

SCHOOLS: SCHOOLS & PARKS CONDITIONAL USE CODEIF YOU WISH TO SPEAK TO CITY COUNCIL, **PRINT** YOUR NAME, ADDRESS, AND EMAIL.

NAME (print)

ADDRESS AND ZIP CODE

Email

✓ David Wynde	PPS 501 N. Dixon, Portland	
✓ MARK BARTLETT		
✓ Mary Ann SchAB		

Written Copy
Submitted
3-22-11

184443

2-23-11
Oral testimony

I'm Mary Ann Schwab, Sunnyside Neighborhood, League of Women Voters, PPS Parent Union, and zoning code complainant at all 11 schools:

We have many questions regarding this matter and any changes you might make to the current zoning code. **An education that is suitable for all of Portland's children will never be sustained by practices from our segregated past. Segregation and educational apartheid in Portland should hold no attraction for any of you.** Yet your changes to the zoning code urge us right back in that direction. When it comes to our children, **one violation of the code should have been too much for this City.** The fact that the City has allowed 250 or more zoning code violations to be filed, and has done nothing for these children for three long years, is criminal. The City has made itself an accessory to PPS's segregationist practices, and has made a mockery of speedy justice.

1. It has been nearly three years since citizens filed over 200 valid zoning code violations that were harming our children's education and quality of life. Those violations all related to one single paragraph of code. The current code lays out a clear process that must occur before grade configuration changes are made in PPS. During school closures and reconfigurations over many years, PPS neglected to go through the mandatory conditional use processes required to close and rearrange our public schools.

Why do you refuse to enforce your own clear zoning code, when by doing so, you would begin the process of ending racial and socioeconomic discrimination in Portland?

2. **Why for three years have the citizens had this conversation with the City:**

The People: Please enforce your own zoning code quickly and help speed a great education to our children.

City: We can't enforce our own zoning code because it's too confusing.

The People : But if the code were confusing, why could we file approximately 250 or more valid zoning code violations?

City: Well, the zoning code is not confusing to laypersons. It is only confusing to the Mayor, Council, City staff and school districts.

3. **If the zoning code grade thresholds were complicated, how could your Principal City Planner Mr. Engstrom have written this to the Planning Director way back in July 2008:**

"The Zoning Code has very detailed thresholds identifying the changes in school activity that trigger Conditional Use Review. **Because no Conditional Use Reviews were filed by PPS for the identified changes, there have been violations of the Zoning Code.**"

4. If your changes to the current code are for clarification, why are they so complicated?

5. Why has the City not responded to the 40 NEW zoning code violations we filed in May 2010, regarding violations including but not limited to: illegal grade configurations; sound pollution; light pollution; and Astroturf. How can you even be discussing this matter with 40 outstanding violations and no response?

6. Why do you continue to propose zoning code changes that will not comport with State Law regarding elementary, middle and high schools in Oregon (OAR 581 Division 22 state standards)?

7. If this is a democratic process and you understand that zoning code complainants are parents, students, teachers and grandparents, **why do hold meetings on this critical school issues at 2 pm**, when you know that all Portland Public Schools let out between 2 and 4 pm and we must pick up our children? Why hold this meeting today, when PPS busses are on emergency snow routes?

8. If you want public participation in this process, why did you bury the fact that you would allow a system of PreK-12 into any PPS school **on a CHART page 50 of this 91 page blue document?**

9. **Isn't the Mayor's new amendment simply the nose of the camel under the tent**, fully allowing the possibility of extreme grade configurations like PreK to 12, just like Planning Commissioner Smith's spring version? **Under the Mayor's scenario, once you allow any one grade to come into a school from the next level under conditional use, you get to add that whole level with no further Land Use Review.** How is that protective of our neighborhoods and our children?

10. **Why has the City hung a Christmas tree of their other zoning code violations on the backs of our PPS students?** We have filed zoning violations that prove that students from at least 25 neighborhoods, at 11 different schools, are suffering current and ongoing discrimination because of zoning violations.

Why have you hung zoning code changes on our children *which have nothing to do with them, or the discrimination they face?* **Zoning code changes to golf courses, boat ramps, cemeteries, concessions, parking, college institutions, etc. Do you think we don't know that this blue book reads like a litany of this City's other zoning code violations?** Should we file complaints on all the other violations we know about based on this book, when the City hasn't even responded to 40 new violations filed in May 2010?

11. Why do you continue to provide retroactive immunity to PPS for violations which affect our children and neighborhoods?

12. If you make these changes, what process will assure that school facilities are appropriate for age of students attending the school? How can you assure citizens that fire exit routes and bathroom facilities are safe for small children? How can you be sure

middle school and high school students will have adequate science labs and sports fields?

If PPS has proven anything in this zoning process, they have demonstrated that they can not be trusted to do the right thing for our children.

I will ask you what I have been asking for three years: Make no changes to the excellent zoning code. Instead, help us speed a great education to all our students. Thank you.

Mary Ann Schwab

Parsons, Susan

From: Mark Bartlett [bartlett.m@comcast.net]
Sent: Wednesday, February 23, 2011 9:31 AM
To: Parsons, Susan
Subject: item 194 PPS Violations

Hi Sue,
This is my testimony for the record on today's item on PPS zoning code violations.
The proposed draft language is so overwritten I can't say what is actually being proposed.
Thank you,
Mark Bartlett

Council members and Planning commissioners,

As we approach the next review of the PPS / PPR zoning code violations, I'm writing to ask you to consider the following:

With PPS just having recently redrawn their boundaries and approved the high school redesign, and as any comprehensive analysis of the impacts are as yet unknown, I don't see that now is the time for this decision to come before Council. Boundary changes and the high school redesign will significantly alter neighborhoods, traffic flows and trips, as students and families shift locations in response to those edicts from the elected PPS board.

There will be significant impacts to traffic and neighborhoods without consideration for the Stated Goals of the Comp Plan, or analysis required by Metro in the Regional Framework Plan and ORS 195. The question of inequity in programming has been with us long before this recent epiphany and any proposed solution by this Board. It is disingenuous to state this as the primary reason for changes.

In Metro's Regional Framework Plan there is a list of required analysis that address just those consequences we wish to shine light on, and PPS hopes to once again avoid complying with. These are the environmental, traffic, safety, etc... analysis we've been asking for in writing since April of 2008.

I continue to ask just how Planning staff and PPS intend to meet retroactively that notification requirement to neighborhoods and organizations for land use reviews:

33.910 Recognized Organization, "A neighborhood, community, business or industrial association, or organization recognized or listed by the Office of Neighborhood Involvement (ONI). Recognized organization also includes the ONI district offices".

Will staff also rewrite this section of our code to accommodate intentional violators and preclude citizens from their opportunities to comment or participate? How will they ever participate retroactively?

I ask what is the purpose of any rule or law if they can be politically undermined and the public defrauded of their property and opportunity?

As PPS has violated Federal, State, and local standards for many years, I ask that going forward a type 3 review be required for all proposed changes to public lands so that the community will have the timely opportunity to respond, and to provide that opportunity for an appeal of any political decision. I would suggest 60 days as a reasonable notification requirement per 33.910 prior to accepting a completed application for Land Use Review.

Please request that PPS support with some concrete evidence that there are no significant impacts resulting from the changes they seek relief from as well as their recent decisions on boundaries and high schools, just as any other applicant would be required to do.

Please require that these violations be subject to the state law and goal post rules, so reviewed according to the code at the time the change was made, and that PPS somehow accomodate those they neglected to notify of their intended changes..

And finally please require that PPS be required to provide for the public, notification and then public a process for all future land use applications. A political solution to accommodate the intentional circumvention of our zoning code is once again not acceptable

Responsive to the Mayor Adams Feb 9 proposal:

*Division 22 *of the OAR rules already defines what schools are. What he proposes does not necessarily meet those standards.

Safe routes as a savior is wishful thinking. All that was suggested may not occur in this funding environment, and as always political priorities for capital and "other" projects will supplant that which should have been selected and built before this "urgent" need manifested itself. If the bond does not pass where will the funding come from? These suggestions simply push action down the road much like our existing deferred maintenance backlogs.

The only portion I would agree with is the extension to ten years for expired CU permits in keeping a facility a school.

I would like to see addressed, the separation of a facility or school from the land on which it sits. A 35 acre site with the physical improvement on 3 acres should not be disposed of in its entirety when the physical improvement needs updating or redevelopment. The public has paid for and owns these properties. PPS should not be able to use them as a slush fund.

