

Motions February 23, 2011

WEDNESDAY, 2:00 PM, FEBRUARY 23, 2011

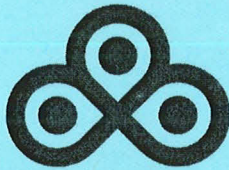
S-194

TIME CERTAIN: 2:00 PM – Improve land use regulations and procedures related to schools as part of the Schools and Parks Conditional Use Code Refinement Project (Previous Agenda 599-2010) Ordinance introduced by Mayor Adams; amend Title 33) 1 hour requested

Motion to amend the code language in the Recommended Draft, dated March 18, 2010, as shown in the memo from Mayor Adams, dated February 9, 2011: Moved by Commissioner Leonard and seconded by Commissioner Fritz for purposes of discussion. (Y-3; N-1, Fritz)

Motion to substitute the ordinance from Mayor Adams, dated February 22, 2011: Moved by Commissioner Saltzman and seconded by Commissioner Leonard. (Y-3; N-1, Fritz)

**SUBSTITUTE
PASSED TO
SECOND READING
AS AMENDED
MARCH 2, 2011
AT 9:30 AM**



184443

Bureau of Planning and Sustainability
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February 23, 2011

TO: City Council

FROM: Deborah Stein, Supervising Planner

RE: **Schools and Parks Conditional Use Code Refinement Project:
Approach to Decisions for Feb. 23, 2011 City Council Hearing**

Because there are two proposals and several amendments before you today, I thought this memo might be useful.

If you decide to adopt the Planning Commission's recommendation, you may want to make the following motions:

1. Move to amend the code language in the Recommended Draft, dated March 18, 2010, as shown in the memo from Deborah Stein, dated February 9, 2011.
2. Move to amend the ordinance as shown in the memo from Deborah Stein, dated February 9, 2011.
3. Move to pass the amended ordinance and amended Recommended Draft to Second Reading.

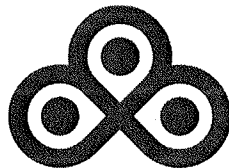
If you decide to adopt the Mayor's alternative proposal, you may want to make the following motions:

1. Move to amend the code language in the Recommended Draft, dated March 18, 2010, as shown in the memo from Mayor Adams, dated February 9, 2011.
2. Move to substitute the ordinance from Mayor Adams, dated February 22, 2011.
3. Move to pass the substitute ordinance and amended Recommended Draft to Second Reading.



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Bureau of Planning and Sustainability
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AMENDMENT
(not adopted)

February 9, 2011

TO: City Commissioners

FROM: Deborah Stein, District Planning Manager

RE: Schools and Parks Conditional Use Code Refinement Project

As you may recall, on April 22, 2010 I presented the Planning Commission's recommendation on the Schools and Parks Conditional Use Code Refinement Project. At that hearing you heard testimony from three Planning Commissioners and several members of the public. The hearing was continued to April 28, at which time Council decided to focus discussion on the recreational fields aspect of the project and defer discussion and decision on the schools portion of the project to a later date. The Council made a decision on the recreational fields amendments on April 28, 2010. Those amendments are already in effect.

On February 23, 2011, you will consider the Planning Commission's recommendation on the schools portion of the project.

Attached to this memo are four documents:

- 1) The Planning Commission's *Schools and Parks Conditional Use Code Refinement Project Recommended Draft*, dated March 18, 2010;

This draft contains recommended amendments in four topic areas. Because Topic Area #3 (Recreational Fields) was already addressed, Council's discussion and decision will focus on the three remaining topic areas:

#1 – Enrollment Fluctuations

#2 – Changes in Grade Levels

#4 – Conditional Use Status of Vacant School Property

- 2) Staff's proposed amendments to the Planning Commission's *Recommended Draft*;

Staff proposes three amendments to the Planning Commission's code language. All three amendments are technical in nature and do not change the substance of the regulations. They are:

33.281.050 – Clarifies that recreational fields are regulated through Chapter 33.279, Recreational Fields for Organized Sports, rather than the chapter on school sites.



33.281.050.A.3 – Provides language that an increase of up to 1500 sq. ft. of exterior improvement areas may be added to a site without a conditional use review. This policy and language is consistent with how recreational fields are regulated (in Chapter 33.279) and how other conditional uses are regulated (in Chapter 33.815); it was inadvertently omitted from the draft code staff presented to the Planning Commission.

33.281.055.B – Clarifies the level of review needed when a school use has been discontinued for more than 10 years. "Type III" was inadvertently omitted from the draft code staff presented to the Planning Commission.

- 3) The ordinance, filed in April 2010;
- 4) Staff's proposed amendments to the ordinance.

The amendments proposed to the ordinance affect only chronology of events described in the ordinance, and the directives, where they change references to the code sections and to this memo.

Please let me know if you have any questions. I can be reached at 503-823-6991.



STAFF PROPOSED AMENDMENTS TO THE RECOMMENDED DRAFT

Replacement Pages for Pages 59, 61, 63, and 65 of the
March 18, 2010 Recommended Draft

RECOMMENDED ZONING CODE LANGUAGE

Language **added** by the Planning Commission is underlined
 Language **added** by staff amendments is double-underlined
 Language to be **deleted** by the Planning Commission is shown in ~~strikethrough~~
 Language **deleted** by staff amendments is shown in ~~double-strikethrough~~

CHAPTER 33.281
SCHOOLS AND SCHOOL SITES

33.281.050 Review Thresholds for Development

The following thresholds state the type of procedure used in the conditional use review for changes to development at schools and on school sites in the OS and R zones. Changes that are allowed by right are also stated. This section states when development related to schools and on school sites in the OS and R zones is allowed, when a conditional use review is required, and the type of procedure used. Recreational fields used for organized sports are subject to Chapter 33.279, Recreational Fields for Organized Sports.

