

DEVELOPMENT REVIEW BOARD MEETING

**MONDAY, AUGUST 22, 2022
6:30 PM**

Consent Agenda:

1. Approval of minutes from the July 25, 2022 DRB
Panel B meeting



**DEVELOPMENT REVIEW BOARD PANEL B
MEETING MINUTES**

July 25, 2022 at 6:30 PM

City Hall Council Chambers & Remote Video Conferencing

CALL TO ORDER

A regular meeting of the Development Review Board Panel B was held at City Hall beginning at 6:30 p.m. on Monday, July 25, 2022. Chair Nicole Hendrix called the meeting to order at 6:30 p.m., followed by roll call.

CHAIR'S REMARKS

ROLL CALL

Present for roll call were: Nicole Hendrix, Katie Dunwell, and John Andrews. Michael Horn and Jason Abernathy were absent.

Staff present: Daniel Pauly, Amanda Guile-Hinman, Amy Pepper, Kimberly Rybold, Cindy Luxhoj, and Shelley White

CITIZENS' INPUT

This is an opportunity for visitors to address the Development Review Board (DRB) on items not on the agenda. There were no comments.

CONSENT AGENDA

1. Approval of minutes of May 23, 2022 DRB Panel B meeting

Katie Dunwell made a motion to approve the May 23, 2022 DRB Panel B meeting minutes as presented. John Andrews seconded the motion, which passed unanimously.

PUBLIC HEARINGS

2. **Resolution No. 404 Wilsonville Industrial Yard: AAI Engineering – Applicant's Representative for Davidsons Boones Ferry Industrial LLC – Owner/Applicant.** The applicant is requesting approval of a Zone Map Amendment from Future Development Agricultural-Holding (FDA-H) to Planned Development Industrial (PDI) for 0.55 acre (Tax Lot 800), and adopting findings and conditions approving a Stage 1 Master Plan, Stage 2 Final Plan, and Site Design Review for a 54,664-square-foot industrial yard. The subject site is located at 28505 and 28635 SW Boones Ferry Road on Tax Lots 800 and 900, Section 14A, Township 3 South, Range 1 West, Willamette Meridian, Clackamas County, Oregon. Staff: Cindy Luxhoj, AICP, Associate Planner

Case Files:

DB22-0001 Wilsonville Industrial Yard
-Zone Map Amendment (ZONE22-0001)
-Stage 1 Master Plan (STG122-0001)

- Stage 2 Final Plan (STG222-0001)
- Site Design Review (SDR22-0001)

Chair Hendrix called the public hearing to order at 6:35 p.m. and read the conduct of hearing format into the record. Chair Hendrix, Katie Dunwell, and John Andrews 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.

Cindy Luxhoj, AICP, Associate Planner, announced that the criteria applicable to the application were stated starting 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 and on the City's website.

Ms. Luxhoj presented the Staff report via PowerPoint, briefly noting the site's location and surrounding features and reviewing the requested applications with these key comments:

- Both tax lots that comprised the site were designated Industrial in the Comprehensive Plan, located in Area of Special Concern E in the Comprehensive Plan, and subject to requirements of the Screening and Buffering (SB) Overlay Zone along the north, west, and southwest property boundaries, which were areas shared with the mobile home park.
- Prior to 2011, there was a house on each tax lot. In 2011, the house on Tax Lot 900 was demolished and replaced with a manufactured dwelling. In 2021, the manufactured dwelling was removed. The house on Tax Lot 800 was retained and proposed to remain; however, no improvements were proposed to the house, and it would not be used as part of the current application.
 - In 2021, 11 trees were removed from both parts of the property, and the property was cleared, graded, and covered in gravel by the prior owner without City permits. The previous owner subsequently applied for a retroactive Tree Removal Permit, Case File No. TR21-0002 and replanted trees on the site in accordance with an approved mitigation plan.
- The current application by the new owner of the property was intended to bring the property into compliance with applicable City standards for an industrial yard within the PDI Zone located adjacent to a residential use in Area of Special Concern E of the Comprehensive Plan.
- Proper noticing was followed for this application. Notice of Public Hearing was mailed to all property owners within 250 ft of the subject property and published in the newspaper. Additional posting was placed on the site and on the City's website. The notice included clarifying background information about the project and outlined adaptations for the hearing process and providing testimony that were adopted by the City in response to Covid-19. No public comments were received during the comment period for the project.
- The four requests before the DRB tonight, included a Zone Map Amendment, which was a recommendation to City Council. The remaining three requests were objective in nature as they involved the verification of compliance with Code standards. No requests in the current application required discretionary review.
- Tax Lot 800, which included 0.55 acre on the northern part of the subject property, shown in black hatching, was zoned FDA-H. The Applicant proposed to rezone the tax lot from FDA-H to PDI as part of the current application. The southern part of the subject property was .79 acre and was zoned PDI. The rezone was consistent with the Comprehensive Plan designation of Industrial. (Slide 6)
- City Council would review the Zone Map Amendment Ordinance No. 865 and Case File No. ZONE22-0001 at public hearing and first reading on August 1, 2022. Second reading was scheduled for August 15, 2022. The other requests in the current application were contingent on City Council action on the Zone Map Amendment request.
- The Stage 1 Preliminary Plan proposed to use the subject property for a 54,664 sq ft industrial storage yard with an existing house and site improvements. The existing house was not proposed to be used as part of the storage yard in the current application. An outdoor storage yard was an allowed use in the PDI Zone.

- The Stage 2 Final Plan reviewed the function and design of the Stage 1 Preliminary Plan, including assuring the proposal met all the performance standards of the PDI Zone. Since no new structures were proposed on the site, site design review for the project was focused on landscaping, screening, and buffering intended to bring the property into compliance with applicable City standards.
 - Landscaping included plantings in the SB Overlay Zone along the north, west and southwest property boundaries adjacent to the mobile home park; preservation and protection of three mature existing trees on the east side of the site; preservation of 11 maple trees, shrubs, and groundcover planted as required mitigation for the retroactive tree removal permit, Case File No. TR21-0002; landscaping required to screen and buffer the outdoor storage yard from adjacent properties and public right-of-way; and fencing location and design.
- Screening and Buffering Overlay Zone. Concerns for Area of Special Concern E included continuity in design with other developments and protection of the Walnut Mobile Home Park, which was zoned FDA-H and located immediately to the north, west and southwest of the proposed industrial yard. Due to its location, the property also met the criteria for application of the SB Overlay Zone along all property boundaries shared with the mobile home park. (Slide 9)
 - Conditions of approval had been included to ensure that the proposed project met the intent of Area E and complied with the requirements of the SB Overlay Zone:
 - For the Zone Map Amendment, PDA 1 and PDA 2 related to continuity and design, buffering to minimize disturbance for residents of the mobile home park, and minimizing truck traffic conflicts with residential activities and pedestrians.
 - For the Stage 1 Preliminary Plan, PDB 2, PDB 3, and PDB 4, related to screening and buffering to assure adequate separation of potentially conflicting land use, application of the SB Overlay Zone adjacent to the mobile home park, and prohibiting vehicle access in landscaped areas required in the Overlay Zone.
 - For the Stage 2 Final Plan, PDC 5 related to screening the part of the south property boundary adjacent to the mobile home park to the SB Overlay Zone standards.
 - To comply with the requirements of the Overlay Zone and landscaping standards for outdoor storage yards, the Applicant proposed a 6-ft tall fence with privacy slats around the perimeter of the storage yard.
 - In Area A, on the east side of the site, proposed landscaping included the three preserved mature trees and two additional trees, shrubs along the fence, and groundcover.
 - In Areas B and C, on the north and west sides of the site, a 20-ft-wide buffer with trees planted 30 ft on center, shrubs, and groundcover. Area C also included the proposed stormwater facility with additional plantings.
 - In Area D, on the south side of the site, trees, shrubs, and groundcover were required. In addition, at the southwest corner of the site, screening and buffering compliant with the SB Overlay Zone, must be provided. The Applicant's plans did not show landscaping that met the standards. Therefore, conditions had been included to ensure that the standards were met.
 - Condition of Approval PDC 4 required screening of the industrial yard on all sides, and PDC 5, discussed above, was specific to providing required landscaping at the southwest corner of the site in the SB Overlay Zone Area.
- Noise Abatement. Staff noted that the industrial performance standards required limitations on noise that may be generated by truck circulation and loading or unloading activities within 100 ft of residential areas, particularly related to night operations. As noted, the Walnut Mobile Home Park shares the north, west, and part of the south project boundaries. As no new buildings were proposed on the subject property, the Applicant's Code response narrative did not address night operations.