The Facility Condition Index (FCI) as a rationalization for closure or disposition is too vulnerable to political and agency manipulation to be left unregulated.

I've pasted below ORS 197.015 governing just what constitutes a land use

decision.

184443

I'm sure you are familiar with it.

A land use decision is as follows:

*_(10) "Land use decision":

(a) Includes:

(A) A final decision or determination made by a local government or special district that concerns the adoption, amendment or application of:

(i) The goals;

(ii) A comprehensive plan provision;

(iii) A land use regulation; or

(iv) A new land use regulation;

(11) "Land use regulation" means any local government zoning ordinance, land division ordinance adopted under ORS 92.044 or 92.046 or similar general ordinance establishing standards for implementing a comprehensive plan. _*

This proposed "code refinement" appears to meet the stated test above in numerous ways.

I also attach a LUBA case where meeting the substantial impact test is described as well as providing precedents from cases about this topic.

/*<http://www.oregon.gov/LUBA/docs/Opinions/1997/05-97/96245.pdf> (Butts v Hillsboro school district 96-245)

*/Clearly PPS did not consider the impacts of their decisions as related to the Goals, nor could the Mayor and staff so quickly perform an analysis and produce a solution responsive to or considering these changes. I believe that is why this is the wrong place for politics to be intervening in land use matters. Nor could the PPS Board possibly have considered these critical test when redrawing those boundaries, as they were just decided in the past month.

Below I respond to Planning Staffs representation to Council of how the proposed language meets those Comprehensive Plan Goals.

Responsive to the Planning Staff representations:

Goal: 1 Metropolitan Coordination.

PPS ignored Gil Kelley's November 2008 request letter to work on the facilities planning issue comprehensively and in coordination with the

Periodic Review. Is this coordination?

184443

How will those City planning efforts be considered when PPS continues its unilateral activities?

BDS allowed two more PPS violations to occur while this project proceeded and ignored another list of clear violations handed them in May 2009.

PPS violates numerous Metro Rules from the Regional Framework Plan. ORS 195 requires that PPS, PPR, City staff, and Metro coordinate and work together to develop facility plans. They have not completed this plan as required by State law.

To our numerous inquiries, PPS has responded they are not subject to the zoning code and City School Policy. How is this coordination?

PPS unilaterally makes land use planning decisions. How is this coordination?

*Goal 2 Urban development * maintaining the character of residential neighborhoods?

The outcomes seem quite the opposite when facilities central to neighborhoods are closed and "reallocated" from public control. Those 32 "lost properties and facilities" are significant in scale and cause dislocation within their communities as well as impacts to traffic, safety, and property values. This leads to inequitable distribution of many of the uses those assets provide. When boundaries are redrawn without informed and broad public participation then consent, and proper analysis as required by statute and Metro rules, it does not meet the spirit of the Goal.

*Goal 3 Neighborhoods *preserving Stability and Diversity of neighborhoods?

Social engineering through inequity in programming has shown that the PPS Board alone cannot provide any reasonable semblance of equity. Citizens have long complained about this inequitable distribution, and now PPS resolves once again to create equity with more redistribution and shifting populations that enables them to close more facilities. How does this stabilize neighborhoods? How does this provide diversity? See also comments for Goal 2

*Goal 6 Transportation *

How is it possible that the newly redrawn boundaries impacts to traffic, safety, and environmental concerns be known, evaluated, and incorporated into this new proposal? PPS must provide the clear evidence it meets the requirements of ORS 195.110 and Metro rules based on the impacts resulting from the recent activities. AND not retroactively.

*Goal 9 Citizen Involvement

*I could write pages on how this process in particular did not meet Goal 1. When this Periodic Review began, Portland had no written approved citizen involvement plan, as I found by requesting from both Portland and the DLCD in March of 2008. As this was a 25 year retention document,

there was no basis upon which to conduct any process. Council subsequently approved in August 2008 that the Planning commission be the advisory board, and formed a CIC for a newly crafted public process.

This new language in the "refinement" will violate the new Public Involvement Principles adopted by Council on August 4, 2010 in lacking transparency, and accountability. There was only a very limited informed public participating in this project. It deserves a broader exposure, reflecting the significant impacts to neighborhoods.

Specific to this refinement project, I have personally submitted dozens of pages of written testimony, and provided verbal testimony, and not one word appears on the Planning project site. It has been sanitized to eliminate all reference to the actual violation of law and rules, and any mention of the intentional circumvention of the land use review process by PPS and PPR, knowing what was accomplished could not be undone.

They knew they could not show the necessary compliance with the code for their application to be accepted, nor did they want to have to notify neighborhoods and other recognized organizations (33.910) of their plans.

There is absolutely no mention of the ORS statutes, or Goal Post Rule explaining to citizen that violations must be reviewed under the code in place when that violation occurred. BDS refused to enforce compliance with acknowledged violations and allowed additional violations to occur while review was pending.

Planning staff sanitizes citizen input, by "interpreting the comments, and editing for brevity". The general findings language from the April 7 2010 PPR recreational fields resolution to Council represents just that. They are so inaccurate as to be unrecognizable from one who participated in every aspect to date. This is precisely the problem that brought us to file complaints, and Planning staff have adopted the same tactics.

I was the only person taking notes at the March 2009 CWLU meeting listed by Planning staff as a public meeting, where an unprepared planning staff and paid consultant arrived to discuss concerns with the public. They had no idea what we found objectionable, and in the face of the critiques and suggested remedy, did not acknowledge citizens views.

I was omitted from distribution lists for well over 1 year (till Sept of 2009) after filing a zoning code complaint in April 2008, and being actively involved in all aspects of this project.

The distribution list consisted of approximately 45 people of which only 10-12 were citizens, when the entire City is impacted. Is this representative and inclusive as those principles adopted in September by Council state?

Eric Engstrom invited Lynn Schore, and me by name to that Oct 28 P C meeting for a 1/2 hour Q & A. PPS ' Doug Capps and minions from PPR hijacked that time so we could not speak. This in spite of Eric telling at that same meeting we would have our 1/2 hour. It never happened and we were cheated of the opportunity to present our information. This again is precisely the sort of public process that precludes citizens

from being heard and why these complaints were filed.

184443

*

Goal 10 *This "refinement" will alter the Comp Plan in the ways listed, so is clearly a land use decision.

*Goal 10.10 */As there are three proposals on the table, and no clear indication of what will be cobbled together or when, how could one represent anything is or will be clear?

The proposed code changes are very difficult to decipher in the combined presentation of 117 pages. It would take hours to even attempt to understand just what is proposed, much less what the final product will be.
/

*Goal 11 and 11.58 Public Facilities

*Do those elected Board members have the where with all to be de facto land use planners, as that is just what they are?

Are they acceptable stewards of the public treasury, as demonstrated by recent history?

Having relinquished or disposed of those 32 properties over recent years, the public finds that it must now, to meet other City Goals such as PPR 2020, repurchase recreational fields for example. The cost benefit of these actions will be a double or triple hit to taxpayers in that PPR is a non revenue bureau so costs will not only exceed any realized sales proceeds significantly, but be borne from general fund dollars accruing to our property tax bill obligation.

How many times must we pay for or rebuild that which we already own?

Does PPS even have legal title to convey properties, as many were donated with encumbrances prior to District one coming into existence?

Both City code and PPS language resolve that Capital improvement must be maintained. Due to political priorities, they have been neglected sometimes intentionally, and then disposed of with their land under the guise of a very questionable facility condition index FCI.

The FCI is the latest rationalization fad, allowing manipulation of condition to yield disposition when the land on which the facility sits is unrelated to the condition of the physical improvement. This is purely a political tool to achieve an end and a very slippery slope that must be rigidly qualified, with transparency, scrutiny, and oversight, if allowed for any public assessments.

I've already provided you Doug Capps correspondence to W DeJonge asking him to be the manipulator of the uninformed public as devised by PPS in their Magellan plan. Is this a legitimate means by which to conduct a public involvement process?

Can PPS ignore the City and public in the requirement to provide those criteria by which they make decisions, and do so unilaterally as if they

were not subject to zoning, or the wishes of that public who owns the property?

PPS has demonstrated a consistent disregard for the public participation required in their decision making, and has pilfered the public treasury for little if any benefit to that public. Is this how we want our public assets and properties managed?

/_*IMPACTS of redesign and redrawing boundaries on neighborhoods.*_/

FROM the LUBA case (Butts V Hillsboro School district)

<http://www.oregon.gov/LUBA/docs/Opinions/1997/05-97/96245.pdf>

page 6 *Significant impact test

*As elaborated in subsequent case law, to establish that a decision is a significant impact land use decision, the burden is on petitioner to establish both (1) a demonstrated relationship between the challenged decision and expected impacts; and

(2) evidence demonstrating that the expected impacts are likely to occur as a result of the decision.

