

Council Findings, Conclusions and Decision for LU 22-185273 CU MS AD

**IN THE CITY COUNCIL OF THE  
CITY OF  
PORTLAND, OREGON**

**IN THE MATTER OF AN APPEAL  
BY THE WEST PARK NEIGHBORHOOD ASSOCIATION OF THE TYPE III CONDITIONAL USE  
MASTER PLAN FOR AN 36.43-ACRE SITE IN THE WEST PORTLAND PARK NEIGHBORHOOD**

**LU 22-185273 CU MS AD**

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**FINDINGS AND CONCLUSIONS**

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**ADOPTED BY THE CITY COUNCIL ON JANUARY 31, 2024**

**(DENIAL of appeal and APPROVAL of Conditional Use Master Plan)**

**IN THE CITY COUNCIL OF THE  
CITY OF  
PORTLAND, OREGON**

**IN THE MATTER OF AN APPEAL BY THE WEST PARK NEIGHBORHOOD ASSOCIATION OF  
THE TYPE III CONDITIONAL USE MASTER PLAN FOR AN 36.43-ACRE SITE IN THE WEST  
PORTLAND PARK NEIGHBORHOOD  
LU 22-185273 CU MS AD**

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**FINDINGS AND CONCLUSIONS**

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**GENERAL INFORMATION**

**Applicant's Representative:** Suzannah Stanley  
Mackenzie  
1515 SE Water Ave., Ste. 100  
Portland, OR 97214  
(971) 346-3808  
sstanley@mcknze.com

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

**Site Address:** 10625 SW 35<sup>th</sup> Ave.

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

**Tax Account No.:** R991290220, R991293930

**State ID No.:** 1S1E29C 00100, 1S1E29C 00200

**Quarter Section:** 4025

**Neighborhood:** West Portland Park, contact at wpp-board@swni.org

**District Coalition:** Office of Community & Civic Life, contact Leah Fisher at leah.fisher@portlandoregon.gov

**Plan District:** None

**Zoning:** OS/OSc – Open Space base zone with part of the site also within the Environmental Conservation ("c") overlay zone

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

**Procedure:** Type III

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

Two phases of improvements are proposed:

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

The following Adjustments to Zoning Code requirements are requested:

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

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

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

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

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

The Portland Zoning Code is available online at <https://www.portland.gov/code/33>.

## ANALYSIS

**Site and Vicinity:** The subject site is in the West Portland Park neighborhood in Southwest Portland. The site is approximately 37 acres in area and abuts SW 35<sup>th</sup> Avenue, SW Alfred Street, SW 40<sup>th</sup> Avenue, and SW Dickinson Street. The site is the campus of Jackson Middle School, which is part of Portland Public Schools. The existing development on the site includes an approximately 170,000-square-foot school building, surface parking lots, and sports fields. A church is across SW 35<sup>th</sup> Avenue from the site at 10625 SW 35<sup>th</sup> Avenue, and most other properties in the neighborhood around the site are developed with single-dwelling houses. The nearest commercial and multi-dwelling residential areas are along SW Barbur Boulevard and SW Capitol Highway, about a quarter mile north and west of the subject site.

**Zoning:** Exhibit B is the zoning map that applied to this site on September 20, 2022. Council finds that under ORS 227.178(3)(a), PCC 33.700.080.A and 33.700.090.A, this application is

subject only to the regulations that were in effect on the date the applicant submitted this application if the application was rendered complete within 180 days of the date of initial submittal. Council finds that the application was submitted on September 20, 2022, and complete on March 14, 2023. Thus, only the regulations in effect on September 20, 2022, apply to this request.

The proposal is therefore vested in the zoning map shown in Exhibit B per Zoning Code Sections 33.700.080.A and 33.700.090.A.

The OS base zone is intended to preserve open areas for outdoor recreation and scenic quality, to preserve the capacity and water quality of the stormwater drainage system, to protect sensitive or fragile environmental areas, to provide pedestrian and bicycle transportation connections, and to protect trees and the urban forest.

A small portion of the site is also in the Environmental Conservation (“c”) overlay zone. The “c” overlay zone is intended to conserve important environmental features and resources while still allowing compatible development. The proposed construction would be outside the “c” overlay zone.

The zoning map in Exhibit B also shows a planned recreational trail connection through the site. Recreational trail designations on zoning maps are governed by Zoning Code Chapter 33.272. As discussed in the findings below, the applicant will construct a pathway through the site in approximately the location shown for the recreational trail on the zoning map. However, Council also finds that the regulations in Chapter 33.272 do not apply to this proposal because the anticipated increase in pedestrian and bicycle trips related to the proposed improvements would not trigger or satisfy the “rough proportionality” test in the City’s administrative rule. Therefore, this pathway will not be in a dedicated public right-of-way or within a public access easement. Neither the applicant nor any appellant or participant in the review before the City Council raised any objection to the path improvements or the applicant’s intent to provide this connection across the site.

**Land Use Review History:** The site was subject to the following prior land use review decisions:

- PC 7488C. Revocable permit for the use of a practice field for a professional football team until September 1, 1985.
- PC 7416C. Revocable permit for use of the school for Bonneville Power Administration hearings for a 9-month period in 1984.
- CU 099-77. 1977 Conditional Use Review approval for tennis courts.
- CU 035-76. 1976 Conditional Use Review approval for a scoreboard.
- CU 079-74. 1974 Conditional Use Review approval for an addition to the school.
- CU 046-70. 1970 Conditional Use Review for an automotive shop building. The final decision is not in City records.
- CU 004-64. 1964 Conditional Use Review approval for a new school.

There are no conditions of approval from prior land use reviews which apply to the current proposal.

