

I. Call to Order

Chair Daniel McKay called the meeting to order at 6:30 p.m.

II. Chair's Remarks

The Conduct of Hearing and Statement of Public Notice were read into the record.

III. Roll Call

Present for roll call were: Daniel McKay, Jean Svadlenka, Kathryn Neil, Rachelle Barrett, Ben Yacob

Staff present: Daniel Pauly, Barbara Jacobson, Kimberly Rybold, Philip Bradford, Cindy Luxhoj, and Shelley White

IV. Citizens' Input This is an opportunity for visitors to address the Development Review Board on items not on the agenda. There were no comments.

Dave Carlson commended City Staff on having done an excellent job of community development over the years. He was excited to work with the DRB on continuing to make Wilsonville an excellent community to live in and raise a family in.

V. Election of 2021 Chair and Vice-Chair

A. Chair

Rachelle Barrett nominated Daniel McKay as 2021 DRB-Panel A Chair. Ben Yacob seconded the nomination.

Chair McKay confirmed there being no further nominations and closed the nominations.

Daniel McKay was unanimously elected 2021 DRB A Chair.

B. Vice-Chair

Chair McKay nominated Jean Svadlenka as 2021 DRB A Vice-Chair. Kathryn Neil seconded the nomination.

Chair McKay confirmed there being no further nominations and closed the nominations.

Jean Svadlenka was unanimously elected 2021 DRB A Vice-Chair.

VI. Consent Agenda:

A. Approval of minutes of January 11, 2021 DRB Panel A meeting

Jean Svadlenka moved to approve the Consent Agenda. Ben Yacob seconded the motion, which passed unanimously.

VII. Public Hearing

- A. **Resolution No. 388. Canyon Creek 8-Lot Subdivision: Scott Miller, SAMM-Miller LLC – Applicant for William Z. Spring – Owner.** The applicant is requesting approval of a Comprehensive Plan Map Amendment from Residential 0-1 Dwelling Units per Acre to Residential 4-5 Dwelling Units per Acre, a Zone Map Amendment from Residential Agriculture-Holding (RA-H) to Planned Development Residential 3 (PDR-3) and adopting findings and conditions approving a Stage I Master Plan, Stage II Final Plan, Site Design Review, Type C Tree Plan, Tentative Subdivision Plat, and Waiver for an 8-lot single-family subdivision located at 28700 SW Canyon Creek Road South. The subject site is located on Tax Lot 06400 of Section 13BD, Township 3 South, Range 1 West, Willamette Meridian, City of Wilsonville, Clackamas County, Oregon. Staff: Philip Bradford

Case Files:	DB20-0039	Zone Map Amendment
	DB20-0040	Comprehensive Plan Amendment
	DB20-0041	Stage I Master Plan
	DB20-0042	Stage II Final Plan
	DB20-0043	Site Design Review
	DB20-0044	Type C Tree Plan
	DB20-0045	Tentative Subdivision Plat
	DB20-0053	Waiver

Chair McKay called the public hearing to order at 6:42 p.m. and read the conduct of hearing format into the record. Chair McKay and Jean Svadlenka 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.

David Carlson, Resident, asked for clarification on how many DRB members had visited the site.

Chair McKay replied that two members had visited the site, but noted that because Staff was not prepared to present a report, they planned to request a continuation to the April meeting and that was likely why the other three DRB members had not visited the site.

Mr. Carlson strongly encouraged the remaining three DRB members to visit the site. He believed the four neighbors in the adjoining subdivision, as well as himself, would welcome the

DRB members and grant access to their properties so DRB members could see the project from all sides.

Steve Miller, Applicant, said he believed the question pertained to the challenge of any bias DRB members might have.

Chair McKay confirmed that Mr. Carlson was not issuing a challenge, but rather, simply a general question and a request that DRB members visit the site.

Daniel Pauly, Planning Manager, stated he wanted to offer an explanation for the benefit of the DRB members, as many members were new to the Board. For a variety of reasons, the Staff report was not ready to be published a week prior to tonight's hearing, which was why Staff had requested the hearing be continued to this Board's next meeting on April 12.

