

Sam Adams, Mayor Susan Anderson, Director

#### **Planning**

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#### Exhibit B

acd exa

April 6, 2010

To:

City Commissioners

From:

Deborah Stein, District Planning Manager

Subject:

Revisions to Schools and Parks Conditional Use Code Refinement Project -

Recommended Draft

Following publication of the Schools and Parks Conditional Use Code Refinement Project – Recommended Draft - March 18, 2010, staff determined that four sections of recommended code language needed revising. This memo serves to provide revisions to the recommended code language for clarity; however the substance and intent of the Planning Commission's recommendations are not being changed. Code language to be added is <u>underlined</u> and code language to be removed is shown in strikethrough. Please let me know if you have any questions.

REVISION #1 -

## Commentary:

This change clarifies that the allowance of one new field is measured from the effective date of this ordinance as opposed to when the use became a conditional use. The changes also remove repetitive language and provide additional clarity.

## 33.279.030 Review Thresholds for Development

This section states when development related to recreational fields is allowed, when a conditional use review is required, and the type of procedure used.

- **A. Allowed.** Alterations to the site that meet all of the following are allowed without a conditional use review provided the proposal:
  - 8. Does not add more than one new field <u>for organized sports</u>, as measured from the time the use became a conditional use, to a site containing one or more existing approved fields for organized sports. Up to one new field may be added <u>once per site</u>, after the effective date of this ordinance, without a Conditional Use Review. The new field must:
    - a. Meet the development standards of Section 33.279.040;
    - b. Not include lighting, a voice amplification system, or spectator seating in excess of 210 lineal feet:
    - c. Be <u>located</u> within 300 feet of <del>an</del> <u>one or more</u> existing <u>on-site</u> fields approved for organized sports; and
    - d. Be eonstructed <u>approved</u> under a Building or Zoning Permit that identifies the existing development and the new field that is being added, per this <u>section paragraph</u>.

### REVISION #2 -

## Commentary:

There are grade level changes in 33.281.030.B that are allowed by right or through a Type II CU. The intention was that these grade level changes not require a Type III review when reestablishing the school use within the 10-year period.

## 33.281.055 Loss of Conditional Use Status on School Sites.

**B.** If the school use has been discontinued for less than 10 years, and the proposed new school use includes any of the <u>Type III</u> changes listed in 33.281.030.B or 33.281.050.C, the conditional use is reviewed through a Type III procedure.

## REVISION #3 -

## Commentary:

This code language clarifies that the Field Permitting Organization also includes all public school districts for the purposes of public notification requirements.

#### **20.04.010 Definitions**

## H. Field Permitting Organization

Any entity that permits or assigns permitting duties for organized sports use (as defined in section 33.910.030) on public parks and schools. Sections 20.04.050 through 20.04.080 of this Chapter shall apply to any site owned or operated by any school district in the City of Portland, whether or not Portland Parks and Recreation is the field permitting organization for that site.

#### **REVISION #4 -**

## Commentary:

This change clarifies that the Field Permitting Organization (FPO), which may or may not be PP&R, is responsible for sending public notice.

## 20.04.050 Public Noticing - Recreational Fields

- B. The notice shall describe in detail the type of improvements or change in use proposed. The notice shall include the type, size, location, and setbacks proposed for the field as well as the current (if any) and proposed sports user groups. The public notice of proposed field improvement will provide contact information for the neighbors to call or send written questions, comments, or concerns within 21 calendar days. If these written comments can be addressed to the neighbor's satisfaction, no further action is necessary. PP&R The FPO shall respond to these written comments in writing within 21 days.
- C. If PP&R's the FPOs written responses to the written concerns received after the public notice are not satisfactory, a public meeting can be scheduled if requested by a neighborhood association within 1,000 feet of the subject site. The request must be made within 45 calendar days of the date of the last PP&R FPO written response to comments. A Good Neighbor Agreement (GNA) may be proposed by PP&R, PPS, both organizations jointly, or other appropriate field permitting entity if there are remaining concerns after the public meeting. Neighborhood associations within 1,000 feet of the subject site may also request a GNA, in writing, within 10 calendar days of the date of the public meeting. GNAs can be linked to sports field use permits and may address a variety of compatibility issues such as:

## ORDINANCE No.

Improve land use regulations related to schools as part of the Schools and Parks Conditional Use Code Refinement Package (Ordinance; amend Title 33)

The City of Portland Ordains:

Section 1. The Council finds:

## **General Findings**

- 1. This ordinance represents one of two components of the Schools and Parks Conditional Use Code Refinement Project and addresses regulations associated with schools only. Regulations associated with recreational fields used for organized sports are addressed in a separate Ordinance (No. ).
- 2. On October 28, 2008, the Planning Commission held a public discussion on schools-related issues that had been raised during a previous Planning Commission hearing on the City's periodic review work plan. Time did not allow for everyone to speak.
- 3. On December 4, 2008, Planning Commission held an additional meeting to discuss school-related issues and invited those who were not able to speak at the Oct 28<sup>th</sup> meeting.
- 4. In January 2009, a project website was established to provide the public with updates on the project, staff contact information, and access to project materials.
- 5. On March 23, 2009, staff presented their initial recommendations on the Schools and Parks Conditional Use Code Refinement Project to the Citywide Land Use Chairs and asked for their feedback.
- 6. On April 17, 2009, notice was sent to the project mailing list and all persons interested in legislative projects city-wide (approximately 1,100 addresses) announcing the availability of the *Schools and Parks Conditional Use Code Refinement Project Public Review Draft* and an open house/discussion/community meeting on May 7, 2009.
- 7. On April 28, 2009, the *Schools and Parks Conditional Use Code Refinement Project Public Review Draft* was published and posted on the project website. The public review comment period extended to May 29, 2010.
- 8. On May 7, 2009, an open house and community discussion was attended by approximately 20 people.
- 9. On July 28, 2009, the Planning Commission held a project briefing/discussion and invited interested parties to discuss their ideas and concerns about the Schools and Parks Conditional Use Code Refinement Project. Planning Commission supported staff's suggestion that, due to its complexity, code language for recreational field uses be separated from the package of code amendments related to schools.
- 10. On August 5, 2009 notice of the proposed action was mailed to the Department of Land Conservation and Development in compliance with the post-acknowledgement review process required by OAR 660-18-020.
- 11. On August 19, 2009, the Schools and Parks Conditional Use Code Refinement Project Report to Planning Commission was published.

- 12. On August 21, 2009, notice was sent to the project mailing list and all persons interested in legislative projects city-wide (approximately 1,100 addresses) announcing the Planning Commission public hearing on September 22, 2009 and an open house on September 15, 2009.
- 13. On September 15, 2009 staff held an open house.
- 14. On September 22, 2009, the Portland Planning Commission held a public hearing on the proposed school-related amendments to the Zoning Code and considered conceptual changes to recreational field regulations.
- 15. On November 10, 2009, the Portland Planning Commission held a public hearing on the proposed school-related amendments to the Zoning Code.
- 16. On January 12, 2010, the Planning Commission held a hearing and adopted the schools component of the project.
- 17. On March 23, 2010 notice was sent to all those who testified, wrote, or asked for notice, as well as other interested persons to notify them of the City Council hearing on the Planning Commission's recommendations for the Schools and Parks Conditional Use Code Refinement Project.
- 18. On April 22, 2010, City Council held a public hearing on the Schools and Parks Conditional Use Code Refinement Project.
- 19. On \_\_\_\_\_\_\_, 2010 City Council voted to adopt this ordinance and amend Title 33 Portland Zoning Code and Title 20 Parks and Recreation.

## Findings on Statewide Planning Goals

- 20. State planning statutes require cities to adopt and amend comprehensive plans and land use regulations in compliance with state land use goals. Only the state goals addressed below apply.
- 21. **Goal 1, Citizen Involvement**, requires provision of opportunities for citizens to be involved in all phases of the planning process. The preparation of these amendments has provided numerous opportunities for public involvement, including:
  - On October 28, 2008, the Planning Commission held a public discussion on schools-related issues that had been raised during a previous Planning Commission hearing on the City's periodic review work plan. Time did not allow for everyone to speak.
  - On December 4, 2008, Planning Commission held an additional meeting to discuss school-related issues and invited those who were not able to speak at the Oct 28<sup>th</sup> meeting.
  - In January 2009, a project website was established to provide the public with updates on the project, staff contact information, and access to project materials.
  - On March 23, 2009, staff presented their initial recommendations on the Schools and Parks Conditional Use Code Refinement Project to the Citywide Land Use Chairs and asked for their feedback.
  - On April 17, 2009, notice was sent to the project mailing list and all persons interested in legislative projects city-wide (approximately 1,100 addresses) announcing the availability of the *Schools and Parks Conditional Use Code Refinement Project Public Review Draft* and an open house/discussion community meeting on May 7, 2009.