- A. Allowed by right.** Alterations to the site that meet all of the following are allowed without a conditional use review.
1. The addition of new outdoor recreation areas, or changes to existing outdoor recreation areas;
 2. The addition of up to 1,500 square feet of floor area to the site;
 3. Increases of exterior improvement areas up to 1,500 square feet. Fences, handicap access ramps, and on-site pedestrian circulation systems, and increases allowed by Paragraphs A.5 and A.8 are exempt from this limitation;
 4. Changes that do not result in a net gain or loss of site area;
 5. ~~Alterations to parking areas other than Special Event Parking that meet the following:~~
 - a. ~~Will not result in a net gain in the number of parking spaces;~~
 - b. ~~Sites with up to 15 spaces, not including those used for Special Event Parking: will not result in a net loss in the number of parking spaces;~~
 - c. ~~Sites with 16 or more spaces, not including those used for Special Event Parking: will not decrease the number of spaces except as follows:~~
 - (1) ~~No reduction in shared parking spaces is allowed;~~
 - (2) ~~1 space or 4 percent of the total number of parking spaces may be removed, whichever is greater; and~~

- (3) ~~An individual or cumulative removal of parking spaces in excess of 5 spaces is prohibited. The cumulative loss of parking is measured from the time the use became a conditional use, July 16, 2004, or the last conditional use review of the use, whichever is most recent, to the present.~~

5. The alteration will not result in an individual or cumulative loss or gain in the number of parking spaces, except as follows:

- a. On sites with 5 or more parking spaces, up to 1 space or 4 percent of the total number of existing parking spaces, whichever is greater, may be removed; however, the removal of more than 5 spaces requires a conditional use review;
- b. Up to 1 space or 4 percent of the total number of existing parking spaces, whichever is greater, may be added; however, the addition of more than 5 spaces requires a conditional use review; and
- c. Any cumulative loss or gain of parking allowed in 5.a or 5.b above is measured from the time the use became a conditional use, or the last conditional use review of the use, whichever is most recent, to the present.

6. The alteration meets one of the following:

- a. Complies with the development standards of this Title; or
- b. Does not comply with the development standards of this Title, but an adjustment or modification to the development standards has been approved through a land use review; and

7. The alteration complies with all previous conditions of approval;

8. The addition of roof-mounted solar panels that meet the requirements of the base zone, and ground mounted solar panels.

B. Type II. ~~Alterations to development when the individual or cumulative alterations will not increase the floor area or exterior improvement area by more than 10 percent, up to a maximum of 25,000 square feet are reviewed through a Type II procedure. The increase is measured from the time the use became a conditional use, the effective date of this Title, or the last Type III conditional use review on the site, whichever is most recent. Exceptions are outdoor recreation areas and athletic fields, which are regulated by Subsection A. above, and Subsection C. below. A Type II review is required when the following individual or cumulative alterations are proposed. The increases in paragraphs B.3 through B.6, below, are measured from the time the use became a conditional use or the last conditional use review of the use, whichever is most recent, to the present.~~

- 1. When proposed alterations to the site will not violate any conditions of approval;
- 2. When there will be a net loss in site area that will not take the site out of conformance, or further out of conformance, with a development standard;

3. When there will be an increase or decrease in the net number of parking spaces by up to 2 spaces or up to 10 percent of the total number of parking spaces, whichever is greater;
4. When the alterations will not increase the floor area on the site by more than 10 percent, up to a maximum of 25,000 square feet;
5. When the alterations will not increase the exterior improvement area on the site by more than 10 percent, up to a maximum of 25,000 square feet. Parking area increases that are allowed by B.3 above are exempt from this limitation; or
6. When the alterations will not increase the floor area and the exterior improvement area on the site by more than 10 percent, up to a maximum of 25,000 square feet. Parking area increases that are allowed by B.3 above are exempt from this limitation.

C. Type III. The following alterations to development are processed through a Type III procedure: All other alterations to development on the site, including alterations not allowed by Subsections A. and B. above are reviewed through a Type III procedure.

1. ~~All other alterations to development on the site, including alterations not allowed by Subsections A. and B. above. Recreational fields used for organized sports are subject to Chapter 33.279, Recreational Fields for Organized Sports.~~

33.281.055 Loss of Conditional Use Status on School Sites

If a school use is discontinued for more than 5 continuous years, a new conditional use is required. A school use has been discontinued if the use ceases operations, even if the structure or materials related to the use remain. Any school use proposing to locate at the site after more than 5 years of discontinued use must go through a new conditional use review. The new conditional use is reviewed as follows:

- A.** If the school use has been discontinued for less than 10 years, and the proposed new school use does not include any of the Type III changes listed in 33.281.030.B or 33.281.050.C, the conditional use is reviewed through a Type II procedure.
- B.** If the school use has been discontinued for less than 10 years, and the proposed new school use includes any of the Type III changes listed in 33.281.030.B or 33.281.050.C, the conditional use is reviewed through a Type III procedure.
- C.** If the school use has been discontinued for more than 10 years, the conditional use is reviewed through a Type III procedure.

**Staff Proposed Amendments to Ordinance
Before City Council on February 23, 2011**

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

Amend finding #18:

18. On April 22, 2010, City Council held a public hearing on the Schools and Parks Conditional Use Code Refinement Project. They continued the hearing to April 28, 2010.