**Agency Review:** A “Request for Response” was sent to City agencies March 17, 2023 (Exhibit D-1). The following City reviewers responded:

- The Bureau of Environmental Services (BES) evaluated approval criteria related to sanitary sewer service and stormwater disposal. BES initially found that more information was required for their review (Exhibit E-1). After the requested information was provided (Exhibits A-20 and A-21), BES found approval criteria related to sanitary sewer service and stormwater disposal are met (Exhibit E-2).
- The Portland Bureau of Transportation (PBOT) evaluated the approval criteria related to the transportation system. The response is referenced in the findings for Zoning Code Section 33.815.100.B.1-2, below. (Exhibit E-3)
- The Water Bureau responded with no concerns. (Exhibit E-4)
- The Fire Bureau responded with information on permit requirements and no objections to the land use review proposal. (Exhibit E-5)
- The Police Bureau responded that police could adequately serve the site. (Exhibit E-6)
- The Site Development Review Section of the Bureau of Development Services (BDS) responded with information on permit requirements and no objections to the land use review proposal. (Exhibit E-7)
- The Life Safety Review Section of BDS responded with information on permit requirements and no objections to the land use review proposal. (Exhibit E-8)
- The Urban Forestry Division of the Parks Bureau responded with information on street tree requirements and no objections to the land use review proposal. (Exhibit E-9)

**Neighborhood Review:** Signs notifying neighbors of the proposal were posted on March 30, 2023 (Exhibit D-3). A “Notice of Public Hearing” was mailed to neighbors on April 12, 2023, for the public hearing originally scheduled for May 3, 2023 (Exhibits D-4 and D-5). The hearing was then postponed at the applicant’s request to June 14, 2023, and a revised “Notice of Public Hearing” with the new date was mailed to neighbors on April 25, 2023 (Exhibits D-6 and D-7). The applicant then requested the hearing be postponed again to October 4, 2023, and a revised “Notice of Public Hearing” with the new date was mailed to neighbors on June 14, 2023 (Exhibits D-8 and D-9). The public notice signs on the site were re-posted by the applicant with the new hearing date and time August 30, 2023, more than 30 days before the October 4, 2023, public hearing (Exhibit D-10).

The application generated significant interest from members of the public and community stakeholders as well as from parents and guardians of Portland Public School students. Like many projects, the application attracted proponents and opponents. The parties to this case submitted a substantial amount of written evidence and argument into the record. Responses to issues directly related to the relevant Conditional Use Master Plan and adjustment approval criteria in 33.820.050.A-C (Conditional Use Master Plan Review) Zoning Code Section 33.805.040.A-F (Adjustment Review) submitted by the public are addressed in the Council findings below.

#### **Procedural History:**

**EA 22-155562.** A Preapplication Conference meeting was held on July 21, 2022. (**Exhibit A-5**).

**LU 22-185273 CU MS AD.** The application was submitted on September 20, 2022. The application was determined to be complete on March 14, 2023. The Staff Report and Recommendation to the Hearings Officer was issued on June 2, 2023. The hearing before the

Hearings Officer was held on October 4, 2023. A hearing participant requested that the record be held open for the submittal of new evidence, rebuttal evidence and final legal argument. The record of the hearing was therefore held open consistent with the requirements of ORS 197.797(6). The seven-day period for new evidence was held open until October 16, 2023, followed by a second, seven-day period to submit rebuttal evidence which was held open until October 23, 2023, and lastly a third, seven-day period until October 30, 2023, for the applicant only to submit final legal argument. On November 16, 2023, the Hearings Officer, having reviewed and considered all the evidence and argument in the record, issued a decision approving the application with conditions. The West Park Neighborhood Association subsequently filed a timely appeal of the Hearings Officer's decision to the City Council on November 30, 2023. The City Council held an on the record hearing on the appeal on January 11, 2024, and tentatively voted to unanimously deny the appeal and uphold the Hearings Officer's Decision with conditions of approval. At the close of the City Council hearing on January 11, 2024, the City Council set a date of for adoption of findings and a final vote. At the final proceeding on **January 31, 2024**, the City Council adopted the findings contained in this Decision, together with the final conditions of approval.

Because the appeal to the City Council was an on-the-record proceeding, evidentiary submittals were limited to the evidence that was in the record on the date the Hearings Officer closed the public record; in this case that date is October 23, 2023. No new evidence was permitted during the City Council proceedings. The City Attorney and City Planner monitored the evidence submitted into the record after October 23, 2023, and during the City Council proceedings and advised the City Council during the proceeding on a list of submittals that they believed were not previously submitted into the record before the Hearings Officer. The following is a list of new evidence that was submitted to the City Council at the January 11, 2024 appeal hearing:

- Detailed information about City investments in salmon habitat
- Portland Public Schools broader facility planning details in the applicant's opening remarks, including information about upcoming construction at Ida B Wells High School
- Mental health statistics

No party objected to the exclusion of this new evidence and the City Council passed a motion to exclude this evidence from consideration,

At the January 11, 2024 appeal hearing, staff also identified as new evidence testimony about communications with an artificial turf manufacturer. This evidence was included in the City Council's motion to exclude as new evidence, but it was later determined that this information was, in fact, already in the record. This information is, therefore, not excluded from the record.

## **ZONING CODE APPROVAL CRITERIA**

### **Conditional Use Master Plan Review**

#### **33.820.050 Approval Criteria**

Requests for conditional use master plans will be approved if the review body finds that the applicant has shown that all of the following approval criteria are met:

- A.** The master plan contains the components required by 33.820.070;

**Findings:** The proposal includes the required components, as discussed below in the responses to Zoning Code Section 33.820.070. Council finds that this criterion is met.

- B.** The proposed uses and possible future uses in the master plan comply with the applicable conditional use approval criteria; and

**Findings:** Council finds that the applicable conditional use approval criteria are found in Zoning Code Section 33.815.100. Each of those applicable approval criteria are addressed below and the Council findings demonstrate that each approval criterion can be met or can be met with conditions of approval, as discussed below under 33.815.100.

- C. The proposed uses and possible future uses will be able to comply with the applicable requirements of this Title, except where adjustments are being approved as part of the master plan.