- On April 28, 2009, the *Schools and Parks Conditional Use Code Refinement Project Public Review Draft* was published and posted on the project website. The public review comment period extended to May 29, 2010.
- On May 7, 2009, an open house community discussion was attended by approximately 20 people.
- On July 28, 2009, the Planning Commission held a project briefing/discussion and invited interested parties to discuss their ideas/concerns about the Schools and Parks Conditional Use Code Refinement Project.
- On August 5, 2009 notice of the proposed action was mailed to the Department of Land Conservation and Development in compliance with the post-acknowledgement review process required by OAR 660-18-020.
- On August 19, 2009, the Schools and Parks Conditional Use Code Refinement Project Report to Planning Commission was published.
- On August 21, 2009, notice was sent to the project mailing list and all persons interested in legislative projects city-wide (approximately 1,100 addresses) announcing the Planning Commission public hearing on September 22, 2009 and an open house on September 15, 2009.
- On September 15, 2009 staff held an open house.
- On September 22, 2009, the Portland Planning Commission held a public hearing on the proposed school-related zoning code proposals and considered conceptual changes to recreational field regulations.
- On November 10, 2009, the Portland Planning Commission held a public hearing on the proposed school-related zoning proposals.
- On January 12, 2010, the Planning Commission held a hearing and adopted the schools component of the project.
- On March 23, 2010 notice was sent to all those who testified, wrote, or asked for notice, as well
  as other interested persons to notify them of the City Council hearing on the Planning
  Commission's recommendations for the Schools and Parks Conditional Use Code Refinement
  Project.
- On April 22, 2010, City Council held a public hearing on the Schools and Parks Conditional Use Code Refinement Project.
- 22. **Goal 2, Land Use Planning**, requires the development of a process and policy framework that acts as a basis for all land use decisions and assures that decisions and actions are based on an understanding of the facts relevant to the decision. The amendments support this goal because: Title 33, Planning and Zoning, implements the policies of Portland's Comprehensive Plan. Proposed amendments ensure that there are processes that act as a basis for land use decisions. See also findings for Portland Comprehensive Plan Goal 1, Metropolitan Coordination, and its related policies and objectives.
- 23. **Goal 11, Public Facilities and Services,** requires planning and development of a timely, orderly, and efficient arrangement of public facilities and services to serve as a framework for development. The amendments support this goal because they provide the school districts with needed flexibility to accommodate fluctuations in the number of students attending a particular school, while ensuring public review of changes that may have a significant effect on the surrounding area. In addition,

these amendments extend the time a school site may remain vacant and still be vested. This combination of flexibility and certainty allows the school districts and the City to plan for schools and related facilities.

- 24. **Goal 12, Transportation,** requires provision of a safe, convenient, and economic transportation system. The proposed code amendments are consistent with this goal for the reasons stated in the findings addressing Portland Comprehensive Plan Goal 6, Transportation, and its related policies and objectives.
- 25. The **Oregon Transportation Planning Rule (TPR)** was adopted in 1991 and amended in 1996 and 2005 to implement State Goal 12. The TPR requires certain findings if the proposed [Comprehensive Plan Map amendment, Zone Change, regulation] will significantly affect an existing or planned transportation facility.

This proposal will not have a significant effect on existing or planned transportation facilities because the amendments will maintain the requirement in the existing code that schools in Portland that are expanding in physical size above a minimum threshold undergo a conditional use review. Within an existing school facility, where no expansion is proposed, the amendments will allow day to day fluctuations in enrollment and some variation in the grade levels being taught at the elementary level. These changes may result in some changes to the composition of the student body at a school, but no increases in the number of students so extensive that they will result in changes to the functional classification of any streets, change the City's standards for classifying streets, or result in levels of school or park uses that will negatively affect the performance or classification of existing facilities. As a result, the proposed code amendments will not significantly affect existing or planned transportation facilities.