Keating v. Heceta Water District, 24 Or LUBA 175, 181-82 (1992);

Anderson Bros. v. City of Portland, 18 Or LUBA 462,

18 471 (1989).

The expected impacts cannot be simply speculative. Carlson v. City of Dunes City, 28 Or LUBA 411, 414 (1994).

To satisfy the significant impact test, it is not enough that a decision may potentially have some impact on present or future land use in the area. J.C. Reeves Corp. v. Sherwood Educational Dist. 88J, 26 Or LUBA at 225; Many Rivers Group v. City of Eugene, 25 OR LUBA 518 (1993);

Keating v. Heceta Water District, 24 Or LUBA at 181-82; Miller v. City of Dayton, 22 Or LUBA 661, aff'd 113 Or App 300 (1992); Citizens For Better Transit v. Metro Service Dist., 15 Or LUBA 482 (1987).

Petitioner must prove that the alleged negative impact on land use is (a) likely to occur; (b) proximately linked to the decision; and (c) quantitatively or qualitatively significant. Anderson Bros., Inc. v. City of Portland, 18 Or LUBA 462 (1989).

Traffic impact has been found to satisfy the significant impact test in some cases. See, e.g., Leathers v. Washington County, 29 Or LUBA 343 (1995), Citizens for Better Transit v. Metropolitan Service Dist., 15 Or LUBA 623(1987).

In Leathers, this Board held that a decision that resulted in an increase of 300 cars per day at a particular intersection was one that created a significant impact. Leathers, 29 Or LUBA at 349. In so holding, LUBA recognized the long-established community use of the affected street and the drastic departure from that use that the county's decision represented as elements contributing to the significance of the impact

Must citizens now bear the responsibility to challenge PPS in order to meet this test?

Or should the agency making the significant impact change be compelled to provide the public with qualifying information that they meet the test and there are and will be significant no impact to neighborhoods?

Compliance with ORS 195.110 would have required PPS to produce these analysis by December 2009 and inform the public as to just which criteria they were basing their decision on, and what the required analysis were as far as impacts to the community. One more reason why they do not comply with that law.

Please share with and discuss my concerns. I hope you find them useful in shaping your recommendations to Council, and Council members for constructing an inquiry.

Please add these comments and references to the record for this project.

Thank you,
Mark Bartlett

*FYI

**ORS 197*

197.015 Definitions for ORS chapters 195, 196 and 197. As used in ORS chapters 195, 196 and 197, unless the context requires otherwise:

(1) "Acknowledgment" means a commission order that certifies that a comprehensive plan and land use regulations, land use regulation or plan or regulation amendment complies with the goals or certifies that Metro land use planning goals and objectives, Metro regional framework plan, amendments to Metro planning goals and objectives or amendments to the Metro regional framework plan comply with the goals.

(2) "Board" means the Land Use Board of Appeals.

(3) "Carport" means a stationary structure consisting of a roof with its supports and not more than one wall, or storage cabinet substituting for a wall, and used for sheltering a motor vehicle.

(4) "Commission" means the Land Conservation and Development Commission.

(5) "Comprehensive plan" means a generalized, coordinated land use map and policy statement of the governing body of a local government that interrelates all functional and natural systems and activities relating to the use of lands, including but not limited to sewer and water systems, transportation systems, educational facilities, recreational facilities, and natural resources and air and water quality management programs. "Comprehensive" means all-inclusive, both in terms of the

geographic area covered and functional and natural activities and systems occurring in the area covered by the plan. "General nature" means a summary of policies and proposals in broad categories and does not necessarily indicate specific locations of any area, activity or use. A plan is "coordinated" when the needs of all levels of governments, semipublic and private agencies and the citizens of Oregon have been considered and accommodated as much as possible. "Land" includes water, both surface and subsurface, and the air.

(6) "Department" means the Department of Land Conservation and Development.

(7) "Director" means the Director of the Department of Land Conservation and Development.

(8) "Goals" means the mandatory statewide land use planning standards adopted by the commission pursuant to ORS chapters 195, 196 and 197.

(9) "Guidelines" means suggested approaches designed to aid cities and counties in preparation, adoption and implementation of comprehensive plans in compliance with goals and to aid state agencies and special districts in the preparation, adoption and implementation of plans, programs and regulations in compliance with goals. Guidelines shall be advisory and shall not limit state agencies, cities, counties and special districts to a single approach.

*_(10) "Land use decision":

(a) Includes:

(A) A final decision or determination made by a local government or special district that concerns the adoption, amendment or application of:

(i) The goals;

(ii) A comprehensive plan provision;

(iii) A land use regulation; or

(iv) A new land use regulation;

(11) "Land use regulation" means any local government zoning ordinance, land division ordinance adopted under ORS 92.044 or 92.046 or similar general ordinance establishing standards for implementing a comprehensive plan. _*

(12) "Limited land use decision":

(a) Means a final decision or determination made by a local government pertaining to a site within an urban growth boundary that concerns:

(B) The approval or denial of an application based on discretionary standards designed to regulate the physical characteristics of a use permitted outright, including but not limited to site review and design review.

(13) "Local government" means any city, county or metropolitan service district formed under ORS chapter 268 or an association of local governments performing land use planning functions under ORS 195.025.

(14) "Metro" means a metropolitan service district organized under ORS chapter 268.

(15) "Metro planning goals and objectives" means the land use goals and objectives that a metropolitan service district may adopt under ORS 268.380 (1)(a). The goals and objectives do not constitute a comprehensive plan.

(16) "Metro regional framework plan" means the regional framework plan required by the 1992 Metro Charter or its separate components. Neither the regional framework plan nor its individual components constitute a comprehensive plan.

(17) "New land use regulation" means a land use regulation other than an amendment to an acknowledged land use regulation adopted by a local government that already has a comprehensive plan and land regulations acknowledged under ORS 197.251.

(18) "Person" means any individual, partnership, corporation, association, governmental subdivision or agency or public or private organization of any kind. The Land Conservation and Development Commission or its designer is considered a person for purposes of appeal under ORS chapters 195 and 197.

(19) "Special district" means any unit of local government, other than a city, county, metropolitan service district formed under ORS chapter 268 or an association of local governments performing land use planning functions under ORS 195.025, authorized and regulated by statute and includes but is not limited to water control districts, domestic water associations and water cooperatives, irrigation districts, port districts, regional air quality control authorities, fire districts, school districts, hospital districts, mass transit districts and sanitary districts.



Memo

To: Deborah Stein, Supervising Planner, Bureau of Planning and Sustainability
From: Kurt Krueger, Supervising Engineer, Bureau of Transportation
Date: February 22, 2011
Re: Proposed Code Amendment for Enrollment Changes or Grade Level Changes and Conditional Use Reviews for Schools

The Bureau of Transportation has been involved in the review of the proposed City Code amendments that would change the requirement for enrollment changes and grade level changes within schools to be subject to a Conditional Use Review. Transportation impacts from schools are typically parking and drop-off related, and facility issues of circulation, cross walks, and needed infrastructure improvements.

These impacts generally increase due to increases in occupancy beyond the original design of the school or changes in events within the school programming. Increases in occupancy beyond the original design of the school and changes in events within the school programming that would have a significant effect on transportation impacts typically result in a physical expansion of the school structure, either through an addition or a portable unit.

We understand that Conditional Use Reviews would still be required for schools that need to expand or provide portable units to accommodate increases in occupancy beyond the original design of the school, or to accommodate program changes. The approval criteria for these Conditional Use Reviews address the transportation-related impacts generated by these expansions, including increases in trips.

Impacts from increased enrollment or grade level changes that do not require an increase in building area are generally operational. Such changes are unlikely to create a nexus that would require additional transportation-related conditions placed on the school to mitigate impacts. A nexus would most likely be created when vehicle trips and occupancies exceed the capacity of the originally approved conditional use or, in the case of grandfathered schools, the capacity the school was designed to accommodate. In short, such changes do not create significant transportation impacts, and so we are comfortable with not requiring a Conditional Use Review for such changes.

Portland's Safe Routes to School program is working to develop improvement plans to address operational issues on a site by site basis for all schools, whether changes are proposed to those schools or not.