- Typically, the Staff report would be presented, followed by the Applicant's presentation, any public testimony, and then Applicant's rebuttal. Despite no Staff report to present, because the hearing had been noticed and a number of residents had joined the meeting, the DRB was encouraged to take public testimony. Any testimony given would serve a similar purpose to written testimony usually submitted prior to the publishing of a Staff report. The hearing was being recorded, and Staff would take notes and respond to any issues raised by the public in the Staff report as appropriate. That said, there would be no Staff response, questions, or discussion of testimony tonight as would be typical.
- A continued hearing in a similar format was expected to be held on April 12, and members of the public had three options: 1) they could testify tonight and let that be their testimony on the record with the understanding that they would not have the benefit of knowing the information in the Staff report or Staff's recommendation, both of which were valuable information and the basis of the DRB's decision; 2) they could testify tonight and testify a second time on April 12, with new testimony only, after seeing the Staff report; or 3) defer all of their testimony to the April 12 meeting when more information would be available and a broader discussion could be had.
 - Staff recommended that the DRB leave the record open, which would allow the submission of any additional written material received between now and ten days prior to the April 12 meeting to be included and responded to in the Staff report, and also published with the Staff report so other community members and involved parties could read and review it ahead of the April 12 meeting.
- Typically a continued hearing was not re-noticed, but the April 12 meeting would be because Staff found a technical issue with the original notice. Neighbors would receive a new notice for the upcoming meeting and the subsequent City Council hearing.
- On April 5, City Council would open and close a hearing and continue it to the next City Council meeting similar to what DRB would do tonight. No decisions would be made at the April 5 City Council meeting as City Council would not yet have a recommendation from the DRB. It was anticipated that meeting would be continued to April 19.
 - City Council would conduct a hearing because there were some portions of this request that involved changes to the Comprehensive Plan and Zoning, which required City Council approval upon recommendation of the DRB.

- Questions about testimony or how to testify could be answered by City Staff. Contact information was in the published materials.

Barbara Jacobson, City Attorney advised that once the motion was seconded and voted on, members of the public could determine whether they wanted to testify tonight or not. If tonight was the only meeting a citizen could attend, they should provide testimony tonight. Anyone who could wait until the next hearing should do so as their testimony would be more effective after hearing the Staff report and Applicant's presentation, both of which could potentially change one's testimony.

Chair McKay agreed. He confirmed that no member of the Board had questions for Staff.

Mr. Pauly added this was a rare circumstance that had not happened in at least a decade that he knew of.

Chair McKay moved to keep the record open and continue Resolution No. 388 to April 12, 2021 date certain. The motion was seconded by Jean Svadlenka and passed unanimously

Chair McKay informed the Applicant they could still provide testimony if they chose to.

Steve Miller, Emerio Design, 6445 SW Fallbrook Place, Unit 100, Beaverton, OR 97008, agreed to provide testimony on April 12. The Applicant appreciated Staff for keeping them informed of the situation ahead of time.

Chair McKay called for any public testimony.

Mr. Pauly confirmed that no one present in Council Chambers wanted to provide testimony.

Shelley White confirmed the following attendees who signed up for public testimony would wait to provide their testimony at the April 12, 2021 DRB Panel B meeting: David Carlson, Helena and Jeff Lulay, Kevin Troupe, [response not audible] Brenda Troupe, Anthony and Michelle Calcagno, Jody Dupell, Joan Carlson, Kristi Halstead, Greg Pelser. Tom Ellingson and Sarah Lorente had signed up for testimony, but she was uncertain either were on the Zoom call.

Mr. Pauly advised any residents who could not get through via Zoom contact him on his cell about whether they wanted to testify. He expressed regret that there had not been an effective way to get the message out to everyone prior to the meeting, but it was not possible.

Chair McKay noted that typically, DRB meetings did not have so many members of the public interested in testifying, adding he looked forward to hearing everyone's testimony on April 12.