# Findings on Metro Urban Growth Management Functional Plan

26. **Title 1, Requirements for Housing and Employment Accommodation**, requires that each jurisdiction contribute its fair share to increasing the development capacity of land within the Urban Growth Boundary. This requirement is to be generally implemented through citywide analysis based on calculated capacities from land use designations. The amendments are consistent with this title because they do not significantly alter the development capacity of the city. See also findings under Comprehensive Plan Goals 4 (Housing) and 5 (Economic Development).

# Findings on Portland's Comprehensive Plan Goals

- 27. Only the Comprehensive Plan goals addressed below apply.
- 28. Goal 1, Metropolitan Coordination, calls for the Comprehensive Plan to be coordinated with federal and state law and to support regional goals, objectives and plans. Policy 1.4,

  Intergovernmental Coordination, requires continuous participation in intergovernmental affairs with public agencies to coordinate metropolitan planning and project development and maximize the efficient use of public funds. The amendments support this goal and this policy because a number of other government agencies were notified of this proposal and given the opportunity to comment. These agencies include Metro, Multnomah County, and the following public school districts: Portland, Centennial, Reynolds, Parkrose, David Douglas, and Riverdale.
- 29. **Goal 2, Urban Development,** calls for maintaining Portland's role as the major regional employment and population center by expanding opportunities for housing and jobs, while retaining the character

- of established residential neighborhoods and business centers. The amendments support this goal because they support flexibility for schools, while ensuring an appropriate level of review for those changes that might have significant impacts on the surrounding area. Strong and nimble school systems are integral to maintaining Portland's role as the major regional employment and population center in the State.
- 30. **Policy 2.1, Population Growth,** calls for allowing for population growth within the existing city boundary by providing land use opportunities that will accommodate the projected increase in city households. **Policy 2.19, Infill and Redevelopment,** encourages infill and redevelopment as a way to accommodate expected increases in population. These amendments allow for fluctuation in school enrollments without cumbersome land use reviews, while requiring review for changes that will have a significant effect on the surrounding area. In addition, it extends the time school sites may remain vacant without losing their vesting as schools. The effect of these amendments is to support these policies by allowing schools to be more flexible and so accommodate a growing and dynamic population.
- 31. Policy 2.23, Central City Plan; Policy 2.26, Albina Community Plan; and Policy 2.27, Outer Southeast Community Plan: All of these plans call for strong neighborhoods and schools; these amendments support these policies because they will strengthen the school systems by allowing more flexibility—with an appropriate level of review—and extending the time school sites may remain vacant without losing their vesting as schools.
- 32. **Goal 3, Neighborhoods,** calls for the preservation and reinforcement of the stability and diversity of the city's neighborhoods while allowing for increased density. The amendments support this goal by allowing schools needed flexibility while ensuring an appropriate level of review for changes that might have a significant effect on the surrounding area and by allowing vacant school sites to remain vested for a longer period of time. This increases the ability of the school districts to retain school uses in existing buildings, which reinforces and strengthens neighborhoods.
- 33. **Policy 3.2, Social Conditions,** calls for the provision of programs to minimize the social impact of land use decisions. By clarifying when a land use review is required for adding grades to an existing school, the potential impacts of the addition can be addressed and mitigated, thus minimizing the impacts and supporting this policy.
- 34. Goal 6, Transportation, calls for developing a balanced, equitable, and efficient transportation system that provides a range of transportation choices; reinforces the livability of neighborhoods; supports a strong and diverse economy; reduces air, noise, and water pollution; and lessens reliance on the automobile while maintaining accessibility. This proposal will not have a significant effect on existing or planned transportation facilities because the amendments will continue to require that schools in Portland that are expanding in physical size above a minimum threshold undergo a conditional use review that will include a review to determine if the expansion meets the City's adopted level of service performance standards for transportation. If the level of service standards are found to be exceeded by the proposed expansion, this will be grounds for the city to deny permits for the expansion or to require mitigation so that the level of service standards are met. Within an existing school facility, where no expansion is proposed, the amendments will allow day to day fluctuations in enrollment and some variation in the grade levels being taught at the elementary level. These changes may result in some changes to the composition of the student body at a school, but no increases in the number of students to the extent that they will have any significant affects on existing or planned transportation facilities.
- 35. **Goal 9, Citizen Involvement**, calls for improved methods and ongoing opportunities for citizen involvement in the land use decision-making process, and the implementation, review, and amendment of the Comprehensive Plan. This project followed the process and requirements specified

