

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

<p><u>Approved</u> August 24, 2020</p>

**Development Review Board – Panel B
Minutes–July 27, 2020 6:30 PM**

I. Call to Order

Chair **Samy Nada** called the meeting to order at 6:30 p.m.

II. Chair’s Remarks

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

III. Roll Call

Present for roll call were: Samy Nada, Shawn O’Neil, Richard Martens, Ellie Schroeder, and Nicole Hendrix

Staff present: Kimberly Rybold, Daniel Pauly, Barbara Jacobson, Georgia McAlister, 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.

Ellie Schroeder left the meeting panel at this time.

V. Consent Agenda:

A. Approval of minutes of April 27, 2020 DRB Panel B meeting

Nicole Hendrix moved to approve the April 27, 2020 DRB Panel B meeting minutes as presented. Shawn O’Neil seconded the motion, which passed unanimously.

Ellie Schroeder rejoined the Zoom meeting at this time.

VI. Public Hearing:

A. Resolution No. 379. Lowrie Primary School Modular Classroom Temporary Use Permit: West Linn–Wilsonville School District – Applicant/Owner. The applicant is requesting approval of a One-Year Temporary Use Permit for temporary placement of a modular classroom building at Lowrie Primary School. The site is located at 28995 SW Brown Road on Tax Lot 302 of Section 15, Township 3 South, Range 1 West, Clackamas County, Oregon. Staff: Georgia McAlister

Case File: DB20-0032 One (1) Year Temporary Use Permit

Chair Nada called the public hearing to order at 6:37 p.m. and read the conduct of hearing format into the record. All Board members declared for the record that they had visited the site.

No board member, however, declared a conflict of interest, bias, or conclusion from a site visit. No board member participation was challenged by any member of the audience.

Georgia McAlister, Associate Planner, announced that the criteria applicable to the application were stated on page 1 of the Staff report, which was entered into the record. Copies of the report were made available to the side of the room.

Ms. McAlister presented the Staff report via PowerPoint, reviewing the background of the request and location of the subject site with these key comments:

- Per the State's Ready Schools, Safe Learners Plan created in response to COVID-19, more classroom spacing would be required for the upcoming school year than Lowrie could currently support.
- The proposed single modular building with two classrooms would be placed such that children could easily access other school facilities, including the cafeteria.
- The current permit request was for one year to help meet social distancing standards, but the School District could request an extension in the future.

Chair Nada confirmed there were no questions of Staff and called for the Applicant's presentation.

Remo Douglas, Capital Construction Program Manager, West Linn-Wilsonville School District, 2755 Borland Rd, Tualatin, thanked Staff and the Design Review Board for the opportunity to bring the application forward in a timely fashion, noting that the past few months had been complicated for everyone. The Applicant had moved quickly to get the temporary addition of a two-classroom, portable building for the school. He had reviewed the Staff report and found all conditions of approval reasonable and fully expected, and the District was happy to agree and comply with them. The proposed location for the temporary building was well-suited to existing utilities in order to keep them all underground as required by the City and had good adjacency to existing school buildings so students and staff would feel a part of the campus.

Shawn O'Neil asked if any improvements had been made to the ventilation system of the modular building. He understood that did not fall under the purview of the DRB, but it was an enclosed building and health conditions had changed since such buildings had been approved 18 months ago.

Mr. Douglas responded there was no expectation of changing the structure or the mechanical system installed within it. The District had an agreement in place with a firm for the replacement of filters and all mechanical equipment. In recent years, the District had increased their standard on the MERV rating, and although there were instances in which the MERV rating was higher due to certain circumstances, there was currently no filtration system that addressed viruses. The District was, however, looking at ways to increase the external air draw and the exhausting of air in all buildings, so when school reopened, all buildings would have

more air run through them than normal. Open, fresh air was known to be helpful with COVID-19, and they fully planned on enabling that.

Mr. O'Neil understood the filtering was very good, and noted the Applicant had always been very good at meeting and exceeding standards, but he was concerned that the ventilation and filtration system of the modular, enclosed classrooms should be more closely looked at due to COVID-19.

Mr. Douglas said he appreciated Mr. O'Neil's feedback and added that the State had guidelines regarding the number of people that could be in an enclosed space at once. In some instances that would mean 15 to 16 people total in the classroom, including the teacher; whereas in the past, it had been 25. The combination of fewer people, improving filters for mechanical systems, and increasing air flow were the current best practices.

Ellie Schroeder asked Mr. Douglas if he knew whether or not West Linn-Wilsonville School District would have onsite learning, adding she had heard from friends in her neighborhood that it would not.

Mr. Douglas responded that as of 3:00 o'clock that afternoon, he was not aware of any specific decision. Immediately following tonight's DRB meeting, he would attend the online School Board meeting because with the District's Capital Bond program, there was a lot of design and construction happening, and whether or not school would meet in person was of tremendous importance both to his work in construction, as well as the educational experience for students and staff.

Ms. Schroeder inquired whether the project would even go forward if students stayed home and attended school virtually.