**Findings:** Council finds that this approval criterion requires a finding that based upon the submitted site plan and uses, the possible future uses “will be able to comply” with the development standards at each future building permit review, or if a use or future use, requires an adjustment, that adjustment is approved under this Conditional Use Master Plan review. The plans submitted for a building permit must demonstrate that all development standards of Title 33, including and not limited to permitted use categories, floor area ratio, setbacks, and building coverage are all satisfied. The question under this Conditional Use review criterion is whether we can find, based on the plans submitted, that possible future uses will be able to comply with such standards. Council finds that all the proposed uses including resurfacing existing sports fields, improvements to a pedestrian pathway, landscaping both on and off site, a batting cage, storage facility and tennis courts are all listed as permitted or conditional uses in the OS zone under Table 100-1. Thus, all these uses will be able to comply with the permitted use **requirements** at the time of building permit review. None of these uses will be in the environmental overlay zone, and therefore none of these uses will require an Environmental Review.

The site plan also demonstrates that the possible future uses will be able to comply with the Title 33 development standards that are reviewed at the time of building permit submittal for each individual element of the proposal. For example, the Open Space zone permits a maximum building coverage on a school site of 50%. At full buildout under this proposal, maximum building coverage will be a maximum of 11.4%. As shown on the proposed site plan, and discussed below, each element of the proposal is located well in excess of the required setbacks. Council therefore finds that the site plan demonstrates that the proposed uses will be able to comply with the applicable requirements of Title 33, except where adjustments are requested.

Two adjustments from these Title 33 standards are requested as part of this Conditional Use Master Plan review. As discussed later in these findings, Council finds the applicable approval criteria for the Adjustment requests are satisfied, with the related conditions of approval. Council finds this criterion is met.

Some testifiers argued that turf or synthetic fields, as proposed in this application, are not permitted under Title 33 because they claim the fields will shed microplastics into surface waters inconsistent with identified provisions of the Southwest Community Plan. Council reviewed those arguments and rejects the legal and factual basis for such claims. The findings below specifically respond to those claims under the relevant approval criteria.

### **33.820.070 Components of a Master Plan**

The applicant must submit a master plan with all of the following components. The review body may modify the proposal, especially those portions dealing with development standards and review procedures. The greater the level of detail in the plan, the less need for extensive reviews of subsequent phases. Conversely, the more general the details, the greater the level of review that will be required for subsequent phases.

- A. Boundaries of the use.** The master plan must show the current boundaries and possible future boundaries of the use for the duration of the master plan.

**Findings:** The boundaries of the proposed Conditional Use Master Plan coincide with the boundaries of the Jackson Middle School campus and the site illustrated in Exhibit A-20, page 2. No changes in the Master Plan boundaries during the 10-year life of the Master Plan are requested with this application. Any future change in the Master Plan boundaries would require approval of a Conditional Use Master Plan Amendment land use review (Zoning Code Section 33.820.090). Council finds that this component requirement is satisfied.

- B. General statement.** The master plan must include a narrative that addresses the following items:

1. A description in general terms of the use's expansion plans for the duration of the master plan;
2. An explanation of how the proposed uses and possible future uses comply with the conditional use approval criteria; and
3. An explanation of how the use will limit impacts on any adjacent residentially zoned areas. The impacts of the removal of housing units must also be addressed.

**Findings:** Council finds under B.1 that the applicant's narrative (Exhibit A-18) describes two phases of improvements within the 10-year life of the Master Plan:

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

Council finds that the submitted site plans and building elevations illustrating the proposed developments are included in Exhibits A-9 and A-20 and provide the required description in general terms of the use's expansion plans for the duration of the master plan.

Some testifiers argued that the applicant has commenced a site plan review process, separate from the Conditional Use Master Plan process, that proposes to fill and grade an area of the site that is near or adjacent to the proposed tennis courts and new parking lot. Those testifiers shared email communications between various City bureau staff discussing the site plan review application, and the related grading elements. The argument seems to be that the grading proposal was required to be, but was not, included in the applicant's proposed uses under B.1. Council rejects this argument. First, the site plan review is a separate and distinct process from the review of a Conditional Use Master Plan and, as staff stated in response to this argument, the regrading of that area of the site does not depend on approval of the Conditional Use Master Plan. In other words, the grading review could occur whether or not this Conditional Use Master Plan was approved or denied by the City Council. Second, and



perhaps more relevant here, the applicant's site plans submitted with this Conditional Use Master Plan review do include a description of the redevelopment of the area that is subject to the pending site plan review. As part of the applicant's proposal and as shown on Exhibits A-9 and A-20, the master plan includes two new tennis courts to the west of the new parking area. This is also the area subject to site plan review referenced by the testifiers. The B.1. approval criterion only requires a "description in general terms of the use's expansion plans for the duration of the master plan." Council finds that the applicant's proposal provides that general description of the expansion and redevelopment of the tennis courts adjacent to the new parking area in compliance with this approval criteria.

Under B.2, Council finds that the proposal addresses and complies with each of the applicable Conditional Use approval criteria (Zoning Code Section 33.815.100). Council addresses each of these approval criteria below, reviews the evidence relied on to respond to the standard and finds that the proposal complies with each standard.

Under B.3, the applicant must explain how the use will limit impacts on any adjacent residentially zoned areas. The impacts of the removal of housing units must also be addressed. Again, Council's findings on impacts to adjacent residentially zoned areas are discussed fully below under the specific criteria related to off-site impacts. However, in short, Council finds that the proposal well analyzed potential impacts to adjacent residential zoned and Council finds that the proposal appropriately limits those impacts. In short, the field surfaces will be a combination of natural and synthetic turf. For example, the infield of the existing track will remain natural turf. The applicant submitted a comprehensive stormwater management report and geotechnical study that the City reviewed and concluded that all stormwater runoff from the site will comply with the specific requirements of the City's Stormwater Management Manual ("SWMM") to protect water quality and control stormwater flow from the site. The field usage will comply with all noise and light spill standards. No amplified sound will be used on the site and no additional spectator seating is proposed. All field usage will be complete by 9:30 with lights turned off by 10:00 pm. The Portland Bureau of Transportation ("PBOT") reviewed the on-site parking supply and the estimated demand and found that the expected demand would be satisfied by the on-site parking supply and that the on-site parking supply would be conveniently connected to the fields with an on-site public path that will bifurcate the site and encourage users to park in the on-site lot. The applicant will also make pedestrian improvements to SW 40<sup>th</sup> Avenue with a protected sidewalk that will provide access to the path that runs through the site. Lastly, the applicant has proposed to significantly increase the tree canopy on the site by over 80,000 square feet, adding to the shade and habitat in the neighborhood and creating a generous treed buffer along the site edges. As explained in more detail below, the applicant has addressed how proposed uses will limit impacts on residentially zoned areas and Council finds this criterion is satisfied.