Replace finding #19 with the following:

- ~~19. On _____, 2010 City Council voted to adopt this ordinance and amend Title 33 Portland Zoning Code and Title 20 Parks and Recreation.~~
19. On April 28, 2010, City Council focused on the Recreational Fields aspects of the project, and did not discuss the schools-related issues. They adopted amendments to the Recommended Draft outlined in a memo dated April 28, 2010.
20. On May 5, Council adopted Ordinance 183750, which took effect on June 4, 2010. That ordinance addressed only the Recreational Fields amendments.
21. On February 4, 2011, 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-related elements of the Schools and Parks Conditional Use Code Refinement Project.
22. On February 9, 2011, the Mayor published an alternative proposal. The alternative proposal was posted on the Bureau of Planning and Sustainability website and was available from the Mayor's Office.
23. On February 23, 2011, City Council held a public hearing on the schools-related elements of the Schools and Parks Conditional Use Code Refinement Project.
24. On _____ City Council voted to adopt this ordinance and amend Title 33, Planning and Zoning.

[Renumber subsequent findings]

Under finding #21, amend the 17th bullet:

- On April 22, 2010, City Council held a public hearing on the Schools and Parks Conditional Use Code Refinement Project. They continued the hearing to April 28, 2010.

Under finding #21, replace the 18th bullet:

- ~~• On _____, 2010 City Council voted to adopt this ordinance and amend Title 33 Portland Zoning Code.~~
- On April 28, 2010, they focused on the Recreational Fields aspects of the project, and did not discuss the schools-related issues. They adopted amendments to the Recommended Draft outlined in a memo dated April 28, 2010.

- On May 5, Council adopted Ordinance 183750, which took effect on June 4, 2010. That ordinance addressed only the Recreational Fields amendments.
- On February 4, 2011, 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-related elements of the Schools and Parks Conditional Use Code Refinement Project.
- On February 9, 2011, the Mayor published an alternative proposal. The alternative proposal was posted on the Bureau of Planning and Sustainability website and was available from the Mayor's Office.
- On February 23, 2011, City Council held a public hearing on the schools-related elements of the Schools and Parks Conditional Use Code Refinement Project.
- On _____, 2011, City Council voted to adopt this ordinance and amend Title 33, Planning and Zoning. .

Amend the directives as follows:

NOW, THEREFORE, the Council directs:

- Adopt Exhibit A, the Planning Commission's report entitled *Schools and Parks Conditional Use Code Refinement Project – Recommended Draft*, dated March 18, 2010.
- Adopt Exhibit B, Memorandum to City Commissioners, ~~dated April 6, 2010 from Bureau of Planning and Sustainability, dated February 9, 2011,~~ regarding Revisions to *Schools and Parks Conditional Use Code Refinement Project – Recommended Draft*.
- 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 ~~from Bureau of Planning and Sustainability, dated February 9, 2011, 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.1
 - 33.281.040.B.6
 - 33.281.050
 - 33.281.050.A
 - 33.281.050.A.3
 - 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
 - 33.815.040.B.1.f and g

- 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 from Bureau of Planning and Sustainability, dated February 9, 2011, ~~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.



City of Portland
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**Planning and
Sustainability**
Sam Adams, Mayor
Susan Anderson, Director

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April 27, 2010

To: City Commissioners

From: Deborah Stein, District Planning Manager

Subject: Responses to Schools and Parks City Council Hearing (April 22, 2010)

184443

(NOT HEARD ON
4/28/10)

As a result of testimony and questions raised at the April 22, 2010 City Council hearing on the Schools and Parks Conditional Use Code Refinement Project, staff has prepared the following responses that will be presented at the continued hearing on April 28, 2010.

Colleges – Testimony highlighted a concern that the recommended code language was unclear on how recreational fields associated with colleges are treated. Within Title 33 (Zoning Code), Colleges are a separate use category from Schools, and the new regulations found in Chapter 33.279 (Recreational Fields for Organized Sports), are intended to apply to recreational fields located on a school or school site, not a college. This is described in Section 33.279.020 (Where These Regulations Apply). To clarify that Colleges are not subject to the new recreational field regulations, revised code amendments are proposed on pages 2-6 of this memo. To differentiate these revisions from those found in the Recommended Draft, code language to be added is double underlined and code language to be removed is shown in ~~double strikethrough~~.

Change of Grade Levels – The question of how grade level changes would be processed in the event that grade levels were *replaced* as opposed to *added* was raised. Under the recommended code, removing grades is allowed without conditional use review. Table 281-1 describes what type of review is required based on grades added. To clarify review procedure if a school were to close with one set of grade levels and reopen with a different set of grade levels, recommended code language has been revised to clarify that the grade level changes apply in cases of both *addition* or *replacement*. This revision allows the intent of the review procedure thresholds to remain intact. Revised code language can be found on page 7 of this memo. To differentiate these revisions from those found in the Recommended Draft, code language to be added is double underlined and code language to be removed is shown in ~~double strikethrough~~.

Tracks and Skate Parks – The issue of how tracks and skate parks would be regulated was raised. The Schools and Parks Conditional Use Code Refinement Project was initiated, in part, to address complaints and concerns stemming from recreational field use. No complaints have been received in regards to facilities such as tracks or skate parks. As such, the project has focused on how to better regulate recreational fields.

Facilities such as tracks or skate parks do not typically generate significant numbers of spectators on a regular basis, the way a baseball or football field might. However, if tracks are developed with recreational fields within them, the field would be subject to the new recreational field regulations. Therefore staff proposes to maintain the Planning Commission's current recommendations, which would allow these types of facilities without conditional use review.

Please let me know if you have any questions.