Mr. O'Neil stated that as a parent, he had received an email from the superintendent that offered a 100 percent virtual education or hybrid model that included distance learning and on-campus learning. A follow-up email he received the previous Friday stated that due to an increase in COVID-19 cases, all children, no matter which model they had chosen, would most likely start at home.

Mr. Douglas stated that reflected his latest knowledge as well. Specifically, as it addressed the current application, the question from the Operations Department's point of view was a matter of not if, but when students return to school, and the likelihood that it might not be a return back to normal, but instead that there would be an interim stage. In light of that, the District was working to prepare so that when students did return to in-class school, the school would be ready.

Nicole Hendrix asked how it was determined that there would be one modular and if that would be enough.

Mr. Douglas responded that people in the Administration had been puzzling over the entire school situation for several months since this began, and the idea was to figure out which schools were very full and how to address them. If a school could only have 15 or 16 students per classroom, there needed to be enough rooms to accommodate them. There were two modular projects underway, one in Wilsonville and one in West Linn, which would provide sufficient room to have space for all students and comply with guidelines.

Staff confirmed no one was present in Council Chambers or on Zoom who wanted to provide public testimony.

Chair Nada confirmed there was no rebuttal from the Applicant and that there were no further comments from the Board.

Chair Nada closed the public hearing at 6:57 pm.

Ellie Schroeder moved to approve Resolution No. 379. The motion was seconded by Nicole Hendrix and passed unanimously.

Chair Nada read the rules of appeal into the record.

VII. Board Member Communications:

A. Results of the May 11, 2020 DRB Panel A meeting

Kimberly Rybold, Senior Planner, briefly highlighted the applications approved by DRB Panel A.

B. Recent City Council Action Minutes

Kimberly Rybold, Senior Planner, stated that Planning oversaw Council's adoption of the Equitable Housing Strategic Plan in mid-June. There were a number of other activities Community Development had been working on in response to COVID-19, particularly economic development work.

Chair Nada said he had heard that the old bowling alley near Town Center Lp had been purchased by Smart Food Services. He asked whether such a change should go through the DRB.

Daniel Pauly, Planning Manager, explained that the bowling alley had been a grocery store previously, and as such, no land use approval was needed for it to revert back to a grocery store. Smart Food Services had pulled the Tenant Improvement Permits and submitted a couple of Sign Permits. Smart Food Service was undergoing a tenant improvement on the subject property to house its grocery store as well as a tenant space on the end closest to Town Center Lp that would be leased out to an office user.

Chair Nada asked how a change like that could happen without the opportunity for anyone to comment, even if the property had previously been approved as a grocery store; it was 20 years ago.

Mr. Pauly explained that a prior public hearing had approved the site as a grocery store, and that land use approval was still valid. Similar to a tenant space in any shopping center, the tenant and type of tenant might change over time, but if it fell under a certain category of commercial, it was up to the market, owner, and the lease to determine the change of tenant.

Chair Nada noted his concern was parking and traffic, but since it had been approved before, it was probably adequate.

Mr. Pauly added that if there were exterior changes, such as when Arby's changed to Starbucks and Denny's changed to Black Bear Diner, there were no land use reviews, only site design reviews due to the major changes to the buildings' exteriors.

Mr. O'Neil said he understood the concept that since Starbucks was essentially remodeled from Arby's that no public hearing was deemed necessary and that a traffic study supposedly addressed these issues; however, he could not get into the road to reach his office space due to people waiting in the Starbucks drive through line. As a citizen and DRB member, he had an issue that these issues had already been addressed in the first approval of the use, and that the opportunity for public comment had been bypassed. DRB A recently approved the Dutch Bros across that street and it would also have drive-through issues. The crosswalk at Starbucks was dangerous for pedestrians, in addition to the difficulties with turning left onto Citizens Dr. He believed the loopholes within the system resulted in daily impacts to traffic and to citizens. He understood there were good intentions behind not always revisiting some projects, but did not believe traffic impacts were being properly assessed. Pedestrians were almost hit and drivers struggled to get into the driveways because of the new changes.

Ms. Schroeder said she seconded Mr. O'Neil's comment.

Chair Nada stated that sometimes when reviewing applications, the DRB asked the applicant questions about their proposal and what was expected, and then might approve or deny the application based on their answers. He found the rule a bit weird; that the DRB might approve one business because of the parameters that applicant had laid out, but if that business left and a completely different model came in, that new business did not have to go through the process because of what was approved for the previous applicant. He believed every change of use should go through some entity, although not necessarily the DRB, to determine if the reasons the project was approved the first time still existed.

Mr. O'Neil added that any analysis that occurred on a given project years ago could be outdated due to subsequent population growth, so it made no sense that a new business could replace an existing business, years later, with no additional review. Population growth equaled more people going to the site, more need for parking, and more need for being able to drive in and out of roadways.

Chair Nada asked if that policy was part of the City Code and how it might be changed.

