

LU 22-185273 CU MS AD – In the matter of an appeal by the West Portland Park Neighborhood Association against the Hearings Officer’s decision to approve with conditions a Conditional Use Master Plan and Adjustment Review for improvements to athletic facilities at Jackson Middle School

Applicant’s Representative: Suzannah Stanley
Mackenzie
1515 SE Water Ave., Ste. 100
Portland, OR 97214

Owner / Applicant: School District No 1 (Portland Public Schools)
PO Box 3107
Portland, OR 97208-3107

Appellant: West Portland Park Neighborhood Association
4106 SW Vacuna St
Portland, OR 97219

Site Address: 10625 SW 35th Ave

Legal Description: TL 100 36.43 ACRES, SECTION 29 1S 1E; TL 200 0.97 ACRES, SECTION 29 1S 1E

Zoning: OS/Osc – Open Space base zone with part of the site also within the Environmental Conservation (“c”) overlay zone

Case Type: CU MS AD – Conditional Use Master Plan Review and Adjustment Review

Procedure: Type III

Proposal

The applicant proposes improvements to the athletic facilities on the Jackson Middle School campus. The proposed sports fields would be used for scheduled games, so the proposal is subject to Conditional Use Review (Zoning Code Section 33.279.025 and Zoning Code Chapter 33.910, definition of “organized sports”). The applicant requests approval of a Conditional Use Master Plan to allow the improvements to be phased over a maximum 10-year period (Zoning Code Sections 33.820.030.C and 33.820.060).

Two phases of improvements are proposed:

- Phase 1: Install synthetic turf on the existing baseball/softball/soccer field in the northwest part of the site. Two existing youth soccer fields to the west of this field will remain grass. New field lighting is proposed for the baseball/softball/soccer field, and the applicant proposes evening use of this field until as late as 10pm (with scheduled events ending at 9:30pm). Existing spectator seating around this field would remain, but no new spectator seating is proposed, and no voice amplification system is proposed. Phase 1 also includes a new 6-space parking lot and a new 9,825-square-foot building for storage and batting cages to the south of the improved sports field.
- Phase 2: Regrade two existing soccer fields in the southwest part of the site with natural turf or synthetic turf to accommodate overlapping softball and soccer fields. No field lights, spectator seating, or voice amplification equipment are proposed for this area. Phase 2 also includes two new tennis courts to the west of the new parking area and building from Phase 1.

The following Adjustments to Zoning Code requirements are requested:

- To waive the requirement for L3 (high screen) landscaping buffers in the following locations:
 - within 25 feet of the southern edge of the existing driveway and parking lot in the south part of the site; and
 - within 25 feet of the north side of the existing driveway to the north of the existing school building.

Without these Adjustments, the nonconforming upgrades standard would require permits for the Conditional Use Master Plan projects to include this landscaping adjacent to existing vehicle areas (Zoning Code Section 33.258.070.D.2, Zoning Code Section 33.266.130.G.2.d.2).

- To increase the maximum structure height for 10 new field light poles proposed for the Phase 1 field in the northwest part of the site from 50 feet to between 60 feet and 90 feet (Zoning Code Section 33.100.200.B.1, Zoning Code Table 110-9).

Relevant Approval Criteria

To be approved, this proposal must comply with the approval criteria of Title 33, the Portland Zoning Code. The applicable approval criteria are:

- Zoning Code Section 33.820.050.A-C (Conditional Use Master Plan Review)
- Zoning Code Section 33.805.040.A-F (Adjustment Review)

Procedural History

The West Park Neighborhood Association filed a timely appeal of the Hearings Officer's decision to the City Council on November 30, 2023. The City Council held an on the record hearing on the appeal on January 11, 2023, and tentatively voted to unanimously deny the appeal and uphold the Hearings Officer's Decision with one additional condition of approval. At the close of the City Council hearing on January 11, 2023, the City Council set a date of January 31, 2024 at 10:10 a.m. time certain for adoption of findings and a final vote. At the final proceeding on **January 31, 2024**, the City Council adopted the findings contained in this Decision, together with the final conditions of approval.

Decision

Based on evidence in the record and adoption of the Council's Findings and Decision in Case File LU 22-185273 CU MS AD and by this reference made a part of this Order, it is the decision of the City Council to approve the Conditional Use Master Plan and Adjustments for the field improvement project at Jackson Middle School. This proposal will enhance the recreational opportunities for area residents while appropriately managing stormwater quality and quantity under the SWMM and SCM.