- The proposed driveway, which provided access to the storage yard and was the entry point for trucks, and the truck circulation area within the site, were located within 100 ft of residential areas on the north and west property boundaries, which was shown in the shaded area on Slide 10.
- To minimize noise intrusion into the mobile home park, and to ensure compliance with the industrial performance standard, Condition of Approval PDC 2 had been included. This condition prohibited truck circulation and maneuvering between the hours of 10:00 pm and 7:00 am within this noise abatement area so long as the property to the north, west, and southwest was used for residential purposes. In addition, this area must be clearly marked with signs or by other means indicating this limitation. Any noises produced in violation of the Noise Ordinance were subject to enforcement procedures established in the Code.
- As noted, no discretionary review requests were included as part of the proposed application.

John Andrews stated the south property line did not show any plantings other than grass and on the southeast corner, motorists could see into the car repair shop due to lack of tall plantings. He asked if the installation of screening and buffering plantings was required.

Ms. Luxhoj confirmed conditions of approval required both screening at the southwest corner to comply with the SB Overlay Zone, as well as landscaping trees, shrubs, and groundcover along that south property boundary to comply with the screening requirements for an outdoor storage yard.

Mr. Andrews understood drivers would not be able to see directly into the storage yard.

Ms. Luxhoj confirmed that essentially, the Applicant was required to provide sight-obscuring screening. For the subject property, it would be similar to a 6-ft tall fence with privacy slats, and interior to the yard, there would likely be arborvitae, or a hedge and trees 30 ft on center.

Mr. Andrews asked if there was a way to obscure the asphalt and the houses from view at the entry point to make it more aesthetic and avoid looking at the bare building ~~visual~~ in front of the entryway.

Ms. Luxhoj replied she was not sure if that was required.

Mr. Andrews replied that was fine but thought since the site was going to be made more aesthetically pleasing anyway, perhaps that area could also receive attention.

Chair Hendrix asked if some Walnut Mobile Home Park residents did not receive notice of the application as their homes did not fall within the required 250 ft.

Ms. Luxhoj noted when the DP Nicolai site north of the mobile home park was developed, notice was provided to all mobile home park owners, but this time, she believed notice was provided solely to the mobile home park owner.

Chair Hendrix noted those residents would be impacted as they were still within the same neighborhood. She asked under what circumstances Staff went above the minimum 250 ft required when noticing surrounding entities.

Daniel Pauly, Planning Manager, replied that although Staff had worked with the applicant of the Nicoli project who agreed to expand noticing given the circumstances, the Code was clear and objective and did not address situational circumstances. Typically, there was really not any variation. Staff was consistent in maintaining the 250 ft Code criteria for noticing.

Ms. Luxhoj elaborated that with the Nicolai project, several of the mobile homes had been right against the property line, so there was concern about the property on the east side that fronted Boones Ferry Rd being developed because it would have resulted in substantial impacts to those adjacent mobile homeowners.