Mr. Pauly added that while the public could not contact members of the DRB due to their need to remain unbiased, citizens could reach out to City Staff with any questions or concerns. Staff understood that some members of the public would not want a particular project to happen at

all, and others would feel that if a project was approved, there were elements that could be improved upon.

Chair McKay closed the public hearing at 7:08 pm, noting it would be continued at the April 12, 2021 DRB-Panel B meeting.

- B. **Resolution No.** No. 389. WPI Fence: Western Partitions Inc. – Applicant for HGR3, LLC – Owner. The applicant is requesting approval of a Site Design Review for addition of a new 7-foot tall metal perimeter fence and associated vehicular and pedestrian access gates at the existing WPI property. The site is located at 26055 SW Canyon Creek Road on Tax Lot 407 of Section 12, Township 3 South, Range 1 West, Willamette Meridian, City of Wilsonville, Clackamas County, Oregon. Staff: Philip Bradford

Case File:DB21-0005 Site Design Review

Chair McKay called the public hearing to order at 7:15 p.m. and read the conduct of hearing format into the record. Chair McKay, Jean Svadlenka, Ben Yacob, and Rachelle Barrett 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.

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

Mr. Bradford, Associate Planner, City of Wilsonville presented the Staff report via PowerPoint, briefly noting the site's location and that the existing fence at the rear of the property was not part of the application. His key additional comments were as follows:

- The site was originally approved for use as corporate office space in 1997. It had remained largely the same and had been occupied by a variety of corporations.
- The proposed 7-ft tall fence required DRB approval per the Development Code Section 4.176(04)F because it was taller than 6 ft high. Most fences were reviewed administratively.
- Staff had followed proper noticing procedures, including a 250 ft ~~for~~ mailing notices and publishing a notice in the newspaper.
- He described how the fence outlined the perimeter of the property, noting an automatic gate for vehicles located on the western property boundary at the parking lot, as well as a pedestrian-accessible gate at the corner of the building. Along Canyon Creek Rd was another vehicular access gate and two additional pedestrian access gates, which were set back 30-ft from the right-of-way as required by the fire department. (Slide 6)
- He described how the fence outlined the perimeter of the property, noting that on the western property boundary an automatic gate for vehicles located at the parking lot, as well as a pedestrian-accessible gate at the corner of the building. Along Canyon Creek Rd was another vehicular access gate and two additional pedestrian access gates, which were set back 30-ft from the right-of-way as required by the fire department. (Slide 6)
- The proposed 7-ft-tall fence was transparent black metal rail or box fence. (Slide 7)

- One public comment had been received from the ownership group of the adjacent apartment complex, who requested the fence be slightly set back with room for additional landscaping to soften the appearance and ease the transition from the industrial area to residential area. At present, the fence was designed to be directly up against the sidewalk along Canyon Creek Rd.
- Staff recommended approval with conditions as noted in the Staff report, which also required two corrections:
 - On Page 3 of 12, in the Summary describing the site design review, correct the first sentence to state, "...rail fence that offers a ~~high~~ *low* level of opacity."
 - On Page 8 of 12, correct the last sentence in Finding 5 to state, "The addition of the proposed 7-foot ~~chain link~~ *metal rail* fence...".

Rachelle Barrett asked why the Applicant wanted a 7-ft fence as opposed to a 6-ft fence, which would not have required a waiver.

Mr. Bradford deferred to the Applicant to address that question.

Jean Svadlenka asked if a survey had been done to determine the actual property line, as there was a sidewalk easement that could impact whether the fence could be built right against the sidewalk on Canyon Creek Rd.

Mr. Bradford replied a survey had not been included as a part of the application.

Ms. Svadlenka asked if any site design review issues had ever come up with the application process in the past.