Approval of a 10-year Conditional Use Master Plan:

- Phase 1: Install synthetic turf on the existing baseball/softball/soccer field in the northwest part of the site. Two existing youth soccer fields to the west of this field will remain grass. New field lighting is proposed for the baseball/softball/soccer field, and the applicant proposes evening use of this field until as late as 10pm (with scheduled events ending at 9:30pm). Existing spectator seating around this field would remain, but no new spectator seating is proposed, and no voice amplification system is proposed. Phase 1 also includes a new 6-space parking lot and a new 9,825-square-foot building for storage and batting cages to the south of the improved sports field.

- Phase 2: Regrade two existing soccer fields in the southwest part of the site with natural turf or synthetic turf to accommodate overlapping softball and soccer fields. No field lights, spectator seating, or voice amplification equipment are proposed for this area. Phase 2 also includes two new tennis courts to the west of the new parking area and building from Phase 1.

Approval of the following Adjustments:

- To waive the requirement for L3 (high screen) landscaping buffers (Zoning Code Section 33.266.130.G.2.d.2) in the following locations:
 - within 25 feet of the southern edge of the existing driveway and parking lot in the south part of the site; and
 - within 25 feet of the north side of the existing driveway to the north of the existing school building.
- To increase the maximum structure height for 10 new field light poles proposed for the Phase 1 field in the northwest part of the site from 50 feet to between 60 feet and 90 feet (Zoning Code Section 33.100.200.B.1, Zoning Code Table 110-9).

Both approvals are per the approved plans, Exhibits C-1 through C-4, and subject to the following conditions of approval:

- A. As part of each permit application submittal, each of the required site plans and additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C-1 through C-4. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 22-185273 CU MS AD."
- B. The Conditional Use Master Plan expires 10 years from the date this decision becomes final. Any of the improvements included in the Phase 1 and Phase 2 descriptions above that do not have the required permits issued within this 10-year period will be subject to Zoning Code requirements applicable at the time of permit application.
- C. The plans for the first permit for Conditional Use Master Plan improvements must show the extension of the existing sidewalk through the site from SW 40th Avenue to SW 35th Avenue, as illustrated in Exhibit A-20, page 4. The sidewalk extension must be completed before final inspection approval of the permit.

- D. The field lights around the Phase 1 baseball/softball/soccer field must be turned off by 10pm every evening they are used.
- E. Prior to issuance of the first permit for Conditional Use Master Plan improvements, the applicant must obtain concept approval for a public works permit for the public improvements identified in Public Works Alternative Review 23-016893 PW and post a financial guarantee for these public improvements to the satisfaction of Public Works.
- F. Through a public works permit, the applicant is required to make improvements to the existing sanitary sewer main that runs across the subject property to support the proposed development. Prior to issuance of the first permit for Conditional Use Master Plan improvements, the applicant must obtain 30 percent concept approval for the necessary work on the pipe as a result of the proposed development. The applicant must submit approved engineered plans, provide a financial guarantee, pay all outstanding fees, and provide a signed permit document.
- G. Existing trees to the north of the Phase 1 baseball/softball/soccer field must be preserved as illustrated in Exhibit A-9, page 16. These trees may be removed in the future if found by a certified arborist to be dead, dying, or hazardous, but each tree removed must be replaced with a new tree planted to the north of the Phase 1 field. Replacement trees must meet the planting size requirements in Zoning Code Section 33.248.030.C.1.
- H. The permit for the Phase 1 baseball/softball/soccer field must show a row of new trees along the west lot line to the west of the Phase 1 field, approximately as illustrated in Exhibit A-9, page 15. These new trees must meet the planting size requirements in Zoning Code Section 33.248.030.C.1, and they must be planted before final inspection approval of the permit. Any of these trees that are removed in the future must be replaced with a new tree in approximately the same area of the site.
- I. Prior to issuance of any permit that triggers stormwater management requirements, for any use under the Conditional Use Master Plan, the applicant must obtain approval from the Bureau of Environmental Services of a stormwater management plan that complies with all the applicable water quality and water quantity requirements, including total maximum daily loads (TMDLs), of the Stormwater Management Manual (SWMM) that are in effect on the date of the first permit submittal.