- in Chapter 33.740, Legislative Procedure. The amendments support this goal for the reasons found in the findings for Statewide Planning Goal 1, Citizen Involvement.
- 36. **Goal 10, Plan Review and Administration,** calls for periodic review of the Comprehensive Plan, for implementation of the Plan, and addresses amendments to the Plan, to the Plan Map, and to the Zoning Code and Zoning Map. The amendments support this goal by updating and clarifying the processes used when the number of students enrolled at a school change, and when the grades at a particular school change. In addition, the goal is supported by the changes to allow school sites to remain vacant for a longer period without losing their vesting rights.
- 37. Policy 10.10, Amendments to the Zoning and Subdivision Regulations, calls for amendments to the regulations to be clear, concise, and applicable to the broad range of development situations faced by a growing, urban city. These amendments are clear and concise; they provide clear distinctions about what is required for each change of grade level at a school, and they are clear that review is not required for changes in the enrollment at a particular school. The amendments address present and future land use problems by clarifying the regulations applicable to certain changes at schools, and balance the benefits of regulation against the cost of implementation by allowing some changes to schools without land use reviews, but requiring review when appropriate. The amendments use clear and objective standards, maintain consistent procedures, and are written clearly and organized logically.
- 38. Goal 11, Public Facilities, includes a wide range of goals and policies:
- 39. **Goal 11-I** calls for enhancing the educational opportunities of Portland's citizens by supporting the objectives of school districts through assistance in planning educational facilities. The amendments support this goal by clarifying what changes to schools are allowed without review and what changes require a land use review. In addition, extending the time that a school site may remain vacant without losing vesting rights gives school districts more flexibility for planning to accommodate changes in population and enrollment.
- 40. **Policy 11.58**, **City Schools Policy**, calls for maintaining on-going coordination with Portland School District #1 (Portland Public Schools) to achieve the goals and policies of the adopted City Schools Policy. The City Schools Policy was adopted by the City in 1979 as part of the ordinance adopting the Comprehensive Plan, but was not adopted by Portland School District #1 (Portland Public Schools). The Council interprets Policy 11.58 to express the City's aspiration to support Portland Public Schools through planning assistance and ongoing coordination. This policy does not state a mandatory requirement. The code amendments give flexibility to the school districts and private schools to accommodate fluctuations in the number of students attending a particular school and are consistent with this policy's call for ongoing coordination between the City and Portland Public Schools.
- 41. Recent statutory amendments to ORS Chapter 195 establish requirements for school facility planning involving both the City and large school districts within the City's boundaries. These requirements are more specific than Policy 11.58 and describe a cooperative process for development and adoption of school facility plans. In particular, the school facility plans required by ORS Chapter 195 are focused on identifying desirable new school sites, necessary physical improvements to existing schools, financial planning, capital improvement planning, and increasing the efficient use of existing schools for educational purposes. The Bureau of Planning and Sustainability and the large school districts within Portland's boundaries are in the process of implementing these statutory provisions. ORS Chapter 195 is not directly applicable to the proposed code amendments and, in any event, the proposed code amendments will not impede ongoing school facility planning efforts to achieve compliance with ORS Chapter 195.

42. The City Schools Policy, **Policy Statement 2, School Closures,** speaks to preventing school closures and the process for closing them. Although these amendments do not relate directly to this Policy Statement, extending the time schools may remain vacant without losing their vesting rights will make it easier to avoid permanent closures of schools.