No housing units will be removed.

This component requirement is satisfied.

- C. Uses and functions.** The master plan must include a description of present uses, affiliated uses, proposed uses, and possible future uses. The description must include information as to the general amount and type of functions of the use such as office, classroom, recreation area, housing, etc. The likely hours of operation, and such things as the approximate number of members, employees, visitors, special events must be included. Other uses within the master plan boundary but not part of the conditional use must be shown.

**Findings:** Council finds that the existing and proposed uses of the site are described and quantified in the applicant's narrative (Exhibit A-18) and transportation study (Exhibit A-10).

The site is the home of Jackson Middle School. The school day is between 9:15am and 3:45pm on weekdays (Exhibit A-16), and the existing sports fields are used both during school hours and outside of school hours. Since there are no existing field lights, the existing fields are not currently used after dark. The proposed improvements are expected to modestly increase the use of the sports fields, and the applicant proposes use of the north field, which would be newly lighted, until 10:00pm. Council finds that the applicant submitted a field use schedule with the application (Exhibit A-4) that described the general amount and type of functions that occur on the fields. The school will continue to operate in its current configuration and calendar. The fields will be resurfaced and improved with artificial turf, a new parking area will be constructed to provide accessible access and a new batting cage, storage facility and tennis court area are proposed to replace the existing courts and add capacity for batting practice and gear storage.

With this information, Council finds that application describes the present and future uses with a general description of the general type and amount of activities, along with the likely hours of operation. This component requirement is satisfied.

**D. Site plan.** The master plan must include a site plan, showing to the appropriate level of detail, buildings and other structures, the pedestrian, bicycle, and vehicle circulation system, vehicle and bicycle parking areas, open areas, and other required items. In addition to the application requirements in 33.730.060.C, the site plan must also include:

1. All existing improvements that will remain after development of the proposed use;
2. All improvements planned in conjunction with the proposed use; and
3. Conceptual plans for possible future uses.
4. Pedestrian, bicycle, and transit facilities including pedestrian and bicycle circulation between:
  - a. Major buildings, activity areas, and transit stops within the master plan boundaries and adjacent streets and adjacent transit stops; and
  - b. Adjacent developments and the proposed development.

**Findings:** Council finds that the application includes detailed site plans showing existing and proposed building areas, existing and proposed facilities for pedestrians, bicycles, and motor vehicles, and open areas (Exhibits A-9 and A-20). Existing development to remain is identified. An existing pathway would be improved and extended from SW 40<sup>th</sup> Avenue to SW 35<sup>th</sup> Avenue, increasing connectivity between residential areas on either side of the site. The pathway would be available for pedestrians and users of Tri-Met bus route 43, which stops one block north of the site on SW Huber Street. This component requirement is satisfied.

Some testifiers argued that a pending site plan review for a grading permit in the area of the new parking facility and tennis courts was not adequately described. Council disagrees. The site plan shows in an appropriate level of detail the new parking area and tennis courts and therefore includes “improvements planned in conjunction with the proposed use” and “conceptual plans for possible future uses.” A grading plan level of detail is not appropriate for a Master Plan or required under this criterion. Instead, Council finds that conceptual plans for possible future uses is specifically articulated by this site plan component and that the applicant’s illustration of the conceptual plans for the parking area and tennis courts is sufficient to meet the burden of proof under this criterion.

**E. Development standards.** The master plan may propose standards that will control development of the possible future uses that are in addition to or substitute for the base zone

requirements and the requirements of Chapters 32.32 and 32.34 of the Sign Code. These may be such things as height limits, setbacks, FAR limits, landscaping and tree preservation requirements, parking requirements, sign programs, view corridors, or facade treatments. Standards more liberal than those of the code require adjustments.

**Findings:** Council finds that the applicant did not propose any alternative development standards. Instead, the applicant's submittal includes specific plans for the projects included in the Master Plan. Development included in the Master Plan will be required to comply with the requirements of the Conditional Use Master Plan and Adjustment Review decision and with the Zoning Code generally. No alternative development standards are proposed for this Master Plan.

**F. Phasing of development.** The master plan must include the proposed development phases, probable sequence for proposed developments, estimated dates, and interim uses of property awaiting development. In addition, the plan should address any proposed temporary uses or locations of uses during construction periods.

**Findings:** Council finds that two phases of improvements are planned:

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

Council finds that the applicant is Portland Public Schools and therefore the specific construction schedule will depend on the availability of funding. The applicant estimates that completing both phases would take at least 3 years (Exhibit A-18, page 47). The Conditional Use Master Plan will be valid for up to 10 years (Zoning Code Section 33.820.060). The existing sports fields would remain in use before, and as new facilities are constructed. No temporary uses are proposed, but the locations of planned construction trailers are shown in Exhibit A-20, pages 4-7. Council finds that this component requirement is satisfied.

**G. Transportation and parking.** The master plan must include information on the following items for each phase.

1. Projected transportation impacts. These include the expected number of trips (peak and daily), an analysis of the impact of those trips on the adjacent street system, and proposed mitigation measures to limit any projected negative impacts. Mitigation measures may include improvements to the street system or specific programs to reduce traffic impacts such as encouraging the use of public transit, carpools, vanpools, and other alternatives to single occupancy vehicles.
2. Projected parking impacts. These include projected peak parking demand, an analysis of this demand compared to proposed on-site and off-site supply, potential impacts to the on-street parking system and adjacent land uses, and mitigation measures.