**Table 110-5
Institutional Development Standards [1]**

Minimum Site Area for New Uses	10,000 sq. ft.
Maximum Floor Area Ratio [2]	0.5 to 1
Maximum Height [3]	50 ft.
Minimum Building Setbacks [2]	1 ft. back for every 2 ft. of bldg. height, but in no case less than 15 ft.
Maximum Building Setback Transit Street or Pedestrian District	20 ft. or per CU/IMP review
Maximum Building Coverage [2]	50% of site area
Minimum Landscaped Area [2,4]	25% of site area to the L1 standard
Buffering from Abutting Residential Zone [5]	15 ft. to L3 standard
Buffering Across a Street from a Residential Zone [5]	15 ft. to L1 standard
Setbacks for All Detached Accessory Structures Except Fences [6]	10 ft.
Parking and Loading	See Chapter 33.266, Parking And Loading
Signs	See Title 32, Signs and Related Regulations

Notes:

- [1] The standards of this table are minimums or maximums as indicated. Compliance with the conditional use approval criteria might preclude development to the maximum intensity permitted by these standards.
- [2] For campus-type developments, the entire campus is treated as one site. Setbacks are only measured from the perimeter of the site. The setbacks in this table only supersede the setbacks required in Table 110-3. The normal regulations for projections into setbacks and for detached accessory structures still apply.
- [3] Towers and spires with a footprint of 200 square feet or less may exceed the height limit, but still must meet the setback standard. All rooftop mechanical equipment must be set back at least 15 feet from all roof edges that are parallel to street lot lines. Elevator mechanical equipment may extend up to 16 feet above the height limit. Other rooftop mechanical equipment that cumulatively covers no more than 10 percent of the roof area may extend 10 feet above the height limit.
- [4] Any required landscaping, such as for required setbacks or parking lots, applies towards the landscaped area standard.
- [5] Surface parking lots are subject to the parking lot setback and landscaping standards stated in Chapter 33.266, Parking And Loading.
- [6] Setbacks for structures that are accessory to recreational fields for organized sports on a school, school site, or in a park, are stated in Chapter 33.279, Recreational Fields for Organized Sports.

33.110.245 Institutional Development Standards

- A. Purpose.** The general base zone development standards are designed for residential buildings. Different development standards are needed for institutional uses which may be allowed in single-dwelling zones. The intent is to maintain compatibility with and limit the negative impacts on surrounding residential areas.
- B. Use categories to which these standards apply.** The standards of this section apply to uses in the institutional group of use categories, whether allowed by right, allowed with limitations, or subject to a conditional use review. The standards apply to new development, exterior alterations, and conversions to institutional uses. Recreational fields used for organized sports on a school, school site, or in a park, are subject to Chapter 33.279, Recreational Fields for Organized Sports.
- C. The standards.**
- 1-3. [No Change.]
4. Outdoor activity facilities. Except as specified in paragraph C.5 below, Outdoor activity facilities, such as swimming pools, basketball courts, tennis courts, or baseball diamonds must be set back 50 feet from abutting R-zoned properties. Playground facilities must be set back 25 feet from abutting R-zoned properties if not illuminated, and 50 feet if illuminated. Where the outdoor activity facility abuts R-zoned properties in School uses, the required setback is reduced to zero.
5. Recreational fields for organized sports. Recreational fields used for organized sports on a school, school site, or in a park, are subject to Chapter 33.279, Recreational Fields for Organized Sports.
- 6-10 ~~5-9~~. [No Change other than number sequence.]

33.120.100 Primary Uses (cont'd)

11. Schools, Colleges, and Medical Centers in the IR zone. This regulation applies to all parts of Table 120-1 that have a note [11].
 - a. Purpose. High Schools, Colleges, and Medical Centers located in IR Zones are limited to the large institutional campuses the IR Zone is intended to foster. The IR zone was created in recognition of the role such institutions play in meeting the needs of Portland's citizens.
 - b. Regulations for institutional campuses. High Schools, Colleges, ~~Hospitals~~, and Medical Centers are allowed to develop as institutional campuses when they meet the following regulations.
 - (1) The institution is located or is to be located on a site that is at least 5 acres in total area. Exceptions to this minimum size requirement are prohibited.
 - (2) The institution has an approved impact mitigation plan or conditional use master plan.
 - (3) Trade schools and business schools are commercial uses and are not allowed in an IR zone through a conditional use.
 - c. Regulations for other institutions. Schools, Colleges, ~~Hospitals~~, and Medical Centers are allowed as a conditional use only.
 - d. Regulations for recreational fields for organized sports. Recreational fields used for organized sports on a school or school site, are subject to the regulations of Chapter 33.279, Recreational Fields for Organized Sports.

12-14. [No Change.]

C-D. [No Change]

33.120.275 Development Standards for Institutions

- A. Purpose.** The general base zone development standards in the R3 through RX zones are designed for residential buildings. Different development standards are needed for institutional uses which may be allowed in multi-dwelling zones. The intent is to maintain compatibility with and limit the negative impacts on surrounding residential areas.
- B. Use categories to which these standards apply.** The standards of this section apply to uses in the institutional group of use categories in the R3 through IR zones, whether allowed by right, allowed with limitations, or subject to a conditional use review. The standards apply to new development, exterior alterations, and conversions to institutional uses. Uses that are part of an institutional campus with an approved impact mitigation plan in the IR zone are subject to the development standards of 33.120.277. Recreational fields used for organized sports on a school, school site, or in a park, are subject to Chapter 33.279, Recreational Fields for Organized Sports.
- C. The standards.**
- 1-3. [No change.]
4. Outdoor activity facilities. Except as specified in paragraph C.5 below, outdoor activity facilities, such as swimming pools, basketball courts, tennis courts, or baseball diamonds must be set back 50 feet from abutting R-zoned properties. Playground facilities must be set back 25 feet from abutting R-zoned properties if not illuminated, and 50 feet if illuminated.
5. Recreational fields used for organized sports. Recreational fields used for organized sports on a school, school site, or in a park, are subject to Chapter 33.279, Recreational Fields for Organized Sports.
- 6-10 5-9. [No change other than number sequence.]