- She noted all the businesses along Canyon Creek Rd from Boeckman Rd to Elligsen Rd, including the apartment complexes, had fencing or walls that were set back approximately 2-ft from the sidewalk, so the proposed fence would not be consistent with those existing fences.
- Additionally, having fencing right up against the sidewalk presented potential safety issues for pedestrians and bicyclists, especially small children, who might get their bike pedals entangled in a fence, or dogs potentially getting their tags caught in between the rails of the fence.
 - Potential damage to the fence itself, such as vandalism, was more likely if the fence abutted the property line at the sidewalk, and any resulting repairs might impact the sidewalk as well.
- She asked if the letter from Linton Young, Principal of the ownership group of the Canyon Creek Apartments, requesting the fence be setback and that a landscaping buffer be included, had been addressed or discussed with the Applicant.

Mr. Bradford responded he had not discussed the landscaping with the Applicant because there was no basis in the Code to require additional landscaping because the fence itself did not require screening or buffering since the site already met the landscape standards that were in

place at the time of development. He had simply included the letter as a part of the project record and incorporated it into the Staff report.

- No safety issues surfaced in his review about the fence having a zero setback to the sidewalk, although he believed the safety concerns expressed were valid.
- He was unsure of the standards regarding fencing consistency as it pertained to adjacent developments. The setbacks could have been done differently for a variety of reasons. He noted a nearby retaining wall was setback approximately 2-ft from the sidewalk; however, retaining walls were regulated differently than fences. If the Applicant was open to it, Staff could probably arrive at a condition that would ensure greater compatibility with the adjacent properties' fencing and walls.
- Any fence repair that blocked the sidewalk would require the Applicant to obtain a Right-of-Way Permit from Public Works, so the City could maintain safe access or provide an alternate public connection along that frontage while the work was being done. He understood a set duration time triggered the permit requirement.

Kim Rybold, Senior Planner, stated she was not certain about the exact work duration that triggered the right-of-way permit requirement, but confirmed that was the correct way to address any work that required use of the space adjacent to the sidewalk. Otherwise, the property owner would be responsible for any fence maintenance.

Ben Yacob noted Mr. Linton potentially represented 372 Canyon Creek Apartment residents and given the Summit Apartments to the north and Canyon Creek Park to the south, there would likely be a significant amount of pedestrian traffic. He asked if landscaping would be part of the mitigation for the large number of pedestrians expected.

Mr. Bradford replied that was not part of the discussion, only the fence itself had been discussed.

Mr. Yacob asked if landscaping could be addressed.

Kim Rybold, Senior Planner, explained that the site had a previously-approved Landscape Plan that met City standards at the time it was developed. Construction of a fence alone did not require screening or landscaping, nor were any setbacks required by the Development Code for the placement of a fence. However, given that it was an industrial property, she suggested that Mr. Yacob ask if the Applicant had the ability to move the fence and add landscaping as a part of the site design review request from an aesthetic standpoint. She noted that no specific Code requirement existed for the landscaping, nor was it something the Applicant had initially proposed.

Mr. Yacob noted the Applicant would not have come before the DRB had a 6-ft high fence been proposed, but had chosen to build a 7-ft high fence. He asked what the height of the fence was in the back area.

Mr. Bradford said he believed it was 7-ft high, but he was not positive.

Mr. Yacob noted that when turning left from Burns Way onto Canyon Creek Rd, a 7-ft fence might impede the visibility of oncoming traffic on Canyon Creek Rd. He asked if that had been considered.

Ms. Rybold noted that proposed plans were normally circulated to other agencies prior to preparing the Staff recommendation. Typically, the Engineering Division would review plans, particularly those that involved structures closer to the right-of-way and flag any sight distance concerns. The review was based on a set formula related to the curve and speed, and the Engineering Division did not express any concerns with the location of the fence.

Mr. Yacob stated that he traveled that road often and was curious to know, before it was constructed, if a 7-ft fence would impede drivers' vision.

Mr. Bradford noted that a large monument sign on the corner was even closer to the right-of-way and had not had any vision clearance issues, so it was unlikely a see-through fence would pose any problems, especially since the Engineering Division had found no issues.

Chair McKay asked what the depth of the current green space was between the building and sidewalk on Canyon Creek Rd.

Mr. Bradford replied it looked to be about 30-ft, which was the building setback in that zoning district.