**Findings:** Council finds that criteria G.1 and G.2 are also included in and covered by 33.815.100.B.1-2 which are comprehensively addressed below. Therefore, Council incorporates by reference the findings under 33.815.100.B.1-2 in response to these criteria (G.1 and G.2). Council finds that the applicant submitted a professional transportation impact study (Exhibit A-10) which analyzed the expected number of trips, parking demand, and impacts on the adjacent street system. Council further finds that PBOT evaluated the transportation impact study, and found, and we agree, that the applicant provided the information requested under G.1 and G.2. Council's findings under 33.815.100.B.1-2, below also conclude that the transportation system is capable of serving the proposed use and that the on-site parking supply is sufficient to meet the expected demand. This component requirement is satisfied.

- H. Street vacations.** The master plan must show any street vacations being requested in conjunction with the proposed use and any possible street vacations which might be requested in conjunction with future development. (Street vacations are under the jurisdiction of the City Engineer. Approval of the master plan does not prejudice City action on the actual street vacation request.)

**Findings:** No street vacations are requested with the Master Plan.

- I. Adjustments.** The master plan must specifically list any adjustments being requested in conjunction with the proposed use or overall development standards and explain how each adjustment complies with the adjustment approval criteria.

**Findings:** Council finds that the applicant's proposal lists the Adjustment requests, and the applicant addressed the Adjustment Review approval criteria in Zoning Code Section 33.805.040 in Exhibit A-18, pages 29-38. As discussed later in this Decision, Council finds the applicable approval criteria for the Adjustments are met. This component requirement is satisfied.

- J. Other discretionary reviews.** When design review or other required reviews are also being requested, the master plan must specifically state which phases or proposals the reviews apply to. The required reviews for all phases may be done as part of the initial master plan review or may be done separately at the time of each new phase of development. The plan must explain and provide enough detail on how the proposals comply with the approval criteria for the review.

**Findings:** No other discretionary reviews or approvals are requested in conjunction with the Master Plan.

- K. Review procedures.** The master plan must state the procedures for review of possible future uses if the plan does not contain adequate details for those uses to be allowed without a conditional use review.

**Findings:** No unique procedures are proposed in the Master Plan for the review of future uses or developments that are not included in the plan. During the 10-year life of the Master Plan, proposed uses or developments that are not approved in the Master Plan would require approval of a Master Plan Amendment land use review (Zoning Code Section 33.820.090).

### **33.815.100 Uses in the Open Space Zone**

These approval criteria apply to all conditional uses in the OS zone except those specifically listed in other sections below. The approval criteria allow for a range of uses and development that are not contrary to the purpose of the Open Space zone. The approval criteria are:

#### **A. Character and impacts.**

1. The proposed use is consistent with the intended character of the specific OS zoned area and with the purpose of the OS zone;

**Findings:** Zoning Code Section 33.100.010 states the purpose of the OS zone:

The Open Space zone is intended to preserve and enhance public and private open, natural, and improved park and recreational areas identified in the Comprehensive Plan. These areas serve many functions including:

- Providing opportunities for outdoor recreation;
- Providing contrasts to the built environment;
- Preserving scenic qualities;
- Protecting sensitive or fragile environmental areas;
- Enhancing and protecting the values and functions of trees and the urban forest;
- Preserving the capacity and water quality of the stormwater drainage system; and
- Providing pedestrian and bicycle transportation connections.

Council finds that this criterion plainly states and therefore requires a finding that the proposed use is consistent with the intended purpose of the Open Space zone.

The term “consistent with” has been defined by the City Council in previous decisions and we continue to adhere to that definition in this case. The City Council finds that “consistent with” is not defined in PCC 33.910. Because it is not defined in Title 33, PCC 33.700.070.D, controls and provides that words used in the zoning code have their dictionary meaning unless they are listed in Chapter 33.910; therefore, the dictionary definition controls in this case. “Consistent” means ‘marked by harmony, regularity or steady continuity’ and ‘marked by agreement.’ Webster’s Third 22 International Dictionary.

Thus, the question under this criterion is whether the proposal to increase the utility of the recreational resource, including resurfacing the fields and adding lighting, is in harmony with and does not contradict the purpose statement.

As stated above, there are several functions of the Open Space Zone:

“These areas serve many functions including:

- Providing opportunities for outdoor recreation;
- Providing contrasts to the built environment;
- Preserving scenic qualities;
- Protecting sensitive or fragile environmental areas;
- Enhancing and protecting the values and functions of trees and the urban forest;
- Preserving the capacity and water quality of the stormwater drainage system; and
- Providing pedestrian and bicycle transportation connections.”

Council finds that the purpose statement recognizes several categories of uses and functions that are to be preserved and enhanced on OS zoned properties. These categories are listed as public and private open, natural and improved park and recreational areas identified in the Comprehensive Plan. Not every open space property will have all these attributes or the same

attributes. As discussed in the record before the Hearings Officer at the hearing on October 4, 2023, the turf field and track element, for example, at Duniway Park is also in an OS zone and is recognized, like the fields at Jackson Middle School, as a “park and recreational area.” Like the fields at Duniway Park, Jackson Middle School is not a private natural area but instead an existing school campus with athletic fields that operate as much needed recreational space. Recognizing the different types of open space, the purpose statement goes on to recognize the many functions that can be served by the OS zone: “these areas serve many functions including ....” The plain interpretation of this language under PCC 33.700.070.A is that the OS zone can have many different characteristics and therefore several different functions. This language is then followed by a list of different functions OS can serve depending on what kind of OS element is at issue. Council finds under PCC 33.700.070.D, a list, when used in the zoning code, is intended to provide examples, but not be exhaustive of all possibilities. Thus, the list of functions in the OS zone purpose statement is a list of examples, not a mandate that all examples are present or served in each instance or for every property.

Accordingly, Council finds that the term “consistent with”, together with the list of many functions that serve the OS purpose, require a finding that the field replacement project is in harmony with the list of functions in the OS zone with some reference and relevance to the type of use that is proposed in the OS zone.

In this case, Council finds that this proposal is in harmony with all the listed functions.