33.120.277 Development Standards for Institutional Campuses in the IR Zone

- A. [No Change]**
- B. Where these standards apply.** The standards of this section apply to all development that is part of an institutional campus with an approved impact mitigation plan or an approved conditional use master plan in the IR zone, whether allowed by right, allowed with limitations, or subject to a conditional use review. The standards apply to new development, exterior alterations, and conversions from one use category to another. Recreational fields used for organized sports on a school, school site, or in a park, are subject to Chapter 33.279, Recreational Fields for Organized Sports.
- C. The standards.**
- 1-3 [No change]
4. Recreational fields used for organized sports on a school, school site, or in a park, are subject to Chapter 33.279, Recreational Fields for Organized Sports.

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 public schools (as described in 33.920.480). 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.

Regulations in OS and R zones

33.281.030 Review Thresholds for School Uses

This section ~~The following thresholds states when a conditional use is required and the type of procedure used~~ the type of procedure used in the conditional use review for changes to school uses in the OS and R zones. ~~Changes that are allowed by right are also stated.~~

- A. New school use.** The creation of a school use on a site that does not have a school use or is not a school site is reviewed through the Type III procedure.
- B. Change of school grade levels.** ~~Changes from an elementary to a middle or junior high or to a high school, or from a middle or junior high to a high school are reviewed through a Type III procedure. Changes from a high school to a middle or junior high or to an elementary school, or from a middle or junior high to an elementary school are reviewed through a Type II procedure. Changes from a middle to a junior high, or from a junior high to a middle school are allowed by right. Removing grades from any school is allowed. Adding or replacing grades is allowed or a conditional use, as specified in Table 281-1.~~

Table 281-1
Regulations for Adding or Replacing Grades

<u>If a school has the following grades:</u>	<u>Regulation for adding or replacing the following grades:</u>	
	<u>Allowed</u>	<u>CU required (Type III unless noted otherwise)</u>
<u>Any grade K-5</u>	<u>Any grade K-8</u>	<u>Any grade 9-12</u>
<u>Any grade 6-8</u>	<u>Any grade 6-8</u>	<u>Any grade K-5</u> <u>Any grade 9-12</u>
<u>Any grade 9-12</u>	<u>Any grade 9-12</u>	<u>Any grade 6-8 (Type II)</u> <u>Any grade K-5</u>
<u>Any grade K-5 AND</u> <u>Any grade 6-8</u>	<u>Any grade K-8</u>	<u>Any grade 9-12</u>
<u>Any grade 6-8 AND</u> <u>Any grade 9-12</u>	<u>Any grade 6-12</u>	<u>Any grade K-5</u>
<u>Any grade K-5 AND</u> <u>Any grade 6-8 AND</u> <u>Any grade 9-12</u>	<u>Any grade K-12</u>	---

(NOT VOTED ON 4/22)

Moore-Love, Karla

From: Fritz, Amanda
Sent: Thursday, April 22, 2010 11:42 AM
To: City Elected Officials; City Elected Officials Exec's
Cc: Moore-Love, Karla; Ruiz, Amy; Stein, Deborah; Hoop, Brian
Subject: Proposed Amendments, Questions, Concerns with Good Neighbor Agreement for Recreational Fields change review process

Dear colleagues,

I appreciate all the work that has been done over several years in the Schools and Fields Refinement project.

There are significant problems with the proposal for public notice and Good Neighbor Agreements for Recreational Fields, section 20.04.050 on page 79 of the report.

1. Some changes which are now Type III Conditional Use land use reviews will go to the alternative input process with no public hearing. That is a huge change. For example, adding a new field, or significantly improving an existing field to greatly expand its use, would be done without an independent decision-maker or potential for appeal. This puts the burden on the neighbors to ask for rights which are currently assured to them, and removes some rights entirely.

2. The timelines for Public Input in proposed Title 20 and the standards in the proposed PP&R policy are confusing, and some are not feasible for Neighborhood Associations to meet. My understanding of the timelines:

Notice of proposal sent to neighbors within 400' of *site (is this the location of the proposed change, or the park/school site?)* and to Neighborhood Associations within 1000' (note - NA notice is required in the code but not in the proposed PP&R policy)

21 days from date of notice for neighbors' comments

21 days from receiving comment for PP&R to respond

45 days from PP&R response for NA (not individual neighbors) to request a public meeting

30 days from request, meeting held - *this will not give enough time for notice in monthly newsletters*

10 days later, NA must request GNA - *this will require calling a Special Meeting of the NA without time to give notice via the newsletter*

3. The process for the alternative input process in Title 20 is unclear and in some respects contradictory. Below I suggest changes where possible. Some problems such as lack of enforcement mechanisms likely cannot be resolved today.

20.04.050 B: "If these written comments ~~can be~~ are addressed to the neighbor's satisfaction expressed in writing, no further action is necessary. PP&R shall respond to these written comments in writing within 21 days, stating whether or not their response is final."

Rationale: Since neighbors have a deadline to request a formal meeting, PP&R must be clear whether their response is intended to trigger the start of the clock for that deadline. Neighbors must be clear about whether they are satisfied or not.

Note: By taking away the Conditional Use process, PP&R staff will be required to respond individually to every neighbor writing to express concerns. There is no mechanism proposed to consolidate

public input or for neighbors to organize and give public notice to decide whether to call for a public meeting.