April 27, 2010

184443

Commissioner Nick Fish

nick@portlandoregon.gov

Re: Schools Code Changes Before Council (Title 33 & Title 20)

I find it alarming that you are moving this significant neighborhood issue as rapidly as you are and I find it even more alarming that you are doing so in the absence of any real opportunity for public input on a final document.

I understand there will be amendments offered to the Council tomorrow. How can any interested citizen be expected to testify about something as significant as removing some of the Conditional Use process from yet undefined uses of school grounds. The Good Neighbor Agreement approach in the last draft that was provided to the public seems to remove the option of a neutral decision making process if the Good Neighbor Agreement is not kept. Without an appeal to a Hearings Officer who is not a party to the agreement, the loss of that step is the most significant impact of this approach. It could be remedied but that requires time to prepare a final written document that citizens can read and then testify about.

I am also confused about just which school districts are impacted by the current code changes. The transmittal letter from the Planning Commission mentions only Portland Public Schools but the summary of the code changes mentions all 6 school districts. Since all non-Portland Public School Districts manage their own school grounds, how does Title 20 impact them? Is the intent to treat certain school districts differently within the city? If that is true, can one code be segmented in that way? Shouldn't that basic question be answered and provided to all of the school districts who might be involved?

In a City that congratulates itself on being open and promoting good public process and strong citizen involvement, the process by which the Council is hearing this significant code change is unacceptable.

I ask you to vote on amendments tomorrow and then provide a final amended version to citizens and Neighborhood Associations for at least a short period of time so we are able to participate in the public decision process you speak about supporting.

Bonny McKnight

Russell Neighborhood Association
Parkrose School District
City of Portland resident

cc Mayor Adams
Commissioner Fritz
Commissioner Saltzman
Commissioner Leonard
Council Clerk Karla Moore

mayorsam@ci.portland.or.us
amanda.fritz@portlandoregon.gov
dsaltzman@ci.portland.or.us
rleonard@ci.portland.or.us
kmoore-love@ci.portland.or.us

184443

Parsons, Susan

From: Schwab Mary Ann [e33maschwab@gmail.com]
Sent: Tuesday, April 27, 2010 10:25 PM
To: Parsons, Susan; Commissioner Fritz; Adams, Mayor; Mills, Michael P. (Ombudsman); Alarcon Morris, Amalia; Hoop, Brian
Cc: 'Mark Bartlett'; Lynn Schore & Steve Linder
Subject: Re: PPS zoning violations

Hi Susan: and City Hall movers and shakers:

While I appreciate your quick reply at 4:43 p.m. this afternoon to Mark Bartlett's request for Planning's zoning code amendments to last Wednesday's April 22nd first reading -- held over three working days -- I am protesting and questioning the reasons for this PUSHING citizens-at-large to weigh in on changing the Zoning Code -- when it did not need to be changed in the first place. *This must be kept open until all our concerns are addressed prior to Council's voting.*

In wealthily neighborhoods current zoning codes worked 100% perfectly well for the immediate neighbors to a poorly planned baseball field. Albeit, simply overlooked in the poorer neighborhoods when the same laws were broken. This is not my definition of the Office of Neighborhood Involvement's public involvement process, when elected officials and their employees expect "me" to study these last minute zoning code amendment changes within 24 hours of City Council's hearing. *This must be kept open until all our concerns are addressed prior to Council's voting.*

I'm just now home from spending five hours with a very sick friend in the Emergency Room at Providence Medical Center. Walking pneumonia -- not fun. On that note, now I am opening the Bureau of Planning and Sustainability amendments for tomorrow's meeting, time certain 3:15 Council Chambers. Again this is not fun. *This must be kept open until all our concerns are addressed prior to Council's voting.*

To keep everyone on the same page, no pun intended, please read the following so that we can compare notes prior to the Council:

Blessings,
mas

April 27, 2010

To: City Commissioners

From: Deborah Stein, District Planning Manager

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

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

4/28/2010

184443

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.

April 27, 2010

Page 2 of 7

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.

April 27, 2010

Page 3 of 7

33.110.245 Institutional Development Standards

A. Purpose. The general base zone development standards are designed for

4/28/2010

184443

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.]

April 27, 2010

Page 4 of 7

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]

April 27, 2010

Page 5 of 7

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

184443

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.

April 27, 2010

Page 6 of 7

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.

April 27, 2010

Page 7 of 7

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.

184443

Table 281-1
Regulations for Adding or Replacing Grades

If a school has the following grades:
Regulation for adding or replacing the following grades:

Allowed CU required
(Type III unless noted otherwise)
Any grade K-5

Any grade K-8 Any grade 9-12
Any grade 6-8

Any grade 6-8 Any grade K-5
Any grade 9-12

Any grade 9-12 Any grade 9-12

Any grade 6-8 (Type II)
Any grade K-5
Any grade K-5 AND
Any grade 6-8

Any grade K-8 Any grade 9-12
Any grade 6-8 AND
Any grade 9-12

Any grade 6-12 Any grade K-5
Any grade K-5 AND
Any grade 6-8 AND
Any grade 9-12

Any grade K-12 —

On Apr 27, 2010, at 4:43 PM, Parsons, Susan wrote:

Mark,
Attached are the Bureau of Planning and Sustainability amendments for tomorrow's meeting.

Sue Parsons
Assistant Council Clerk
City of Portland
503.823.4085
Susan.Parsons@portlandoregon.gov

-----Original Message-----

From: Mark Bartlett [mailto:bartlett.m@comcast.net]
Sent: Monday, April 26, 2010 7:18 AM
To: Parsons, Susan; Stein, Deborah; Schwab Mary Ann; Lynn Schore & Steve Linder
Subject: PPS zoning violations

Sue,
On Thursday, Council suggested there may be a number of amendments offered to the recommendations proposed for the conditional use refinement item.

Could you arrange to provide those to testifiers, so that we may comment on the continued hearing this Wednesday.

I'm copying Debra so she could distribute to her list.

4/28/2010

184443

Thank you,
Mark Bartlett
<599-600 Staff Response Memo - 04.27.10 _FINAL_.pdf>

SCHOOLS AND PARKS CONDITIONAL USE CODE- SCHOOLS

IF YOU WISH TO SPEAK TO CITY COUNCIL, PRINT YOUR NAME, ADDRESS, AND EMAIL.

NAME (print)

ADDRESS AND ZIP CODE

Email

✓ C.J. SYLVESTER	501 N. DIXON ST. PORTLAND, OR 97208	CSYLVESTER@PPS.K12.OREG.US
left TIM LYDEN	7654 N DELAWARE PORT OR 97217	TIMOTHY.LYDEN@GMAIL.COM
✓ WALT NICHOLS	7519 SE Harold St 97204	W.Nichols33@Gmail.com
✓ PATTY FRINK	2405 SE Ladd Ave	Pattyffrink@aol.com
✓ Cal Henry	OABA P.O. Box 12485, Salem, OR 97309	henry@peak.org
✓ Mary Ann Schwab	on record	
✓ Lynn Schore	9468 SW 62nd Dr. / PHD OR 97219	linderschore@comcast.net
✓ MARK BARTLETT	MT TABOR	BARTLETT.M@Comcast.net
✓ Ronald Webb	Piedmont 597 N. Dekum 97217	—
✓ Gerik Krawsky	233 NW 5th Ave Portland, OR 97209	gerik@bta4bikes.org

Lynn Schore and Mary Ann Schwab
4/22/10 statement to Council

My name is Lynn Schore, my husband and I live in the Ashcreek Neighborhood in SW Portland, and my children attend Hayhurst and Jackson. I'm a proud member of the Oregon Assembly for Black Affairs.

City Council takes pride in sustainability and strives to be a world leader in this area. Portland Public Schools was essentially designed to be a group of twenty-minute neighborhoods. If you change code, the city will facilitate PPS's ever-larger carbon footprint, wasting resources, and stressing our shrinking tax base to warehouse children ... after unnecessary vehicle rides to transport them. Real estate values will shrink in neighborhoods without schools and Portland's livability index will deteriorate. In the name of improving public education, enforce the zoning code! End segregation in PPS! Reopen Portland's small schools; help students walk and bike to school, save money, improve fitness, and reduce the carbon footprint and auto pollution.

Discrimination against Portland's children is occurring on City land in PPS schools. It is unconscionable that the City of Portland would contemplate sweeping changes to the zoning ordinance in order to give PPS retroactive immunity from activities that are illegal under federal, state and city law, city charter and the Comprehensive Plan. I implore you to make no changes to Chapter 33 of the Zoning Code at this time. Instead, immediately enforce your own code.