The fields will be resurfaced to turf to provide more opportunities for outdoor recreation. The applicant testified that the PPS field resources are operating at a significant volume deficit in this area of the City and based on the long-range plan, the Jackson Middle School has the highest potential for expanding opportunities for outdoor use and recreation. The field lighting will extend the hours available for recreation resulting in no impact from light spill on surrounding properties. The turf will also lengthen the outdoor recreation season because the turf fields will remain playable in the wet season unlike the current grass surface. Many proponents also testified that the use of the present fields is impacted by the wet weather, causing uneven and unsafe surfaces and limiting overall use and play time. Based on this substantial evidence, Council concludes that the resurfacing and field lighting will “provide opportunities for outdoor recreation” in harmony with this listed function of the OS zone.

Council finds that the project is also consistent with listed functions 2, 3 and 4. The fields will remain just that, extensive fields for outdoor play and recreation continuing to offer a contrast to the built environment and a scenic break between the school use and the surrounding residential uses, consistent with functions 2 and 3. The sensitive or fragile environmental areas are designated within the Environmental Conservation Overlay zone in the northern section of the property and are not proposed for any development under this proposal. Instead, the only areas to be resurfaced were, or are now, developed with grass playing fields, tennis courts and other school infrastructure. Thus, there are no sensitive or fragile environmental areas on the site that are regulated by city standards or recognized in the Comprehensive Plan, that will be disturbed by this proposal, and the proposal is in harmony with function 4. The proposal also directly enhances and protects the values and functions of the trees and urban forest through a planting plan that adds 163 new trees to the site and street frontage and increases the tree canopy by 50%. This significant increase in trees and canopy cover is certainly in harmony with and does not contradict function 5, to enhance and protect the values and functions of trees and the urban forest.

Under function 6, there was much discussion in the testimony regarding the stormwater runoff from turf fields and whether the fields would protect the water quality and quantity from the site. Council finds that the proposed field replacement will be required to meet the SWMM requirements for water quality, quantity, and total daily maximum loads (“TMDLs”). The SWMM provides the following introduction to its purpose and requirements:

“Portland adopted its first citywide Stormwater Management Manual (SWMM) in 1999 and completes regular updates to keep standards current with best practices and regulatory requirements. The SWMM includes retention, water quality, and flow control design standards for stormwater management facilities. Strategies for meeting the requirements in this manual depend on several site factors, including infiltration feasibility and the characteristics of the storm system or drainage basin to which stormwater from the proposed development is discharged. The SWMM allows the City to protect both watershed resources and infrastructure investments as the City experiences development by public and private entities. As each project subject to the SWMM meets the requirements of this manual, it will contribute to achieving these important citywide goals.”

### 1.1.1 Regulatory Mandates

“In response to the impacts of urbanization on water quality, Congress passed the Clean Water Act (CWA) of 1972 (amended in 1987), which prohibits the discharge of pollutants into waters of the United States unless the discharge complies with a National Pollutant Discharge Elimination System (NPDES) permit. The federal Safe Drinking Water Act (SDWA) of 1974 provides a comprehensive framework to ensure the safety of drinking water supplies. The City has two NPDES permits under the CWA: one for stormwater and the separated collection system, and one that regulates the wastewater treatment plant and the combined sewer collection system. The City also has a water pollution control facility (WPCF) permit under the SDWA for underground injection controls (UICs) to protect groundwater quality. All three of these permits are issued by the Oregon Department of Environmental Quality (DEQ) and managed by BES for the City.”

“The purpose of this manual is to respond to these regulatory mandates by providing stormwater management principles and techniques that help mimic the natural hydrologic cycle, minimize sewer system problems, and improve water quality. The manual provides developers and design professionals with specific requirements for reducing the impacts of stormwater from new development and redevelopment.” (Exhibit H, 240 at pages 11-12).

This purpose statement demonstrates that the SWMM implements the water quality and water quantity controls that are required by DEQ and other federal mandates. The SWMM contains rigorous stormwater quality and quantity requirements including the regulation of targeted pollutants. Table 1-4 of the SWMM includes specific TMDL parameters for listed watersheds which includes Tryon Creek. (Exhibit H, 240 at page 27).

Council finds that consistent with the SWMM, the applicant submitted a comprehensive stormwater management report for the fields found at Exhibit A-21 of the record (“Stormwater Report”). The Stormwater Report evaluates both the quality and quantity of the stormwater runoff from the site and proposes treatment and detention protocols that the Bureau of Environmental Services BES has determined meet all the applicable stormwater management requirements of the City’s SWMM. Under Condition of Approval E, prior to issuance of the first permit for improvements under the conditional use permit, the applicant must secure concept approval for the public works permit and conform the stormwater management and treatment to the plans proposed under this application. Specifically, at least the following facilities will be installed on the site to ensure that the water quality and quantity of the stormwater from the site complies with all applicable City standards:

- The stormwater system will comprise a filter vault with filter cartridges.

- The phase 1 turf area is 225,438 SF. Water quality flow rate  $Q = CIA = 0.9 \times 0.19$  inch/hour  $\times 225,438$  SF  $\times 1/12$  feet/inch  $\times 1/3600$  seconds/hour = 0.892 cfs.
- 1, 18-inch Contech cartridge will provide 12.53 gpm of water quality flow.
- Therefore, the property will install 32 cartridges in a 17'x 9' vault.
- The catch basins draining the new paved area will also utilize the same calculations and the same filters.

Based on these calculations and the proposed filter system, BES found that the underdrains and water quality cartridges are adequate to protect water quality. BES's full findings are found in Exhibit E-2. Council finds that there is no evidence in the record that undermines the conclusions of the Stormwater Report or BES's concurrence that the proposed system will protect water quality under the SWMM.

In terms of water quantity and flow control, BES also found that the proposed system is SWMM compliant. In short, water quantity and flow control will be regulated with the following measures:

- The design storm(s) for flow control will be provided to restrict the post-development peak runoff rates to their pre-development rates for half of the 2-year storm plus the 5, 10, and 25-year storm events.
- For the artificial turf, the rock underneath the turf will operate as the flow control storage facility, including a 10' wide, 30" deep rock storage trench around the perimeter.
- A control manhole just downstream of the turf will be installed to provide the required flow control.
- There will be a perforated pipe at the bottom of the storage trench so it will completely drain.
- The trench under the field rock at the field perimeter will be 1473 long, with an area of 14,730 SF. The rock within the trench will have a void ratio of 0.33. Volume within storage trench =  $14,730 \times 2.5$  (depth)  $\times 0.33 = 12,152$  cu ft. Volume within turf base rock =  $225,438 \times 0.67$  (depth)  $\times 0.33 = 49,844$  cu ft.