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20.04.050 C: "If PP&R's written responses to the written concerns received after the public notice are not satisfactory, a public meeting can must be held if requested by a neighborhood association within 1,000 feet of the subject site, or by request of residents representing at least ten homes or 50% of the homes within 1,000 feet of the subject site, whichever is less. A Good Neighbor Agreement (GNA) may be proposed by PP&R, PPS, both organizations jointly, or other appropriate field permitting entity, or the group that requested the public meeting, 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.~~ The request for a GNA must be made within 45 days of the date of the public meeting. If neighbors or the Neighborhood Association requests a GNA process, PP&R must implement the request. GNAs ~~can~~ may be linked to sports field use permits and other enforcement mechanisms, and may address a variety of compatibility issues such as: (*remainder as is*)

Rationale:

- 1) A significant number of the most affected adjacent residents should be able to call for the GNA, whether or not a Neighborhood Association supports their request.
- 2) Ten days is not sufficient for Neighborhood Associations to give notice about the motion to call for a Good Neighbor Agreement, and hold the meeting.
- 3) If neighbors ask for a GNA, the code should direct PP&R to engage in a good faith effort to reach one.

Add 20.04.050 D, Enforcement

List the potential mechanisms for enforcement. I don't know what they are, other than denial of field permits. The Planning Commission supported the GNA approach only if enforcement mechanisms are approved.

The Draft Policy for GNAs in PP&R Policy document switches back and forth between individual neighbors as stakeholders, and Neighborhood Associations as required participants. Notice is given to individual neighbors within 400' but then they are given no power to affect the outcome unless a Neighborhood Association takes up their cause. In the current process with a Type III Conditional Use, any affected party has the right to participate even if the Neighborhood Association does not agree with them. The proposed process sets up Neighborhood Associations as gatekeeper decision-makers. Individuals should have the right to due process with City elected officials and their staff.

The Draft Policy does not specify how the 5 - 15 neighborhood representatives are selected. What if 20 neighbors want to participate?

The only proposed enforcement mechanism is revoking a field permit. What if the problem is not caused by a permitted activity?

Why allow a GNA to expire with a sunset date such as five years?

What is the mechanism for the propose annual review of whether the GNA is working?

Back to the overall question of what gets Conditional Use review, what gets a GNA:

What is the proposed process for approving skateboard facilities on parks and schools properties?

What about new running tracks?

In the current code, "fields used for organizes sports, and other facilities that draw spectators to events in a park" are Conditional Uses. In the proposed code, this changes to "Recreational fields for organized sports", only. What was the rationale for not allowing organized public input on other spectator facilities in parks?

Thank you for your consideration of these amendments, questions and concerns.

Amanda Fritz
Commissioner, City of Portland

To help ensure equal access to City programs, services and activities, the City of Portland will reasonably modify policies/procedures and provide auxiliary aids/services to persons with disabilities. Call 503-823-2036, TTY 503-823-6868 with such requests or visit http://www.portlandonline.com/ADA_Forms

Moore-Love, Karla

From: Fritz, Amanda
Sent: Thursday, April 22, 2010 11:51 AM
To: City Elected Officials; City Elected Officials Exec's
Cc: Moore-Love, Karla; Stein, Deborah
Subject: Proposed amendments

20.04.050 B: "If these written comments ~~can be~~ are addressed to the neighbor's satisfaction expressed in writing, no further action is necessary. PP&R shall respond to these written comments in writing within 21 days, stating when their response is final."

20.04.050 C: "If PP&R's written responses to the written concerns received after the public notice are not satisfactory, a public meeting ~~can~~ must be held if requested by a neighborhood association within 1,000 feet of the subject site, or by residents representing at least ten homes or 50% of the homes within 1,000 feet of the subject site, whichever is less. A Good Neighbor Agreement (GNA) may be proposed by PP&R, PPS, both organizations jointly, ~~or~~ other appropriate field permitting entity, or the group that requested the public meeting, 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.~~ The request for a GNA must be made within 45 days of the date of the public meeting. If neighbors or the Neighborhood Association requests a GNA process, PP&R must implement the request. GNAs ~~can~~ may be linked to sports field use permits and other enforcement mechanisms, and may address a variety of compatibility issues such as: *(remainder as is)*

Amanda Fritz
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City of Portland
Bureau of
**Planning and
Sustainability**
Sam Adams, Mayor
Susan Anderson, Director

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April 21, 2010

To: City Commissioners

From: Deborah Stein, District Planning Manager

Subject: Revision #5 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. A memo dated April 6, 2010 was issued to address these four issues.

Since issuing that memo, a 5th revision to the code language is necessary based on City Attorney recommendation. This memo serves to revise the recommended code language in the *Schools and Parks Conditional Use Code Refinement Project – Recommended Draft* for clarity; however the substance and intent of the Planning Commission's recommendations are not being changed. Code language to be added is underlined and code language to be removed is shown in ~~striketrough~~. Please let me know if you have any questions.

REVISION # 5 –

Commentary:

This change clarifies what authority the Director of Portland Parks and Recreation, or the Director's designee has in regards to Good Neighbor Agreements (GNAs), which includes negotiating and executing the Agreements. These Agreements would still be subject to the adopted GNA policy. The term "Director" is defined in 20.04.010 Definitions.

20.04.060 Good Neighbor Agreements – Recreational Fields

~~Good Neighbor Agreements shall adhere to the GNA Policy adopted by Portland Parks & Recreation, and are authorized and administered by the Director of Parks & Recreation or designee.~~

Subject to the Good Neighbor Agreement Policy adopted by Portland Parks & Recreation, the Director or the Director's designee is authorized to negotiate, execute and administer, on behalf of the City, Good Neighbor Agreements under Section 20.04.050.