Katie Dunwell stated that on the Notice of Administrative Decision for Case File No. TR21-0002, also received by DRB Panel B, it appeared notice had gone to William Davidson from Davidson' Boones Ferry Industrial, the current owners of that block. [Walnut Mobile Home Park] She understood the mobile home residents were tenants and not considered owners.

Ms. Luxhoj confirmed the mobile home park residents leased their properties and were not considered owners. As such, only a single owner, the owner of the mobile home park, was notified.

Ms. Dunwell asked if the owner of the mobile home park had any relationship to the owner of the subject property before the Board tonight.

Ms. Luxhoj confirmed the owner of the mobile home park also owned the subject property. She also confirmed that signage regarding tonight's hearing had been posted.

Ms. Dunwell stated she had driven through the mobile home park earlier in the morning to understand the site and look at the adjacent property, and she did not see any signage. She asked if signage would only have been placed on the subject location and not on any of the adjacent locations.

Ms. Luxhoj replied that generally a posting would be on the property itself.

Chair Hendrix confirmed there were no further questions from the Board and called for the Applicant's presentation.

Teresa Long, Landscape Architect, AAI Engineering, representing the Applicant, addressed Mr. Andrews' comment regarding the driveway entrance and privacy screening explaining the intent was to have the 6-ft privacy fence extend all along Boones Ferry Rd, including the entrance. Future tenants would have access, but otherwise it would remain closed.

William Davidson corrected Ms. Long, stating that the fence would extend back to the house.

Ms. Luxhoj indicated a gate on the "Plant Schedule/Site Plan", which Ms. Long confirmed.

Ms. Long stated she had misspoken. She continued the Applicant was asking for a Zone Amendment, along with two Site Plan Reviews, and the Final Site Design Review. The Zone Amendment was to bring the northern property into the same zone as the southern property, which was a part of the City's Comprehensive Plan. Currently, the property was graveled with buffering plantings that had been required as a part of the previous owner's unpermitted tree removal. The subject proposal would bring the property into conformance with the City's current zoning codes once the Zone Amendment was passed by Council. Bringing the property into conformance would consist of 20-ft buffers on the north and west borders, as well as a small portion of the southern border, and a 20-ft landscape buffer along Boones Ferry Rd as part of the landscape requirements.

Ms. Dunwell stated she had reviewed the application and Staff report after visiting the site and there was a note in a document regarding an unclear understanding of what type of industrial storage would be performed at the site. It appeared that spaces would be rented out to various companies to use as storage. She asked if the site would be open and accessible 24/7.

Ms. Long replied she could not address that clearly as there were no tenants yet; however, she understood a condition of approval would restrict truck movement between the hours of 10 p.m. to 7 a.m. Tenants may have access to the site 24 hours a day, but no truck movements could occur due to noise restrictions.

Ms. Dunwell understood the mobile home park was an Area of Special Concern in Wilsonville as it was one of the few locations for affordable housing, which raised the question about whether those individuals have a voice in the decision. When reviewing the case file, she noticed the prior owner was Jeff Davidson, who had made the changes to the site without notification to the City, including graveling. Now that ownership was transferred to Davidson Boones Ferry Industrial and William Davidson, she wondered about the relationship between the two. She understood mitigation had taken place that had all been approved through the City, but because the area was populated with senior citizens and children, she wanted to make sure they were represented since the owner of the mobile home park was the same individual who now owned the proposed industrial space. While the Board's role was to ensure compliance to Code, she wanted to alert the other members of the Board that this was an Area of Special Concern.

Kim Rybold, Senior Planner, clarified the prior graveling and tree removal was done under a prior property owner, not the current property owner, who had brought forward the subject application and was not the same person.

Ms. Long noted the last name of the previous owner was Davenport, not Davidson.

Ms. Rybold confirmed the prior owner was Jeff Davenport, not Jeff Davidson.

Ms. Dunwell thanked Ms. Long and Ms. Rybold for the clarification.