These calculations and water quality and quantity control measures address the turf fields. All other impervious areas on the school site, such as the tennis courts, buildings and parking area will be treated/detained in vegetated planters in that part of the site.

Based on this water quality and quantity detention and treatment plan, Council finds that the detention will restrict the flow from the post-development 24-hour storm event to no more than the flow from the pre-developed 24-hour storm event for the following storms: half of the 2-year storm, plus the full 5-year, 10-year, and 25-year storm events; that the water quality will provide the required 90% TSS using filter cartridges; and that the conveyance will be designed for a 10-year storm frequency using the City of Portland Stormwater Management Standards. (Exhibit E-2).

Therefore, Council finds that the design for Jackson School Athletic Field Improvements adheres to the City of Portland's water quality and quantity design requirements and will be in harmony with function 6 which is to preserve the capacity and water quality of the stormwater drainage system. To reinforce the requirements of the SWMM and to allay concerns about water quality related to the turf fields, the applicant also proposed the following condition of approval:

“Prior to issuance of any permit that triggers stormwater management requirements, for any use under the Conditional Use Master Plan, the applicant must obtain approval from BES of a stormwater management plan that complies with all the applicable water



quality and water quantity requirements, including total maximum daily loads (TMDLs), of the Stormwater Management Manual (SWMM) that are in effect on the date of the first permit submittal.”

Council adopts this condition of approval.

Lastly, under function 7, the proposal is in harmony with and does not contradict “providing pedestrian and bicycle transportation connections.” As PBOT stated in its evaluation of the project, bicycle improvements were recently made within the frontage of the site on SW 35th Ave, which is the only through street touching the site. The project will also make several other improvements which will help improve pedestrian facilities. There is an existing sidewalk for the full length of the schools’ frontage on SW 35th Ave. There are sidewalk gaps which are in the process of being filled in with the Safe Routes to School project. One marked crossing exists within the frontage of the site near the front door of the school between SW Maricara St. and SW Caraway Ct. The proposal includes adding an ADA compliant curb ramp at this marked crossing. An additional crossing is planned for construction this summer at the south edge of the site. The proposal also includes ADA compliant receiving ramps at the T intersection with SW Luradel St.

There is no sidewalk within the site’s frontages on SW Alfred St. or SW 40th Ave. The proposal includes repurposing a portion of the paved roadway in SW 40th Ave. from on street parking to a protected walkway. This would span the portion of SW 40th from the SW Galeburn St. stairway to the site’s northern edge at SW Alfred St.

In addition to right-of-way improvements, Council finds that the on-site improvements will also have a transportation benefit. The onsite paved pathway that will complete the major public trail through the site will provide added connectivity to both people travelling to the school and people travelling through the site to the larger neighborhood. An on-site striped crossing is also planned to aid students in crossing the bus pull through in order to access the front door of the school from the public sidewalk on SW 35th Ave. As PBOT found, and Council agrees, the proposal will have a net positive impact on the availability of pedestrian networks in the area and is therefore in harmony with providing pedestrian and bicycle connections.

In sum, Council finds that the proposal is in harmony with each of the listed functions of the purpose statement and satisfies this approval criterion.

A number of testifiers objected that this criterion was not met based on the alleged condition of the stormwater pipe that carries Falling Creek underneath the school campus. Some testified that the pipe is in ill repair and therefore cannot withstand the weight of the materials that will be placed above it to resurface the fields. The applicant responded to this concern with a voluntary condition of approval and the condition was initially entered into the record on October 20, 2023, in the second open record period following the hearing before the Hearings Officer. Council specifically accepts this condition of approval, with one change from “BES” to “City” to clarify that approval for necessary work may be required from bureaus other than BES, and includes it in the list of required conditions at the end of this Decision. Specifically,

“The applicant is required to evaluate the condition of the creek conveyance pipe that runs across the subject property to support the proposed development, including an evaluation of the field substrates and the impact of those substrates on the structural integrity of the pipe. Prior to issuance of the first permit for Conditional Use Master Plan improvements, the applicant must obtain City approval for any necessary work on the pipe as a result of the proposed development.”

In sum, Council finds that the improved sports fields would continue to provide opportunities for outdoor recreation and open area contrasting with the built environment. Much of the site would remain grassy open area, even if both sports fields would use artificial turf. The sensitive environmental area designated by the City is a small Environmental Conservation (“c”) overlay zone on the north side of the property (Exhibit B), and no construction or disturbance is proposed within the “c” overlay zone. While 7 trees would be removed from the site (Exhibit A-9, page 16), the applicant’s landscaping plan shows a much larger number of new trees to be planted (Exhibit A-9, page 15). BES reviewed the drainage plan and proposed water quality measures for the site and found the proposal would adequately maintain the capacity and water quality of the stormwater drainage system (Exhibit E-2). An existing pathway would be improved and extended from SW 40<sup>th</sup> Avenue to SW 35<sup>th</sup> Avenue, increasing pedestrian connectivity between residential areas on either side of the site (Exhibit A-20, page 4). With the conditions of approval, Council finds that criterion A.1 is met.

Council considered the argument of some testifiers that microplastics migrating from turf fields means the proposal cannot be consistent with the purpose of the Open Space zone. This argument seemed to rely, at least in part, on the comparison of natural and artificial turf and that because natural turf may not contain any microplastics, synthetic turf fields are inferior and cannot satisfy the purpose statement of the OS zone. Council is not persuaded by and rejects this line of argument. First, turf fields are a permitted material use in the City of Portland and the record contains evidence that there are many turf fields in OS zones. Second, as discussed above, there is substantial evidence in the record that the use of turf better supports the continued recreational function of existing fields by making them more usable during the wet weather season.