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MEMORANDUM

To: Mayor Sam Adams

From: Susan Anderson, Director

Date: April 6, 2010

1. Ordinance Title:

Improve land use regulations and procedures related to schools and recreational fields as part of the Schools and Parks Conditional Use Code Refinement Project (Ordinance; Amend Title 33 and Title 20)

2. Contact Name, Department, & Phone Number:

Shawn Wood, Bureau of Planning and Sustainability, x3-5468

3. Requested Council Date: April 22, 2010

Consent Agenda Item: _____ or Regular Agenda Item: X

Emergency Item (answer below): _____ or Non- Emergency Item: X

If emergency, why does this need to take effect immediately:

- 4. History of Agenda Item/Background:** The Bureau of Planning and Sustainability (BPS) has been leading a public process to clarify Portland's Zoning Code as it applies to conditional uses for school and recreational field uses. The *Schools and Parks Conditional Use Code Refinement Project* has focused on clarifying the Zoning Code regulations for four topic areas: 1) enrollment fluctuations, 2) change of grade level, 3) recreational field uses, and 4) conditional use status for vacant school property. For each topic area, staff explored what the appropriate threshold should be to trigger conditional use review, as well as related standards.

At the outset of this project, staff identified the following desired outcomes:

- Fair, open public discussion of the balance/trade-offs that must be met to reach workable solutions (within the constraints of the limited scope and funding for this project).
- Zoning code regulations that are clear, easy to follow, and set reasonable expectations for all community stakeholders.
- Improved communication and coordination between the permitting agencies, school districts, and Portland Parks and Recreation to more efficiently manage schools and parks facilities—and to more thoughtfully include public input on changes that have impacts on the surrounding neighborhood.

Staff initiated this project to resolve questions raised by a series of 102 code compliance complaints filed on nine PPS schools which had recently undergone grade level changes. Because of the lack of clarity in the Zoning Code regulations, BDS has placed a hold on the complaints and is waiting for the results of this project to proceed. Pending the outcome of this project, those complaints will be processed using any new code language that results from this project.

As recommended by the Planning Commission, the project consists of amendments to Title 33 (Zoning Code) and to Title 20 (Parks and Recreation). The majority of these are technical

amendments to provide clarification and ease of implementation. Others provide flexibility for schools and recreational fields as well as measurable thresholds for determining level of review.

5. **Purpose of Agenda Item:** To improve City land use regulations and procedures as they relate to schools and recreational fields.

The code amendments for schools (Topic Area 1, 2, and 4) would:

- allow fluctuations in enrollment and staffing by right unless other thresholds, such as additional building area, are triggered;
- clearly define when changes in grade levels would require a conditional use review; and
- extend the length of time that school buildings may remain vacant and then reopened without conditional use review.

The recreational fields component (Topic Area 3), includes proposals for new ways to regulate recreational fields that better serve the community and address the need to improve fields amidst growing demand and limited resources. Recommended amendments to the Zoning Code would clarify that parks, schools, and school sites are treated the same and would rely on measurable thresholds for determining conditional use review applicability. These changes would also address current code language that is confusing and in some situations difficult to implement.

Two new tools are introduced to provide neighbors with opportunities to comment on field alterations that don't require a conditional use review. These include a Public Notice and a formalized Good Neighbor Agreement (GNA) process. These new tools are proposed to be located in Title 20, Parks and Recreation and are only applied to smaller-scale field development that would generate minimal impacts.

6. **Legal Issues:** It should be noted that two ordinances have been prepared, one for the school amendments and one for the recreational field amendments. Two ordinances were prepared due to the complexity and distinct nature of the two subjects.

7. **What individuals or groups are or would be opposed to this ordinance? Supportive?**

School Issues – Based on past testimony, public comment, and conversations with the public, staff anticipates testimony revolving around the issues below.

Support:

- School districts feel the current code is difficult to administer and are supportive of more flexibility and clarity in meeting the challenges of classroom capacity (Topic Area #1) and vacant school properties (Topic Area #4).
- Community members may be in support of amendments to grade level changes (Topic Area #3) since shifting certain grade level changes to a Type III CU process would provide additional opportunities for public review and input.

Oppose:

- School districts may not be supportive of the grade level change amendments recommended by the Planning Commission and may prefer regulating two grade levels (K-8 and 9-12), rather than the three grade levels (K-5, 6-8, and 9-12) as recommended.
- School districts may also not be supportive of new thresholds for grade level changes because they would require reviews not previously required and require some reviews previously processed as Type IIs to be processed as Type IIIs.
- Community members who have filed zoning code violation complaints related to grade level changes may have concerns regarding how the cases currently on hold will be processed and enforced.
- Community members may have issues that are outside of the scope of the conditional use process. Conditional use reviews are intended to assess and

mitigate neighborhood impacts; they are not intended to influence educational policy decisions or address broader socio-economic or other disparities.

- Some testifiers referred to the City Schools Policy adopted as part of the Comprehensive Plan in 1979 and there has been some confusion as to whether or not this project alters this policy. The ordinance before Council does not alter this policy.

Recreational Fields Issues - Based on past testimony, public comment, and conversations with the public, staff anticipates testimony revolving around the issues below.

Support:

- The organized sports leagues and field users would be supportive of the code amendments to recreational fields.