Chair McKay asked why there was a decent setback greenspace on Burns Way, but not on Canyon Creek Rd.

Mr. Bradford said he understood from the Applicant that adjusting the fence on Burns Way closer to the trees would create an issue for the landscaping, and there were existing utilities along that frontage. He added the Applicant could elaborate further.

Chair McKay called for the Applicant's presentation.

Angela Roach, Building Owner, explained that they had designed the fence based on Sysco's fence, which was located two buildings to the west and the opinion of the fence builder. She confirmed the design was based on the style and that the setback did not factor in

Ms. Barrett asked why a 7-ft high fence was proposed rather than 6-ft.

Ms. Roach replied she believed it was to match the height of Sysco's fence.

Chair McKay asked Ms. Roach if anyone else on her team would be providing testimony.

Ryan Wilson, representing Western Partition, stated that based on the questions asked tonight and Ms. Roach's testimony that was how the project had gotten started. The Applicant would be using the same fencing contractor as Sysco. There were some utilities, streetlights, and bus stops to the north, which was why the 22-ft setback was established. Due to a couple trees along Canyon Creek Rd, it made sense to put the fence at the sidewalk, per the contractor's recommendation, although it did not need to stay there. He confirmed that concluded the Applicant's presentation.

Mr. Yacob asked if the Applicant was open to moving the fence back a bit on the Canyon Creek Rd frontage.

Mr. Wilson stated he would need to speak with the landscaper about the location of pipes and etcetera in the ground. He noted the neighboring property owner, Tech Equipment, had about a 2-ft setback from the sidewalk, so he did not believe that would not be too problematic.

Kathryn Neil asked if some softening landscaping could be added at the base of the fence to help the residential aspect.

Mr. Wilson replied the only part that might be possible was the grass space directly east of the building on Canyon Creek Rd. The portion along the sidewalk on the south side of the property already had shrubbery, which the fence would run through. He asked what kind of landscaping was being suggested.

Ms. Neil replied that she understood there was only grass, so adding shrubbery would make it look more appealing.

Mr. Wilson agreed some sort of bark dust and smaller shrubs could be added to a 2-ft offset west of the sidewalk.

Ms. Neil asked why the Applicant chose a 7-ft fence as opposed to the standard 6-ft high fence.

Mr. Wilson replied it was simply a desire to remain consistent with Sysco's fence.

Chair McKay confirmed there were no further questions from the Board. He thanked the Applicant for their openness and their desire to achieve consistency with adjacent properties in a way that would potentially impact residents across the street, as well as pedestrians on the sidewalk.

Members of the Board thanked the Applicant as well.

Chair McKay confirmed with Staff that there were no members of the public in attendance to provide public testimony regarding the application.

Ms. Neil confirmed with Staff that no regulation in the Code required any kind setback from the sidewalk.

Daniel Pauly, Planning Manager, added that consistency with the surrounding area could be considered in the site design review. He confirmed the Board could recommend that as an addendum.

Chair McKay understood a condition would likely be added requiring a setback to the fence portion along Canyon Creek Rd. He asked if the recommendation could simply state consistency with adjacent properties as opposed to assigning a specific numerical measurement.

Mr. Pauly agreed addressing the consistency rather than a number was more related to the Code. Staff did not know the exact setback of the various existing fences and walls.

Ms. Barrett suggested the condition also be lenient given that the location of underground utilities currently occupying the space was unknown.

Mr. Pauly suggested the condition could state, "The fence shall be set back consistent with the setback of other walls and fences in the area unless documentation is provided showing conflicts with utilities or other infrastructure that would force the fence to be at the sidewalk".

Mr. Bradford said he had drafted two conditions based on the discussion. One regarded a possible survey requirement, which no longer seemed applicable. The other possible condition stated, "Prior to installation, the Applicant shall submit a revised site plan showing the fence setback as consistent with adjacent fences on surrounding properties along with landscaping at the base along the SW Canyon Creek Rd frontage."

Chair McKay stated he wanted the condition to be authoritative, in that a setback was required, while also taking into account unforeseen issues that could make the condition unfeasible.