Mr. Pauly replied that almost everything that was a Planned Unit Development (PUD) went through the Stage I and Stage II processes. Stage II approval was the level at which traffic was studied and then vested in terms of what was allowed in an area. If the change of use was from a dental office to a grocery store, for example, traffic and other matters would be studied. If a Stage II approval was for a grocery store or restaurant, it would be difficult to have the Code differentiate based on the popularity of a chain or a business. For example, if a Burger King changed to an In 'n' Out, a direct competitor, traffic would be much different.

Chair Nada confirmed that in that case, neither the DRB nor City Council would have a say.

Barbara Jacobson, City Attorney, understood the concern to be that the rule made sense if there was some proximity in time, but not when an approval dated back so far and the use was completely changed. She suggested it might be time to review the grandfather clause and consider a time limit.

Mr. Pauly added that this question arose with regard to Town Center and the residential code changes being considered. Some PUDs had been around a long time, so was there a point where a project became nonconforming? If a project did not meet the current Code, what would trigger looking at the current code? These were questions that Staff was discussing.

Ms. Schroeder asked what the DRB needed to do to encourage that to happen.

Ms. Jacobson replied that Mr. Pauly could make note of tonight's conversation and speak with the Community Development Director and Planning Director in conjunction with other items Staff was working on. It was good issue to raise that had a good specific example to reference.

Mr. Pauly responded that the city had reached an age at which there was more reuse of buildings due to cost efficiencies and the lack of developable land.

Mr. O'Neil believed common sense needed to be applied. For example, coffee shops generated a lot of vehicle and foot traffic, which caused congestion. Although the City had contracted out to a company that was supposed to objectively assess traffic, he believed that only occurred when a planned development came before the DRB. Otherwise, he did not know what was being done to make those assessments. Common sense dictated that traffic would back up on Town Center Lp as people tried to get coffee.

Ms. Jacobson replied there were two issues. One was the conversion of the bowling alley back to a grocery store. The other issue was the coffee shop situation. While it was true that Starbucks had gone in effectively like the Arby's, the Dutch Bros. did go through the full DRB approval process. Some safety measures had been added, and although the results might not have been what this Board would have done, it had gone through the review process.

Mr. Pauly added that people tended to look at a building based on the tenant, not the general category of use that would be written in a zoning code; that disconnect was difficult to address in regulations.

Ms. Jacobson noted if significant safety issues arose, they would be addressed one way or the other, so it was certainly something the City would track.

Mr. Pauly said there were also considerations about whether something could be denied from a legal standpoint based on proportionality and nexuses when discussing the impacts and requirements made to development. It was a difficult area that did not always lead to an ideal situation if the situation was already bad or traffic had developed to a certain level. In those cases, safety was addressed and the Town Center Transportation System Plan [addressed](#). The Traffic Team and City Staff were also aware of the situation Mr. O'Neil had mentioned and had plans to address it.

Ms. Rybold added that as part of the Dutch Bros. construction, an enhanced crosswalk would be installed at the Park Place/Town Center Lp W intersection that would include both the installation of a crosswalk and lighting similar to that by City Hall.

Mr. Pauly explained the idea there was to enhance safety as much as possible and encourage people to walk a few more feet to use the safer, more protected crossing on Town Center Lp at Park Place, rather than the existing crossing at Starbucks. He asked if Mr. O'Neil had spoken to the engineers regarding their plans for the crosswalk.

Mr. O'Neil responded that he had sent an email, as a concerned citizen, before the Starbucks had gone in, but it had never been addressed. He reiterated it had been a dangerous place to cross when Arby's was located there, but was even more dangerous now since Starbucks generated more traffic. As a citizen, he believed it was sad that it took the construction of another drive-through coffee shop up the street to trigger some safety considerations, but it still did not solve the dangers of the crosswalk. He believed someone would die at this location, and something needed to change. The speed limit was too high if no adjustments were made. Children and families also used the crosswalk, so it was a great risk to the patrons of local businesses, as well as office workers.

Chair Nada replied that those were valid points. He asked Mr. Pauly to return to the DRB with what was possible as far as potential changes, such as a time limit on approvals. He also suggested that if the Code was going to be changed, perhaps reviews could be done similar to the Tree Removal Permits, so that if a Board member wanted to discuss it, it could come before the Board for input. He realized the DRB was supposed to be applicant-neutral, but businesses were different, and he hoped Staff could come back with some recommendations on how to change the Code so that some input was allowed.

Mr. Pauly stated he could return with recommendations on August 24th.

Nicole Hendrix added that perhaps the Wilsonville Community Opportunity Grant could be used for art pieces to slow drivers down at the Starbucks intersection. She offered to do some research on the matter.

VIII. Staff Communications

Kimberly Rybold, Senior Planner, stated a Panel B meeting would be held in August as Staff expected an application for a small, infill housing development in Old Town. Given the current pool of applications under review, a Panel B meeting would likely be held in September as well.

IX. Adjournment

The meeting adjourned at 7:26 p.m.

Respectfully submitted,

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