Mr. Andrews stated along the southern border, especially the eastern corner, the site would still be visible from the highway as he did not see a good visual barrier. He asked if the black dots on Slide 8 represented plantings that would grow tall enough to create a visual barrier to prevent motorists driving down the highway from seeing stored equipment.

Ms. Long replied that because the Applicant had not yet gotten approval, the landscape plan did not presently show the condition of approval that would require shrubs that would grow to a minimum of 6 ft in height and trees at every 30 ft on center. Once the application was approved and the landscape plan was revised and submitted for permitting, the City Planners would ensure the Applicant had addressed that condition of approval. The current plan before the DRB was drawn before the Applicant was aware of the condition of approval. She confirmed the southern border would not get any wider but would have more plantings in it.

Ms. Dunwell read an excerpt from the TR21-002 decision, dated October 7, 2021, noting that it stated the previous property owner of the subject property was named Jeff Davidson.

Mr. Pauly replied that it was a typo.

Ms. Rybold also confirmed the name Davidson in the TR21-002 decision was a typo.

Chair Hendrix called for public testimony regarding the application and confirmed with Staff that no one was present at City Hall to testify and no one on Zoom indicated they wanted to testify.

Mr. Andrews understood the only changes to the property would be around the edge and then making use of the property.

Chair Hendrix believed that covered it, noting it was listed on the agenda and the resolution showed the different items the DRB would approve, such as the Zone Map Amendment, etc. [44:07]

Ms. Dunwell stated given that the subject property was adjacent to the mobile home park, which was an Area of Special Concern whose residents were lessees and not owners, and the owner of the mobile home park was also the Applicant for the subject property, as a concerned citizen of Wilsonville, she wanted to know the justification or reasoning behind not notifying the individual mobile home park residents as a courtesy, and whether an amendment could be made to do so, so they were aware of the project. She asked if the owner had made any attempt to notify the residents that the adjacent property would be converted to an industrial storage area.

Chair Hendrix understood the individual residents were not notified because the Code required notification to the owner, and the Code had been followed. When or if Staff ever went above and beyond in terms of noticing could be discuss further. She if Ms. Dunwell wanted to add, remove, or modify a condition of approval.

Ms. Dunwell asked if now was the time to modify the condition that the residents be notified.

Mr. Pauly replied that was not a legal condition that could be defensible, unless the City Attorney disagreed or had any additional input. He noted if the residents had been notified and did not want the subject property to become an industrial storage yard, all the DRB could legally do was ensure implementation of the Special Overlay District and the special screening, which had already been done to the maximum required under the Code. He believed everyone present agreed with the sentiment, and the sensitivity of the mobile home park had long been discussed as it related to the surrounding industrial usage. He could not point to a reason why the individual residents were not notified in this case, but in the long-term, based on the clear and objective criteria and the standards in place, he did not envision a scenario in which neighbor comments could stop the project. The landscaping and screening were what would be done to address any concerns.

Ms. Dunwell said she understood Mr. Pauly's response and the role of the DRB but wanted to go on the record to state that marginalized people at times did not have a voice, and whether their opinions would make a difference in the outcome was a completely separate track of decision-making. She would have at least liked to have seen that their voices were heard, particularly because the owner of the proposed industrial property and the mobile home park were one in the same.

Mr. Pauly responded that her statement was on the record, and he did not believe anyone present, or anything on the record, disagreed with her.

Chair Hendrix confirmed there were no additional questions or discussion and closed the public hearing at 7:20 pm.

John Andrews moved to adopt the Staff report as presented. **Katie Dunwell** seconded the motion, which passed unanimously.

Katie Dunwell moved to approve Resolution No. 404. **John Andrews** seconded the motion, which passed 2 to 1 with **Katie Dunwell** opposed.

Chair Hendrix read the rules of appeal into the record.

BOARD MEMBER COMMUNICATIONS

3. Recent City Council Action Minutes

There were no comments.

STAFF COMMUNICATIONS

There were no comments.

ADJOURNMENT

The meeting adjourned at 7:24 p.m.

Respectfully submitted,

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