The August 2009 release of Oregon educational data bolsters my community's arguments regarding these 11 schools. The data evidences poor academic performance at 10 of 11 schools with zoning code violations. Three PPS schools with zoning code violations (Ockley Green, Portsmouth, Roseway Heights) are on the NCLB watch list, *and missed performance targets for the first time*. Fernwood is the only school that is currently not evidencing poor performance in test scores, but teachers tell me that Fernwood students are now getting seven weeks less algebra per year than

neighboring Beaumont Middle School students. That gross inequity will soon be documented in test data.

Does our Council know that not one Portland resident, from schools complainants to Grant Park safety complainants, ever asked for zoning changes? The zoning ordinance was perfectly clear, thus the valid violations for both groups as verified by Eric Engstrom in 2008. For two years now, complainants have asked Portland to enforce its own zoning Ordinance.

The City of Portland's "Refinement Project" has been unnecessary and had predetermined outcomes. The predetermined outcome of this project was to provide retroactive immunity to PPS for Zoning Code violations against children, resulting in lack of equal access to education. We could NOT know that the City would negate sixty plus years of zoning history, and would introduce at the 11th hour a zoning code change which would allow K to 12 schools in all Portland districts: PPS, Centennial, Reynolds, David Douglas, Parkrose, and Riverdale. Why has there been no notification of this extreme system to stakeholders?

The only "stakeholders" who want zoning code changes are the ordinance violators (PPS) and those who have failed to enforce the ordinance (City of Portland). If the City of Portland changes code to give PPS retroactive immunity from zoning violations, this means the City of Portland deliberately wants segregated schools in Portland. It means that the Mayor and Council now sanction K-12 schools, which is illegal under state law without express Department of Education permission. Why suggest zoning changes which do not comport with state law? How could this benefit the children?

{The truth shall set us free. What is truth? The law documents our shared common values. In a free democratic society, law protects citizens and children from harm, authoritarianism, and anarchy. The law is the basis of a civil society, and allows for checks and balances. Civil society allows for public involvement before laws change. Justice should be tempered with mercy.} **Justice, particularly with regard to children's education, should be swift. Where is our children's justice?**

MRS. SCHWAB

We've called the Real Estate Trust PPS's own **Halliburton**, because the Trust is a private outsourcing of essential City and school functions, can hide its actions because it is a private corporation, and can avoid public oversight. The Trust and Innovation Partnership are not representative of the interests of the Portland community, when they actually stand to profit from enrollment declines! When PPS let the Trust take over property management, the rationale was PPS had lost the ability to manage their properties and needed help. The Trust's main argument was that they brought real estate experience to work on "persistent community problems" like "cumbersome PPS real estate." **We wondered if the District's violations of law during closures were due to ignorance of the City School Policy.** Yet several individuals who have led school closures throughout this century actually helped author the City School Policy, Ordinance 150580.

We proved that PPS intermittently followed the zoning code, and went through required conditional use reviews depending on relative wealth of the neighborhood, so it's difficult for PPS attorneys and City staff to feign that the zoning code is unclear.

Saying that the term "elementary" does not define state-mandated grade levels is like saying the term blue does not define a color. The State of Oregon defines an elementary as any combination of grades K-8. It is not complicated, it's about the health and safety of our children.

An elementary school has specific requirements, different from those at a middle or high school. For the safety of young children, elementary schools are typically single story to make emergency evacuation safer. Elementary schools in Portland are tucked into neighborhoods, whereas high schools need easy access to large parking lots, and generate more traffic with inexperienced and distracted teen drivers. We don't want elementary kids near high school parking lots – that's one of the many reasons for the current zoning code! If high school and elementary school are combined, will young children have access to playfields large enough to meet state acreage standards?

Elementary schools must have restrooms and lunchrooms designed for small children, while high schools have their unique requirements. Most parents would be reluctant to have their five-year-old wandering a high school campus, at times unsupervised, with a broad section of young adults. **After the K-8 travesty, you would give a green light to K-12? If you pass this zoning change, you will own all these problems.**

These are public lands. They belong to the public at large, not the Mayor, not the City Council, not the Real Estate Trust, not the Center for Innovative School Facilities. There should be a golden rule of architectural preservation: treat the work of past generations with the same respect you would want given to your good works.

If you enforce your zoning ordinance, you will stop high school redesign on Monday. You have a duty as a City to protect and educate the children within your city. You need to be aware of what the school district is doing at all times, or else you abdicate responsibility for the children.

Finally, in the City That Works, I would like to end with a reading of the schools that have closed in Portland Public Schools since the first Earth Day:

Adams High School; Applegate; John Ball; Barlow; Brooklyn Neighborhood; Buckman Neighborhood; Clarendon; Collins View; Columbia (Marine Dr.); Columbia Prep site; Edwards; Foster; Fulton; Glenhaven; Green Thumb; Holladay; Holbrook; Kellogg; Kennedy; Kenton; Kerns; Linnton; Maricara site; Markham Annex; Meek; Mt. Tabor Annex; Multnomah; Normandale; Rice; Richmond Neighborhood; Rose City Park; Sacajawea; Shattuck; Smith; Spring Garden site; Sunnyside Neighborhood; Terwilliger; Washington High School; "Old Whitaker"; "New Whitaker"; Wilcox; Youngson.

Enforce your zoning ordinance NOW: stop high school redesign on Monday!

MARK BARTLETT

4/22/10

4-22-2010

184443

Mayor Adams, and Council members, I'd like to offer the following comments and suggestions on the Conditional Use proposals scheduled for 3 pm today. I would ask Council to table these proposals for additional input from a wider body of citizens.

PPS

1) As a participant and complainant, I approve of the recommendation made by the Planning Commission to require a type 3 LUR requirement for any conditional review whether grade changes or land use changes. However, I would not approve of any retroactive immunity for past violations or those yet to be identified. The existing zoning code should be implemented and PPS brought into compliance. PPS should come forward and disclose all of those changes made in the recent past without proper LUR applications and approvals.

Further amend the proposal to provide the public additional oversight through a public process outside of that provided by PPS for any consideration major changes such as whole scale redesign, disposition or closures, much in the way described in the CSP. The Planning Commission voiced its concern about the honesty and integrity of those two agencies with good reason.

2) Make it a requirement of any completed application for any PPS or PPR proposed LUR process, that they provide evidence of a properly held a public involvement process wherein the public participates in the decision making process where the required analysis and the criteria for decision making is known to the public before that process starts. PPS has yet to identify those for the redesign process and the Board votes this week.

3) As required in ORS 195.110 require that PPS meet all of the statutory requirements and OAR Goal 1 standards before approving any disposition or closure of a school or facility. Make clear that the internally approved disposition policy meet those specific protocols stated within the City School Policy and Comprehensive Plan.

Because a few citizens are elected to the PPS board does not qualify them as Planning experts or even capable planners. The changes they have made and are proposing have a large impact to our community beyond that of simple programming changes as they represent.

Offers from the City to collaborate on facility planning and disposition matters have until recently been ignored while they unilaterally moved forward with their internal agendas causing irreparable harm to portions of the community, individual families and students.

PPS must be brought into the community and understand that they are not an island unto themselves and must become more cooperative stewards of the schools, facilities, and they are charged with managing for that public who owns it.

PPR

1 Allowing by right the addition of any ball fields without review is not desirable. It could double traffic on local surface streets during use, double noise, garbage, and parking concerns in surrounding neighborhoods. These concerns seem to have been overlooked and not addressed.

2 Do not allow any accessory building of less than 1500 sq ft solely by right. I use the parking lot across from 1900 S W 4th as an example to illustrate what our Parks could become. There needs to be specific language about what is allowed and the review process for approvals. This should not be left to PPR alone.

3 GNAs are not enforceable regardless of who the responsible party is. Whether it is PPR as user and PPS as owner or if reversed, how would that responsible entity propose to enforce these agreements, and with whom?

What might those thresholds for instigating compliance be?
And what would constitute compliance?

What role would impacted neighbors and neighborhoods have?
And would their complaints be enough to initiate action?

While a nice idea, they are not a practical solution. After some discussion of this with Planning staff and PPR before the Planning Commission, no alternative was offered.

However, very few citizens or Neighborhood Associations participated in constructing this solution, or for that matter this entire process for refinement of the CU code.

I would ask that PPR go back and seek input from those NAs and Coalition members for both proposal (Goal 9).