- J. The Applicant will comply with the requirements of Portland City Code 33.248.040 governing the installation and maintenance of the proposed landscaping including both the on-site trees and the street trees.
- K. Crumb rubber shall not be used in the development of the turf fields on the subject property.
- L. The applicant is required to evaluate the condition of the creek conveyance pipe that runs across the subject property to support the proposed development, including an evaluation of the field substrates and the impact of those substrates on the structural integrity of the pipe. Prior to issuance of the first permit for Conditional Use Master Plan improvements, the applicant must obtain City approval for any necessary work on the pipe as a result of the proposed development.

IT IS SO ORDERED:

2/5/2024

Date

**Ted
Wheeler**  Digitally signed by
Ted Wheeler
Date: 2024.02.05
14:20:32 -08'00'

Mayor Ted Wheeler
Presiding Officer at Hearing
January 31, 2024
9:30 a.m. Session



February 6, 2024

Steven Smith, Portland Public Schools
501 N Dixon St
Portland, OR 97227

School District No 1, Portland Public Schools
PO Box 3107
Portland, OR 97208-3107

LU 22-185273 CU MS AD – In the matter of an appeal by the West Portland Park Neighborhood Association against the Hearings Officer's decision to approve with conditions a Conditional Use Master Plan and Adjustment Review for improvements to athletic facilities at Jackson Middle School

To Whom It May Concern:

Enclosed is a copy of the Order of Council on LU 22-185273 CU MS AD. If you wish to obtain a copy of the City Council's findings and decision, please contact the Council Clerk by email at councilclerk@portlandoregon.gov or at (503) 823-4082.

This Order must be recorded with the Multnomah County Recorder within 10 days of receipt of this letter.

1. The City Auditor's Office will submit the Order to the County for recording.
2. Please prepare a check for \$106.00 made payable to the Multnomah County Recorder, indicating the file number on your check.
3. MAIL CHECK TO: The City of Portland, Office of the City Auditor, 1221 SW 4th Ave. Room 130, Portland, OR 97204-1900

City Council's decision is the final review process available through the City. You may appeal this decision to the Oregon Land Use Board of Appeals (LUBA) by filing a Notice of Intent to Appeal with LUBA within 21 days of the date of decision, as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA must have appeared orally or in writing during the City's proceedings on this land review. LUBA's address is: DSL Building, 775 Summer Street NE, Suite 330, Salem, OR 97301-1283. You may call LUBA at 1-503-373-1265 or visit LUBA's website (www.oregon.gov/LUBA) for further information on filing an appeal.

Yours sincerely,
Simone Rede
Auditor of the City of Portland

By: *Keelan McClymont*

Keelan McClymont, Council Clerk

Encl.
Cc: Suzannah Stanley, Mackenzie





**Portland
City Auditor**
Council Clerk

NOTICE OF FINAL DECISION

TO: All Interested Persons
DATE: February 6, 2024

LU 22-185273 CU MS AD – In the matter of an appeal by the West Portland Park Neighborhood Association against the Hearings Officer’s decision to approve with conditions a Conditional Use Master Plan and Adjustment Review for improvements to athletic facilities at Jackson Middle School

To Whom It May Concern:

Enclosed is a copy of the Order of Council on LU 22-185273 CU MS AD, denying the appeal and upholding the decision of the Hearings Officer with one additional condition and adopting the Findings and Conclusions. If you wish to obtain a copy of the City Council’s findings and decision, please contact the Council Clerk by email at councilclerk@portlandoregon.gov or at (503) 823-4082.

City Council's decision is the final review process available through the City. You may appeal this decision to the Oregon Land Use Board of Appeals (LUBA) by filing a Notice of Intent to Appeal with LUBA within 21 days of the date of decision, as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA must have appeared orally or in writing during the City’s proceedings on this land review. LUBA’s address is: DSL Building, 775 Summer Street NE, Suite 330, Salem, OR 97301-1283. You may call LUBA at 1-503-373-1265 or visit LUBA’s website (www.oregon.gov/LUBA) for further information on filing an appeal.

Yours sincerely,
Simone Rede
Auditor of the City of Portland

By: *Keelan McClymont*

Keelan McClymont, Council Clerk

Encl.



LU 22-185273 CU MS AD
Order of council mailed: 2/6/24

Emailed: Andrew Gulizia, Kara Fioravanti, Tim Heron, Linly Rees, Lauren King, BDS Hearings Clerks, Hearings Office Clerks, Doug Morgan, Kurt Krueger, Dawn Krantz, Stephen Himes, Tammy Boren-King

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Email list for non-fee letter, ooc and findings - sent to testimony that didn't provide a mailing address

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