Ms. Rybold offered the following language for a condition, "The fence shall be set back consistent with other walls or fences in the surrounding area unless there are found to be utility conflicts that would prevent location of the fence in such a manner."

Mr. Pauly stated he liked Ms. Rybold's wording, as well as Mr. Bradford's suggestion that the applicant submit a site plan to the City for Staff to verify the final location prior to installation, which he suggested be included in the condition.

Ms. Svadlenka asked if the Board could review the matter again if a conflict was found.

Mr. Pauly replied it was possible, yes.

Ms. Neil asked if conflicts would include landscaping, like large trees.

Ms. Rybold noted the condition's language could be broadened to state, "utilities *or other site* conflicts" to include anything on the site that might conflict with the location of the fence.

Chair McKay read the new proposed condition as follows: "The fence shall be set back in a way consistent with other walls and fences in the surrounding area unless there is found to be conflict with utility requirements or existing landscaping that prevent that fence from being installed in such a manner."

Ms. Barrett confirmed that the setback location should be specified as "set back from the sidewalk on Canyon Creek Rd."

Mr. Pauly suggested adding the words "to the extent possible", so that wherever possible the Applicant should minimize the area where the fence came up to the street.

- Regarding the resubmittal of the design, a second additional condition could state, "The Applicant shall submit a final site plan showing the fence location to the Planning Division prior to installation."

Ms. Svadlenka asked for input from other Board members on how the DRB should proceed in the event it was determined the fence could not be set back at all.

Ms. Neil believed it would be reasonable for the Applicant to return to the Board if the fence could not be set back.

Chair McKay understood that was only for the condition related to the setback.

Mr. Pauly explained that if a condition were included that the fence had to be set back, but for some reason it could not be, the Applicant would have to return before the Board anyway.

Chair McKay responded that removing the 'unless' items would keep the Applicant from having to return to the Board if the conditions were not met.

Ms. Svadlenka and **Mr. Yacob** agreed that if no setback was possible, the Applicant should return to the Board to explain why.

Ms. Barrett stated if the Applicant had to show the revised plan to Staff, she was unclear why they would also have to return to the Board.

Chair McKay replied that as he understood the language, if something prevented the Applicant from installing the fence per the conditions, Staff had the ability to agree it was not possible and allow the Applicant to build the fence without going before the Board again. ~~What~~ The Board could further deliberate whether some standard in the Code would allow the condition to be changed to something that would work, but the Board was limited in these types of decisions if there was not something to point to in the Code.

Chair McKay closed the public hearing at 8:07 pm.

Chair McKay moved to approve Resolution No. 389 with the following corrections and amendments to the Staff report:

- On Page 3 of 12, in the Summary describing the site design review, correct the first sentence to state, "...rail fence that offers a ~~high~~ *low* level of opacity."
- On Page 8 of 12, correct the last sentence in Finding 5 to state, "The addition of the proposed 7-foot ~~chain-link~~ *metal rail* fence...".
- Add new condition of approval stating, "*The fence shall be set back from the sidewalk in a way consistent with other walls and fences in the area.*"
- Add new condition of approval stating, "*The Applicant shall submit a final site plan showing fence location to the Planning Division prior to its installation.*"

Chair McKay clarified it was not necessary to require the Applicant to return to the Board if the conditions could not be met because he had already removed the "unless" statement in the language.

Jean Svadlenka seconded the motion. The motion passed unanimously.

Chair McKay read the rules of appeal into the record.

VIII. Board Member Communications

A. Recent City Council Action Minutes

There were no comments or questions.

IX. Staff Communications

Daniel Pauly, Planning Manager, thanked the Board, adding it was fun to see them in action for the first time on real agenda items. He was impressed with how thoughtful they were and how they had deliberated through the process.

Barbara Jacobson, City Attorney, echoed Mr. Pauly's sentiment, adding the Board had made a proposal better.

Chair McKay thanked the new Board members and commended them on a job well done.

X. Adjournment

The meeting adjourned at 8:14 p.m.

Respectfully submitted,

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