Oppose:

- Some neighbors who live within close proximity to recreational fields may feel that their influence is being diminished as a result of code amendments that would allow some field development without a conditional use review.
- Some neighbors may feel that development standards (field and accessory setbacks) may not be sufficient to mitigate for impacts such as noise and light.
- At the Planning Commission hearing, there was some concern regarding reliance on neighborhood notification and potential Good Neighbor Agreements (GNAs) for field changes in cases where a conditional use would not be required. Feedback from open houses and workshops confirms this sentiment.
- Some neighbors have indicated a general distrust of Portland Parks and Recreation and Portland Public Schools to uphold and enforce agreements.

- 8. How Does This Relate to Current City Policies?** As detailed in the findings in the ordinances, all of these changes are supportive of the Portland Comprehensive Plan. Issues that are part of a larger conversation, such as equity and educational policies will be forwarded to a larger multi-stakeholder policy discussion, such as the Portland Plan. The proposed ordinances do not involve any alterations to the City School Policy (1979)
- 9. Community Participation:** Open houses and workshops were held to gather community input on the code amendments for both schools and recreational fields. Additionally, staff met directly with neighbors who either had additional concerns or could not attend the workshops. The meetings directly resulted in changes to the proposed code amendments. Notice of the Planning Commission hearings for the code amendments were sent to more than 580 individuals, neighborhood associations, and business associations.

The Planning Commission heard testifiers express concern regarding school closures, school reconfiguration, and equal access to educational opportunities. The Commission recognized the limits of the Zoning Code and this project as being a code improvement project, but expressed interest in pursuing other approaches (through the Portland Plan and possible intergovernmental agreements) to address other issues that were raised in testimony. Their discussion centered around the thresholds for requiring review when a school proposes grade levels changes.

During the Planning Commission hearing for recreational fields, most of the testimony focused on concern over the proposed Good Neighbor Agreement (GNA) policy as well as general distrust of Portland Public Schools and Portland Parks and Recreation to uphold and enforce any agreements.

- 10. Other Government Participation:**

Staff worked collaboratively with the Bureau of Development Services (BDS), Portland Parks and Recreation (PP&R), Office of Transportation (PBOT), and Office of Neighborhood Involvement (ONI) during this project. In addition, staff consulted with its five major school districts.

- 11. Financial Impact:** Implementation of these changes will be incorporated into day-to-day activities of the Bureau of Development Services and Portland Parks and Recreation. The amendments will result in clear regulations and potentially, fewer conditional use reviews for alterations to recreational fields. In general, these amendments are anticipated to result in no significant change in revenue or expense.

It should be noted that two Financial Impact Statements have been prepared, one for the schools amendments and one for the recreational field amendments.

FINANCIAL IMPACT STATEMENT For Council Action Items

(Deliver original to Financial Planning Division. Retain copy.)

1. Name of Initiator Shawn Wood	2. Telephone No. 503.823.5468	3. Bureau/Office/Dept. Bureau of Planning and Sustainability
4a. To be filed (date) 4/8/2010 – w/Mayors Office	4b. Calendar (Check One) Regular <input checked="" type="checkbox"/> Consent <input type="checkbox"/> 4/5ths <input type="checkbox"/>	5. Date Submitted to FPD Budget Analyst: 4/7/2010

1) Legislation Title:

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

2) Purpose of the Proposed Legislation:

Schools are essential infrastructure in the city, and they serve a wide variety of functions in the community beyond simply their educational mission. The City of Portland and the schools inside Portland's city limits have a number of mutual interests related to the interplay between schools, community and a thriving city. These code recommendations provide clarity and flexibility as school programs and facilities fluctuate over time.

3) Revenue:

Will this legislation generate or reduce current or future revenue coming to the City? If so, by how much? If new revenue is generated please identify the source.

Implementation of these changes will be incorporated into day-to-day activities of the Bureau of Development Services (BDS). Generally, there is no anticipated significant short or long-term increase or reduction in revenue. The proposed Code amendments do allow some changes in school operations (enrollment changes, limited increases and decreases in parking) without Conditional Use review. This will result in a small reduction in the number of Conditional Use review applications received by BDS. However, as the cost recovery for processing Conditional Use review applications is approximately 75 percent, fewer Conditional Use reviews will result in overall cost savings for BDS.

4) Expense:

What are the costs to the City as a result of this legislation? What is the source of funding for the expense? (Please include costs in the current fiscal year as well as costs in future years) (If the action is related to a grant or contract please include the local contribution or match required)

Implementation of these measures will be done by BDS. The implementation will be incorporated into existing development review procedures. A small one-time cost will be incurred for printing the revised pages of the Zoning Code, and for training staff. These costs are already budgeted for the Bureau of Planning and Sustainability and BDS.

Staffing Requirements:

5) Will any positions be created, eliminated or re-classified in the current year as a result of this legislation? (If new positions are created please include whether they will be part-time, full-time, limited term or permanent positions. If the position is limited term please indicate the end of the term.)

No positions are anticipated to be created, eliminated or re-classified as a result of these code amendments. Having fewer Conditional Use reviews for schools will allow limited reallocation of BDS Land Use Services staff hours to other land use review activities.

6) Will positions be created or eliminated in *future years* as a result of this legislation?

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No positions will be created or eliminated in future years as a result of the proposed legislative amendments.

Complete the following section only if an amendment to the budget is proposed.

7) Change in Appropriations *(If the accompanying ordinance amends the budget please reflect the dollar amount to be appropriated by this legislation. Include the appropriate cost elements that are to be loaded by accounting. Indicate "new" in Center Code column if new center needs to be created. Use additional space if needed.)*

Fund	Fund Center	Commitment Item	Functional Area	Funded Program	Grant	Amount

Celia Heron, Bureau Operations Manager

APPROPRIATION UNIT HEAD (Typed name and signature)