## NOW, THEREFORE, the Council directs:

- a. Adopt Exhibit A, the Planning Commission's report entitled *Schools and Parks Conditional Use Code Refinement Project Recommended Draft,* dated March 18, 2010.
- b. Adopt Exhibit B, Memorandum to City Commissioners, dated April 6, 2010, regarding Revisions to *Schools and Parks Conditional Use Code Refinement Project Recommended Draft*.
- c. Amend Title 33, Planning and Zoning, as shown in Exhibit A, *Schools and Parks Conditional Use Code Refinement Project Recommended Draft*, dated March 18, 2010, and Exhibit B, Memorandum to City Commissioners, dated April 6, 2010, regarding Revisions to *Schools and Parks Conditional Use Code Refinement Project Recommended Draft*. The specific amendments adopted by this action are to the following provisions:
  - 33.100.100.B.3 through 6
  - Table 100-1
  - 33.281.020
  - 33.281.030
  - 33.281.030.B
  - 33.281.030.D
  - Table 281-1
  - 33.281.040.B.6
  - 33.281.050
  - 33.281.050.A
  - 33.281.050.A.5
  - 33.281.050.B
  - 33.281.050.C
  - 33.281.050.C.1
  - 33.281.055
  - 33.815.040, 6th sentence
- d. Adopt the commentary and discussion in Exhibit A, *Schools and Parks Conditional Use Code Refinement Project Recommended Draft*, dated March 18, 2010; as further findings and legislative intent.
- e. Adopt the commentary and discussion in Exhibit B, Memorandum to City Commissioners, dated April 6, 2010, regarding Revisions to *Schools and Parks Conditional Use Code Refinement Project Recommended Draft* as further findings and legislative intent.

Section 2. If any section, subsection, sentence, clause, phrase, diagram, designation, or drawing contained in this Ordinance, or the plan, map or code it adopts or amends, is held to be deficient, invalid or unconstitutional, that shall not affect the validity of the remaining portions. The Council declares that it would have adopted the plan, map, or code and each section, subsection, sentence, clause, phrase,

diagram, designation, and drawing thereof, regardless of the fact that any one or more sections, subsections, sentences, clauses, phrases, diagrams, designations, or drawings contained in this Ordinance, may be found to be deficient, invalid or unconstitutional.

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Passed by the Council: Mayor Sam Adams

Prepared by: Shawn Wood Date Prepared: April 7, 2010

**LaVonne Griffin-Valade**Auditor of the City of Portland
By

Deputy

560 599:194

Agenda No. ORDINANCE NO.

See Substitute

Title

Improve land use regulations and procedures related to schools as part of the Schools and Parks Conditional Use Code Refinement Project (Ordinance; Amend Title 33)

INTRODUCED BY Commissioner/Auditor: Mayor Sam Adams	CLERK US	SE: DATE FILED APR 16	2010	=		
COMMISSIONER APPROVAL	LaVonne Griffin-Valade Auditor of the City of Portland					
Mayor—Finance and Administration—Adams  Position 1/Utilities - Fritz  Position 2/Works - Fish  Position 3/Affairs - Saltzman	Ву:	Deputy				
Position 4/Safety - Leonard	ACTION TAKEN:					
BUREAU APPROVAL Bureau: Planning and Sustainability Bureau Head: Susan Anderson	SOL				. 4	
Prepared by: Shawn Wood Date Prepared: April 6, 2010	APR 22	2010 CONTINUED TO	APR 28 2010		ı.	
Financial Impact Statement Completed Amends Budget  Not Required	APR 28 2010 RESCHEDULED TO FEB 23 2011 2 P.M. TIME CERTAIN					
Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes No	FEB 9	23 2011 SUBSTITUT	Epassed to sec	OND READ!	RERTAIN AS Amer	
Council Meeting Date April 22, 2009		MAR Q 2 2011 9:30 A.M.		ravid co	2	
City Attorney Approval KS seauns	t					
AGENDA		FOUR-FIFTHS AGENDA COMMISSIONERS VOTED AS FOLLOWS:				
TIME CERTAIN Start time: 3:00 PM	2 10			YEAS	NAYS	
Total amount of time needed: 2 hours (for presentation, testimony and discussion)		1. Fritz	1 <mark>.</mark> Fritz			
		2. Fish	2. Fish			
CONSENT [		3. Saltzman	3. Saltzman			
REGULAR		4. Leonard	4. Leonard			
Total amount of time needed:		1. Eddinara				