ii) **Number of Sides:** There is no restriction, except Major Commercial Center Signs are limited to two sides.
- (iii) **Height Above Grade:** No higher than 15 feet, except the Major Commercial Center Sign may be up to 20 feet.
- (iv) **Height of Sign Face:** No higher than eight feet, except the Major Commercial Center Sign may be up to ten feet.
- (v) **Area:** No more than 48 square feet, except the Major Commercial Center sign may be up to 100 square feet.
- (vi) **Letter, Symbol, Logo, Size:** See TDC 38.220(1)(a)(v).
- (vii) **Illumination:** Subject to Sign Design Review Standards of TDC 38.075, direct, indirect or internal, except the Major Commercial Center sign shall not be direct.
- (viii) **Mechanical Readerboard:** For churches, cinemas and theaters, the sign may be a mechanical readerboard.
- (ix) **Design.** Subject to Sign Design Review Standards of TDC 38.075.
- (d) **Wall Signs Are Permitted.** If used, the following standards apply:
  - (i) **Number:** One on each owned or leased wall not to exceed four walls of a building. For walls not oriented toward and not located within 150 feet of the Wetland Protected Area or a Natural Resource Protection Overlay District (NRPO) as shown on Map 72-1, two wall signs are allowed on an owned or leased wall of 4,000-4,999.99 square feet provided the distance between the two signs is greater than 25 feet, and three wall signs on an owned or leased wall equal to or greater than 5,000 square feet.
  - (ii) **Number of Sides:** No more than one.
  - (iii) **Height Above Grade:** No higher than the height of the sign band on the owned or leased space.
  - (iv) **Height of Sign Face:** No higher than four feet provided no letter or number (does not include logos, caricatures, scenes, non-letters and non-numerical symbols) shall be more than two feet when erected on owned or leased walls whose area is less than 4,000 square feet, and no higher than four feet for letters, numbers, logos, caricatures, scenes and symbols when erected on owned or leased walls equal to or greater than 4,000 square feet. If a sign's square footage is less than ½ the maximum area allowed, then the height of the sign can be doubled. If the sign height is doubled, the height of any logo, symbols, caricatures or scenes may be up to five feet.
  - (v) **Area:** For owned or leased walls whose area is 0 to 400 square feet, a sign area of at least 24 square feet or ten percent of the wall area is allowed, whichever is greater. For walls whose area is 400 to 3,999.9 square feet, a sign area of no more than 40 square feet is allowed. For walls not oriented toward and not located within 150 feet of the Wetland Protected Area or a NRPO District as shown on Map 72-1, a total sign area of up to 100 square feet is allowed for a wall 4,000-4,999.9 square feet provided that when two wall signs are erected neither sign is larger than 75 square feet, and for walls equal to or greater than 5,000 square feet, a sign area of up to 150 square feet is allowed.
  - (vi) **Illumination:** Direct, indirect or internal.
  - (vii) **Mechanical Readerboard:** For churches, cinemas and theaters the sign may be a mechanical readerboard.
- (2) **On Multi-story Buildings and on buildings within a Major Commercial Center or within the Central Design District,** additional building sign types are permitted subject to the following standards:



- (a) **Directory-style Wall Signs.** One directory-style wall sign may be erected in place of one wall sign allowed in TDC 38.220(1)(d) or a blade or shingle sign allowed in TDC 38.220(2)(b). If used, the following standards apply:
- (i) **Location:** Directory-style wall signs shall be placed within the primary sign band or in place of a 2nd Floor Tenant Wall sign as allowed in TDC 38.220(2)(c).
  - (ii) **Number:** In place of one wall sign allowed in TDC 38.220(1)(d), one directory-style wall sign.
  - (iii) **Number of Sides.** No more than one.
  - (iv) **Height of Sign Face.** Directory-style wall signs shall be no higher than eight feet.
  - (v) **Width of Sign Face:** Directory-style Wall signs shall not extend greater than 16 inches beyond the building wall.
  - (vi) **Sign Face Area:** No more than 32 square feet.
  - (vii) **Illumination:** Direct, indirect or internal.
- (b) **Shingle or Blade Signs.** Except for walls that adjoin the Lake of the Commons, for each owned or leased space with ground floor frontage and in place of one wall sign or Directory-style wall sign, one shingle sign or blade sign may be erected. If used, the following standards apply:
- (i) **Location:** Shingle signs and blade signs need not be placed within the tenant wall primary sign band, but shall be located on the tenant wall or wall appurtenances. Blade signs shall be attached to the wall of a building and shingle signs shall be attached to the underside of an awning, canopy, marquee or building overhang.
  - (ii) **Number:** In place of one wall sign allowed in TDC 38.220(1)(d), one shingle sign or one blade sign.
  - (iii) **Number of Sides:** No more than two sides.
  - (iv) **Height of Sign Face:** Shingle signs shall be no higher than three feet. Blade signs shall be no higher than ten feet.
  - (v) **Width of Sign Face:** Shingle signs attached to the underside of awning, canopy, marquee or building overhang shall not extend out beyond the outer edge of the element to which they are attached. Blade signs shall not extend greater than four feet beyond the building wall.
  - (vi) **Sign Face Area:** No more than 24 square feet.
  - (vii) **Height of Sign.** The distance from the sidewalk or grade up to the bottom of the sign shall be at least eight feet.
  - (viii) **Illumination:** Direct, indirect or internal.
  - (ix) **Blade and shingle signs shall be constructed with three-dimensional letters, numbers and graphic elements.**
- (c) **2nd Floor Tenant Wall Signs are permitted.** If used, the following standards apply:
- (i) **Number:** On a 2-story or more building, one per floor above the first floor with a maximum of two per building wall provided the signs are separated by a minimum of 25 feet. The maximum number of 2nd Floor Tenant Wall signs is four on the building.
  - (ii) **Number of Sides:** No more than one.
  - (iii) **Height of Sign Face:** No higher than three feet provided that no letter or number is higher than two feet. Logos, including logos composed of letters or numbers, may be up to three feet in height.
  - (iv) **Area:** No more than 40 square feet.
  - (v) **Illumination:** Direct, indirect or halo.
  - (vi) **Location:** On the building wall of the building's 2nd Floor or above.
  - (vii) **An internally illuminated cabinet sign is not allowed.**

- (d) Canopy-mounted Building Identification Signs are permitted. If used, the following standards apply:**
- (i) Number:** One per primary entrance of a 2-story or more building, with a maximum of two on the building when separated by two elevations or a minimum of 50 feet distance measured on the building wall surfaces.
  - (ii) Number of sides:** No more than one.
  - (iii) Height of Sign Face:** No higher than the height of the canopy fascia. For a canopy with signage on top of the fascia, the area to be used in calculating the 35 percent is the allowed height of the sign, 16 inches, multiplied by the length of the front and sides of the canopy fascia.
  - (iv) Area:** No more than 35 percent of the area of a canopy fascia provided the total canopy signage is no more than 24 square feet. For a canopy with signage on top of the fascia, the area to be used in calculating the 35 percent is the allowed height of the sign, 16 inches, multiplied by the length of the front and sides of the canopy fascia.
  - (v) Illumination:** Direct, indirect, or halo.
  - (vi) Location:** The signage shall be on the wall above the primary entrance, on the primary entrance canopy fascia or on top of the canopy fascia.
  - (vii) Signage located on top of a canopy or as a marquee shall not be an internally-illuminated cabinet sign.**
- (e) Small Projecting Signs (shingle or blade style). For each owned or leased space with ground floor frontage, one small projecting sign may be erected. If used, the following standards apply:**
- (i) Location:** Small Projecting Signs (shingle or blade style) need not be placed within the tenant wall primary sign band. The signs shall be attached to the wall of a building or attached to the underside of an awning, canopy, marquee or building overhang.
  - (ii) Number:** One per ground floor tenant wall.
  - (iii) Number of sides:** No more than two sides.
  - (iv) Height of Sign Face:** No higher than 1.5 feet.
  - (v) Width of Sign Face:** Three feet.
  - (vi) Sign Face Area:** No more than 4.5 square feet.
  - (vii) Height of Sign.** The distance from the sidewalk or grade up to the bottom of the sign shall be at least eight feet.
  - (viii) Illumination:** Direct, indirect or internal.

**Findings:**

*The requested sign variances are located in the Central Commercial (CC) Planning District. Without an approved variance, signs would need to meet the above standards of TDC 32.220(1)(d).*