184443

Conditional use
4-22-2010

Subject: Response to Carole Smith on zoning code complaints

From: Mark Bartlett <bartlett.m@comcast.net>

Date: Wed, 21 Apr 2010 13:42:25 -0700

To: carole smith <superintendent@pps.k12.or.us>, "Adams, Mayor" <mayorsam@ci.portland.or.us>, Commissioner Leonard <randy@ci.portland.or.us>, Commissioner Saltzman <dan@ci.portland.or.us>, nick.fish@ci.portland.or.us, AmandaFritzRN@aol.com, Planning Commission <planningcommission@ci.portland.or.us>, School Board <schoolboard@pps.k12.or.us>, Mark Bartlett <bartlett.m@comcast.net>, "Stein, Deborah" <dstein@ci.portland.or.us>, Lynn Schore & Steve Linder <linderschore@comcast.net>, Schwab Mary Ann <e33maschwab@gmail.com>

Carole,

I read you letter of April 7 2010 to City Council with great interest.

I was one of the complainants from 2008, as well as testified numerous times to Planning staff and the Planning Commission, about the seeming contempt that PPS and PPR hold for any "interference" or public involvement.

This perspective toward "interference" has been demonstrated numerous times and as a recent example I attach a letter from then Planning Director Kelly to PPS requesting that you cooperate and work with the City on the disposition policy. This letter resulted from our concerns about how PPS conducts public processes, and how neighborhoods and citizens are left out of any genuine participation except to respond to that top down means by which PPS conducts it.

You unilaterally approved that disposition policy in early 2009. That new policy directly conflicts with that Portland City ordinance, the City School Policy. This ordinance has been acknowledged as in force by the Planning staff and the Auditor, and is part of the Comprehensive Plan.

That PPS or its board have not approved matters little. You are not an island unto yourself and reside within the city so are subject to the rules and and land use laws in force. If there is such a legal provision to justify that contrary view you hold, please do provide it.

As much as you'd like to act unilaterally, and as the Planning Commission concluded from our documents and testimony, you can no longer be trusted to make land use decision without oversight and cooperation with the City.

That is precisely the reason they voted for type three reviews, so that citizens can in some way participate through the notification requirement and the appeal process to a third party if they choose to. It must have been clear to them that the conflicts of interest necessitated that avenue of due process based upon your actions and track record.

Simply put, you and the PPS board are conducting land use and facility planning by other means. Whether through boundary changes, grade changes, name changes, programming changes, or closures and sales, you are making changes unilaterally that go far beyond that you cite as the elected Boards responsibility. Make no mistake that closing elementary and middle schools in order to reduce the student population at a high school to justify closure is land use planning.

This was not lost on the Planning Commission in that Jan 12 vote.

As for the facility planning which you are now conducting via the redesign process, the question presents itself as to why PPS has chosen to violate ORS 195.110, passed in January 2007, which was required to be completed by December 2009. I brought this requirement to your attention two years ago. I've never seen the extension request to DLCD or any response justifying the delay.

This facility planning statute required PPS and the City to collaborate on your facility planning efforts. I understand work has just now begun, by no coincidence timed to allow that illegitimate redesign process to be completed first.

This ORS statute required numerous analysis based on specific criteria that PPS has repeatedly failed to identify so that the public could participate in an informed and meaningful way. They prefer to parse words and interpret in that statutory language that must means may. The public still does not know the criteria for those decisions or how the Board will arrive at them, and the vote is due within a week.

Those carefully orchestrated "public" high school meetings did little to bolster the communities confidence that you would conduct any process legitimately. Every group or individual I spoke with felt those were outcome based meetings with carefully controlled agendas.

I attach an e mail between W DeJong and Doug Capps providing more evidence to question any legitimacy your work has. One could easily conclude that PPS is engineering a reverse process to achieve that outcome it prefers rather than a legitimate one with informed and genuine participation.

It is disingenuous that you now pose that this redesign is about equity in programming when this was widely known as a problem many years ago. The Flynn/ Blackmer audit of 2006 further substantiated

these concerns and provided recommendations to which PPS apparently did not respond as proposed in that audit. To those of us who participated in the zoning code complaints, this is clearly about land and disposition, not exclusively programming. As you said PPS is the largest land holder next to the City, and you've just approved internally your own disposition policy.

It seems that this issue comes to a matter of trust and confidence that you will be unable to overcome those obvious conflicts with disposition and facility planning, and act in the best interest of the community rather than continue the short term thinking of the recent past. The link below provides some data on the outcome of school sales.

http://gps-schools.openmetrics.com/?page_id=94

I have provided to the City and PPS / PPR evidence that the public has lost out substantially in terms of real market valuation for those properties you have disposed of, as well as now having the obligation to replace recreational ball fields per PPR 2020 goals, and provide facilities for that "sudden" unanticipated boom in student populations we brought to your attention in 2008. Now we bus and house students in trailers rather than opening closed facilities in their own neighborhoods.

PPR has yet to provide any evidence they have legitimate title to convey those properties they claim as theirs.

An accepted type three land use review application requires evidence of legitimate title in order to be deemed complete.

Why don't you join with the public and have that legitimate discussion about the future of education and how WE might plan for those facilities in our neighborhoods? These facilities and properties are the publics not some private fund to dispose of as you see fit.

Mark Bartlett

Kelley.SchoolBoard.Letter.111808-3-4.pdf

Content-Type: application/pdf

Content-Encoding: base64

Capps DeJong 1-08 CR.pdf

Content-Type: application/pdf

Content-Encoding: base64

Conditional use
4-22-2010

Mark Barthol

(6/13/2008) Douglas Capps - Fwd: Re: More Update

Page 1

From: Douglas Capps
To: William DeJong
Date: 1/8/2008 11:22 AM
Subject: Fwd: Re: More Update
Attachments: Re: More Update

Hi Bill,
I thought you should see a commentary and response from a Board member, Ruth Adkins, who is very sensitive about public process.

You'll see what we're cooking up since our conversation yesterday. But also note the important role you can play in "raising possibilities" (such as the SW option) as our outside expert/creative thinker, so that good ideas get into the public dialogue.

We feel the same way about all of the "other possibilities" -- that coming from you, there is both credibility AND the message that this is our consulting team speaking, not a PLAN of the school district.

Doug

184443

Conditional Use

4-22-2010

Mark Barakat
184443



1900 SW 4th Avenue
Suite 7100
Portland, OR 97201-5380
portlandonline.com/planning
pdxplan@ci.portland.or.us

TEL 503 823-7700
FAX 503 823-7800
TTY 503 823-6868

Tom Potter, Mayor
Gil Kelley, Director

November 18, 2008

Dilafruz Williams, Co-Chair
Trudy Sargent, Co-Chair
Portland Public Schools – School Board
PO Box 3107
Portland, OR 97208-3107

Dear Ms. Williams and Ms. Sargent,

Over the past year, the Bureau of Planning has been developing the work plan and outreach and engagement strategy for the Portland Plan, a comprehensive inclusive, citywide effort to guide the physical, economic, social, cultural and environmental development of Portland over the next 30 years.

In our discussions with the community about the Portland Plan, issues related to schools have come up repeatedly. As you know, parents, students, community members, and others feel strongly about their schools and the impacts that changes to those schools have on their lives and their neighborhoods.

Working in collaboration with Portland school districts, the Bureau of Parks and Recreation, and the community, we will be addressing some of these issues through a strategic, short-term effort to address targeted code clarification and will also be discussing the larger scale policy issues as appropriate through the Portland Plan. We look forward to working with you and your staff throughout the next several years on these processes.

Based on testimony and input we've received over the past several months, the disposition of surplus property – whether owned by school districts, the county or the city – raises considerable concern amongst constituents, requiring significant discussion with the community to ensure that public concerns are fully understood and addressed.

We would encourage you to delay making any decision about amendments to Board Policy 8.70.040 Disposition of Surplus Real Property in order to ensure an increased level of input and discussion about these changes. Planning for surplus public school lands should involve an integrated and cooperative process by all parties, including the residents of communities that the schools serve. We have heard from Portlanders who care deeply about public properties who feel that both City and school district processes do not adequately consider their interests and input. We would not want your thoughtful consideration of these changes to be compromised by process issues.

A community-centered school functions much like a major department store in a shopping center in that the community school serves as an "anchor" to attract and retain families. Any decision to surplus such properties needs open and deliberate decision-making. Based on our review of the proposed policy and the information we've been provided by your staff, it seems that the District is moving in that direction. We have some suggestions that we believe could improve the process you are using to adopt this modified policy and the associated administrative directive, and have



some questions and suggestions that could help clarify the intent of the policy and directives as they are applied in the future.

Process suggestions:

- (1) Post the proposed policy clearly on your website in a 'before and after' version so that the changes are clear and obvious. We've heard repeatedly in our public processes, that without such guidance, proposed changes are difficult to evaluate.
- (2) The proposed policy refers to an 'administrative directive' that provides detailed guidance for decision making. This directive is not publicly available. It should be posted alongside the proposed policy change. We're often told that "the devil's in the details." The public often needs to see the details of implementation in order to fully understand the policy choices being made.
- (3) It would also be helpful to clearly describe the relationship between these two documents.

We think these measures would help everyone understand what is being proposed and its benefits to the community.

Content clarification questions and suggestions:

In addition, both the proposed policy and administrative documents need some clarification. We have questions and suggestions about how some of the terms are defined, how various determinations are made, the proposed review time frames, and who receives notification. We would be happy to meet with your staff to discuss these details.

We hope these suggestions are helpful to you as you consider these amendments.

Sincerely,

Betsy Ames
Gil Kelley, Director
Bureau of Planning

for Gil Kelley

cc: Sonja Henning
Ruth Adkins
Bobbie Regan
David Wynde
Martin Gonzalez
Doug Capps
Cameron Vaughan-Taylor
Mayor Tom Potter
Mayor-Elect Sam Adams



Ronald Webb
FAX 503-412-4156
Speech to City Council 4/22/10

My name is Ron Webb. I live in the Piedmont neighborhood, and I graduated from Jefferson High School 54 years ago. I'm a member of the Jefferson High School Site Council and Jefferson High PTSA.

I am a zoning code complainant at ten Portland Public Schools, based upon grade reconfigurations that are illegal under the Schools and School Sites Chapter of the Zoning Code, or Chapter 33. I do not have Internet access, and I have NOT been notified of this meeting by mail or phone. It has been nearly impossible to keep up with PPS's zoning violations and the City's response because I have not been notified of meetings.

The City of Portland is in violation of its own Zoning Ordinance. Because the City has for two years refused to enforce the Zoning Ordinance, the City of Portland is now accessory to worsening segregation and discrimination at 11 PPS schools. The City of Portland has received 198 valid Zoning Code complaints regarding PPS's illegal and discriminatory activities at these schools. The students, families, schools and neighborhoods affected have thus far received no remediation after two years. Children have a very short time in which to get their education.

I would like to contribute by giving historical backdrop to these monumental changes to the zoning code.

- 1) The original design of Portland Public Schools (PPS) infrastructure was built to be sustainable, with a very low carbon footprint. The design by the great Lloyd T. Keefe and Dr. Amo DeBernadis, sited parks & schools adjacent to one another within each neighborhood, so students could walk to school.

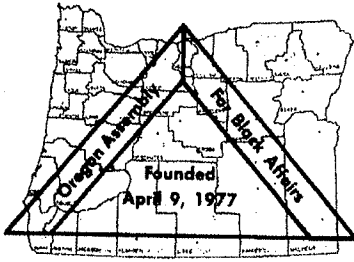
- 2) PPS closed over 30 schools since 1960, preferring instead to warehouse children in substandard trailers and bus them back and forth across town wasting both student time and fossil fuels.
- 3) In 2005-06, PPS closed 6 more schools, arguing diminishing student population to get them closed. Most of these neighborhood schools were seismically upgraded, in great condition, academically successful, with active parental involvement.
- 4) Today PPS is claiming there is a population 'bubble' of children, and that now PPS must purchase \$11.2 million in trailers to house children, rather than employing sustainable practices and reopening closed neighborhood schools.
- 5) Portland *claims* it is a world leader in sustainability and environmentalism, but its PPS magnet program has an exceptionally large carbon footprint, due to need to drive children all over town. This is a waste of resources; it increases pollution; discourages physical fitness in students; and inhibits active parental engagement at school.
- 6) PPS and the City are simultaneously selling off valuable real estate and liquidating public school infrastructure for short term financial profit. PPS is wasting resources, and employing unsustainable and wasteful practices, directly contrary to Portland's goal to lead the world in green practices.
- 7) Taxpayers are already being asked to construct new schools in places like the Pearl, when there are serviceable school structures that could be redeployed. The schools that are planned will be so large they will in effect

warehouse children. The destruction of these beautiful school buildings and their historic legacy is not in alignment with our city's mission for sustainability, green building practices, and for recycling buildings & building materials.

Portland residents rightfully expect their investments, old and new alike, to be properly protected and maintained.

- 8) PPS has committed a host of zoning violations to implement illegal, unsustainable practices district-wide. **The Zoning Ordinance is being used to foster segregation in Portland.** The violations are resulting in many problems for children and neighborhoods, including segregation, lack of equal access to education, gerrymandering, curriculum inequity, teacher inequity, overcrowding, inability to walk and bike to school, long bus rides. Rather than fulfill Portland's mission of sustainability and environmental conservation, they are holding a zone change hearing on Earth Day, April 22, to revise zoning codes to achieve their goal of dismantling PPS real estate infrastructure.

I urge that the Portland City Council to make **no** changes to the "Schools and School Sites" Chapter of the Portland Zoning Code. Instead, I urge that you immediately begin a process that should have begun two years ago, to look at the grievances of these children and schools and get them fixed! This Amendment will weaken the zoning code and embolden PPS to segregate further.



Oregon Assembly For Black Affairs

P. O. Box 12485
Salem, Oregon 97309
<http://www.oaba.us/>

184443

April 22, 2010

TO: The Honorable Sam Adams, Mayor of Portland
The Honorable Randy Leonard, Portland City Commissioner
The Honorable Dan Saltzman, Portland City Commissioner
The Honorable Nick Fish, Portland City Commissioner
The Honorable Amanda Fritz, Portland City Commissioner

SUBJECT: Violations of Portland Zoning Regulations & Re-Segregation of Portland Schools

On September 8, 2009, the Oregon Assembly for Black Affairs (OABA) sent you an email requesting a meeting to discuss violations of Portland Zoning Regulations & Re-Segregation of Portland Schools. OABA has not received a response from you.

At that time, OABA was concerned about how the violations of the City of Portland Zoning Regulations are causing the re-segregation of schools in the Portland Public Schools (PPS) District. It is OABA understanding that there have been 198 Zoning violation complaints filed with your Planning Bureau and that these violations will lead to unequal education opportunities and inferior educational programs for Black students, as well as all students, in the PPS District.

In Portland Policy and Code Division Principal Planner Eric Engstrom's MEMO dated July 23, 2008, to Portland Planning Bureau Director Gil Kelly, SUBJECT: "Emerging Schools/Parks Zoning Controversy", he states: "The Zoning Code has very detailed thresholds identifying the changes in school activity that trigger Conditional Use Review. Because no Conditional Use Reviews were filed by PPS for the identified changes, there have been violations of the Zoning Code." Also in this MEMO, he states: "Most complaints relate to violations of the Zoning Code Conditional Use regulations, which govern the extent/nature of activities and land uses allowed on school and park sites. Specific issues raised include changes in grade levels, enrollment changes, and concerns about sports field activities (little league)." Also changes in grade levels, enrollment changes, and school closure issues are affected by the Portland Zoning Code and Oregon state law. OABA Researcher Lynn Schore studied Portland Zoning Ordinance, in particularly the Schools and School Sites Chapter, and determined that the Portland Public Schools District was in violation of the Portland Zoning Code at eleven schools.

Ms. Schore has worked with others to get your Planning Bureau and other City officials to enforce your zoning regulations. However, it is OABA understanding that your Planning Bureau has come to you, Portland City Council, to get you to change the Zoning Ordinance so that the City of Portland will not have to enforce Zoning Ordinance against PPS for violations. It appears to OABA Board of Directors that your Planning Bureau wants you to give PPS retroactive immunity so that City of Portland will not have to prosecute the 198 violations. Also it appears to OABA that the City of Portland might become part of a scheme to close schools and

The Honorable Sam Adams, Mayor of Portland
The Honorable Randy Leonard, Portland City Commissioner
The Honorable Dan Saltzman, Portland City Commissioner
The Honorable Nick Fish, Portland City Commissioner
The Honorable Amanda Fritz, Portland City Commissioner
April 22, 2010
Page 2 of 2

184443

sell off PPS properties should the Portland City Council vote to change its Zoning Ordinance before there are prosecutions of the violations that are on file. Also this would lead to unequal education opportunities and inferior educational programs for Black students, as well as all students, in the PPS District.

Now, you are in the process of doing what OABA shared with you last September 2009, and OABA urges you to reconsider your position.

Sincerely,

Calvin O. L. Henry

Calvin O. L. Henry, Ph.D.
OABA President



PORTLAND PUBLIC SCHOOLS

184443

501 N. Dixon Street • Portland, OR 97227
Telephone: (503) 916-3200 • Fax: (503) 916-3110
Mailing Address: P.O. Box 3107 / 97208-3107
E-mail Address: csmith1@pps.k12.or.us

Carole Smith
Superintendent

OFFICE OF THE SUPERINTENDENT

AUDITOR 04/15/10 PM 1:13

April 07, 2010

Mayor Sam Adams and Members of the Portland City Council
c/o Council Clerk Office
1221 SW 4th Avenue, Room 140
Portland, OR 97204

And

The City Portland Planning Commission
c/o Bureau of Planning and Sustainability
1900 SW 4th Ave., Suite 7100
Portland, OR 97211

Dear Mayor Adams, Members of the Portland City Council, and Members of the Portland Planning Commission:

As you know, the Portland Planning Commission and the Bureau of Planning and Sustainability have spent more than a year working on the Schools and Parks Conditional Use Code Refinement Project. Portland Public Schools appreciates this work and the opportunity to be involved in the process to clarify and streamline City regulations related to school uses.

However, despite this significant and valuable work, we want to share our significant concern about a revision the Portland Planning Commission made earlier this year. In a January 12 hearing, the commission voted to require a Type III conditional use review when schools serving 6th grade and higher add any combination of grades K through 5 to their buildings. This was contrary to bureau staff recommendations, and I believe the Portland Planning Commission did not provide sufficient basis for the change.

Portland Public Schools requests the Schools and Parks Conditional Use Code Refinement Project remove the Planning Commission's requirement for a Type III conditional use review for the addition of grades K-5 to a school with older students and return to the staff recommendation to require a Type III conditional use review for the addition of grades 9-12 to a school with younger grades and a Type II conditional use review for the additional of grades K-8 to a school with older grades.

The Planning Commission has received considerable testimony through the Portland Plan process and the Code Refinement Project expressing disappointment with PPS's K-8 school conversion process. The reconfiguration of many schools to become K-8s and the resulting closures were controversial, rushed and unevenly and inadequately implemented. We know that despite many families' embrace of the new school model many others are left with significant concerns and greater distrust of the district. However, these are school programming issues and fall squarely under the jurisdiction of the Portland Public Schools duly elected Board of Education; board directors are both responsible for the decisions and directly accountable to the public. The appropriate venue for discussion of these issues is the Board of Education and PPS's public involvement efforts regarding educational program changes.

The City's land use review process is not the appropriate avenue to debate or overturn public school programming decisions. Doing so interferes with the educational mission of public schools, the jurisdictional responsibilities of the elected school board, and the ability of schools to meet the education needs of an ever changing school age population.

No Basis for Recommended Conditional Use Review

As the second largest land owner in the City of Portland, PPS recognizes that the changing use of our facilities can impact the neighborhoods where schools are located. Thus, the City's zoning code currently and appropriately requires a conditional use review for changes of school level (elementary, middle, junior high and high school). But the zoning code does not address changes of grades within a school level.

As has been documented in the work of the Schools and Parks Conditional Use Code Refinement Project, PPS had been using the State of Oregon's definition of elementary school (grades K-8) and high school (grades 9-12) in our grade level change process. As the City's Zoning Code does not define what grades constitute a school level, PPS did not seek a conditional use review when grade level changes were made to implement the K-8 conversion as we did not believe this review was required. PPS did not knowingly attempt to circumvent City land use review process.

PPS has sought clarification of this zoning code language related to school and grade levels changes through the Code Refinement Project. Up until the January 12th hearing, the Bureau of Planning and Sustainability staff recommendation had been to require a Type III conditional use review for the addition of grades 9-12 to a school with grades K-8 and a Type II conditional use review for adding any combination of grades K-8 to a school with grades 9-12. PPS recognizes that these particular grade level changes could have impacts to the surrounding neighborhoods, and supports that level of review in these cases.

However, at the January 12th public hearing on grade level changes component of the Code Refinement Project, the Planning Commission inserted the requirement to require a Type III conditional use review for adding grades K-5 to schools with grades 6-8. The Planning Commission members discussed their concern that transportation systems and pedestrian connections be examined when younger students are added to a school with older students. In deliberating whether this review should be a Type II or Type III, the Planning Commission opted for the more rigorous and expensive Type III process. In their reasoning, commissioners

expressed a desire to have greater public involvement in these grade level changes, but they did not identify how the conditional use criteria of the zoning code would ensure greater safety of younger children.

My understanding of the City's zoning code regulations related to schools is that they are largely designed to protect surrounding neighborhoods from the impacts of schools – including the traffic and other activities that schools bring. I am not aware of City conditional use regulations that are designed specifically to protect students within our schools – and none aimed at protecting younger children differently than others. I submit the care and safety of students at school is the role and responsibility of public school districts and the building and fire codes (also enforced by the City of Portland) that require school properties provide safe facilities for students, educators, and the public.

We share the Planning Commission's concern for the safety of all children as they travel to and from school. I suggest that concerns regarding transportation safety for younger children in our public schools are better addressed by fully funding and implementing the Safe Routes to Schools Program for all public schools in the City.

Currently all but two of our elementary, middle and K-8 schools participate in Safe Routes to School. The program offers a range of services, from bicycle and pedestrian safety education to federally funded improvements in the public right-of-way to address unsafe traveling conditions for pedestrians and cyclists. Bureau of Transportation staff, school staff and teachers, parents, and non-profit organizations that specialize in bicycle and pedestrian safety education work together to develop a unique plan for each school to improve the ability of students, parents, and staff to travel safely to each school. I believe this collaborative, flexible approach better serves transportation safety concerns for younger children on an on-going basis.

We have better and more appropriate ways to improve the safety of our school children than subjecting PPS to a Type III conditional use review process for this particular grade level change. The Type III review appears to be an attempt to punish PPS for not seeking conditional use reviews of previous grade level changes. This is not an appropriate motivation or basis upon which to adopt additional land use regulations.

Educational Programming Decision Making

The PPS Board of Education is the elected governing body for the Portland Public School District which is a corporate body under state law. The board makes and is accountable for the district's educational programming decisions. The board holds public hearings whenever significant program changes are proposed, and board directors weigh comments received through the public involvement process and make decisions they believe are in the best interest of educating children, with the resources that are available.

The use of PPS facilities to support these decisions is also the purview and responsibility of the board. Given the vital importance of schools to students, families and the community, board members are often called upon to make difficult decisions with real and immediate impacts on the community. But that is their legal duty as elected board members.

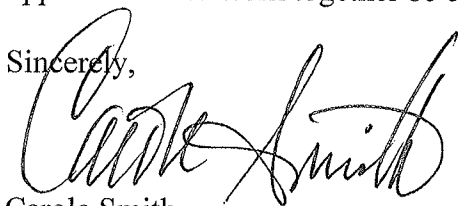
The ability to second guess these decisions through the City's land use review process would significantly interfere with the school board's ability to govern the affairs of the school district. PPS has and will continue to partner with the City of Portland to continually improve the achievement of public school students in the city. To do so, PPS and other public school districts need the ability to autonomously plan, adopt, and implement strategies to meet our educational missions.

It is unfortunate the Code Refinement Project to date has not clearly articulated the distinction between public school programming, which is the sole responsibility of public school districts, and the City of Portland's land use role and zoning code authority in regulating impacts from schools on surrounding neighborhoods. This distinction needs to be made. Opening school program changes such as grade level changes to reconsideration through the City's land use process will continue to blur these distinct roles.

Portland Public Schools must continue to work through difficult issues, and to do so in ways that better engage the community in the decision-making. Rebuilding and maintaining public confidence is a priority, now and into the future. There is more we can and will do to this end. But having to address programmatic decisions through the City's land use review process will be counter-productive to our planning efforts, might undermine the School Board's authority as elected leaders of an independent jurisdiction, and could place City staff in the role of making educational program decisions based on criteria entirely unrelated to educational objectives.

There are so many ways PPS and the City of Portland can work together to strengthen the education opportunities for our citizens and improve student achievement. Please don't let these opportunities to work together be clouded by a confusing and unnecessary regulatory process.

Sincerely,

A handwritten signature in black ink, appearing to read "Carole Smith", written over a horizontal line.

Carole Smith
Portland Public Schools Superintendent

- C. Board of Education
Jollee Patterson, General Counsel - Portland Public Schools