And finally, like any development that triggers application of the SWMM, use of turf or any other materials will require a demonstration of compliance with the water quality, quantity and TMDL requirements of the SWMM. Because SWMM compliance is required and the applicants have demonstrated feasibility of compliance with the SWMM, as discussed in more detail above, Council is persuaded by substantial evidence that the proposal in this case is consistent with the many functions of the Open Space zone.

2. Adequate open space is being maintained so that the purpose of the OS zone in that area and the open or natural character of the area is retained; and

**Findings:** Council finds that maintaining the existing sports fields, increasing the recreational opportunities on those fields, and adding over 2 acres of new tree canopy, together with new pedestrian and bike connections maintains adequate open space so that the purpose of the OS zone is preserved, and the open and natural character of the area is retained. Natural turf will also continue to cover large portions of the site. The only new building will be a single-story, 9,825-square-foot building for storage and batting cages. While the code would permit a 50% building coverage maximum for a school site in the OS zone, this proposal calls for a maximum of only 11.4% building coverage. As described in detail above under A.1, the proposal is highly consistent with the purpose of the OS zone and Council finds criterion A.2 is met.

3. Impacts on mature trees and tree groves are minimized and City-designated environmental resources, such as views, landmarks, or habitat areas, are protected or enhanced.

**Findings:** Council finds that Exhibit A-9, page 16 shows 7 trees to be removed for this project, the largest of which is a 29-inch apple tree. The trees to be removed are a small percentage of the existing trees on the 37-acre site, and many more new trees would be planted (Exhibit A-9, page 15). A total of 163 new trees will be planted, representing a 50% increase in tree canopy and over 2 acres of new canopy on the site. The existing tree groves on the north and south

sides of the property will be preserved (Exhibit A-9, page 16). The City-designated environmental resource on the site is a small Environmental Conservation (“c”) overlay zone on the north side of the property (Exhibit B), and no construction or disturbance is proposed within the “c” overlay zone.

Testifiers argued that the Council should enforce greater environmental protections on the site resulting in a prohibition on turf fields in this location. Under ORS 227.173(1) this application can only be subject to the standards and criteria that have been adopted by the City as part of the acknowledged provisions of Title 33. Thus, plans such as the Southwest Hills Resource Protection Plan, that were not adopted as part of the Comprehensive Plan, are not approval criteria in this review. Further, under 227.178(3)(a), PCC 33.700.080.A and 33.700.090.A, this application is subject only to the regulations that were in effect on the date the applicant submitted this application if the application was rendered complete within 180 days of the date of initial submittal. Council finds that the application was submitted on September 20, 2022, and complete on March 14, 2023. Thus, only the regulations in effect on September 20, 2022, apply to this request.

The area of Environmental Overlay on the school site that was mapped and effective on September 20, 2022, is located along the north boundary of the site as shown on Exhibit B. The application does not propose any disturbance of this area. Thus, Council finds that the arguments that effectively request an expansion of the Overlay and the application of the “significant detrimental impact” test to any other area of the site are not relevant and cannot be applied to this request. PCC 33.700.080.A.

In addition, as discussed elsewhere in these findings, the proposal includes a detailed and comprehensive stormwater management system that will filter stormwater from the site in a manner that meets or exceeds the City’s requirements for water quality and quantity, thereby ensuring protection of City-designated environmental resources offsite. The evidence in the record demonstrates that the SWMM requirements implement required water quality and quantity controls. There is no evidence in the record that the proposed system cannot meet the City’s water quality requirements in the SWMM and therefore Council finds City-designated environmental resources are protected.

For these reasons, Council finds approval criterion A.3 is met.

## **B. Public services.**

1. The proposed use is in conformance with the street designations of the Transportation Element of the Comprehensive Plan;

**Findings:** Council finds the following in response to approval criterion B.1, as reflected in Exhibit E-3:

Jackson Middle School has frontage on four streets, none of which are designed as being in a pedestrian district. The abutting streets are classified in the City’s Transportation System Plan (TSP) as follows:

Street Name	Pedestrian	Bicycle	Transit	Freight	Traffic	Design
SW 35 <sup>th</sup> Ave	City Walkway	City Bikeway	Local Service	Local Service	Neighborhood Collector	Community Corridor
SW 40 <sup>th</sup> Ave	Neighborhood Walkway	Local Service	Local Service	Local Service	Local Service	Local Street

SW Alfred	Local Service	Local Service	Local Service	Local Service	Local Service	Local Street
SW Dickinson	Local Service	Local Service	Local Service	Local Service	Local Service	Local Street

Pursuant to the TSP, the above referenced street classifications include, but are not limited to, the following functions:

City Walkways are “intended to provide safe, convenient, and attractive pedestrian access along major streets and trails with moderate level of pedestrian activity supported by current and planned land uses. These includes Community and Regional Corridors, non-frequent transit lines, and moderate-demand off-street trails.”

Neighborhood Walkways are, “are intended to provide safe and convenient connections from residential neighborhoods to Major City Walkways, City Walkways, and nearby destinations such as schools, parks, transit stops, and commercial areas, primarily using routes that have low levels of motor vehicle traffic or do not allow motor vehicle traffic.”

Local Service Walkways are, “intended to serve local circulation needs for pedestrians and provide safe and convenient access to local destinations.

City Bikeways are “intended to serve the Central City, regional and town centers, station communities, and other employment, commercial, institutional, and recreational destinations”.

Local Service Bikeways are “intended to serve local circulation needs for bicyclists and provide access to adjacent properties.”

Local Service Transit streets “primarily facilitate movement of smaller transit vehicles, including paratransit and community/jobs connector shuttles. Local Service Transit Streets seldom have regular transit service except for short street segments and do not typically include transit-specific street design elements such as bus stops. Local Service Transit Streets may be used for bus movements to and from a layover facility or bus garage, for turning around at the end of a line, or for temporary reroutes of a fixed-route line.”

Local Service Freight streets “are intended to serve local truck circulation and access.”

Neighborhood Collector streets are, “intended to serve as distributors of traffic from Major City Traffic Streets or District Collectors to Local Service Streets or to serve trips that both start and end within areas bounded by Major City Traffic Streets and District Collectors.”

Local Service Traffic streets are “intended to distribute local traffic and provide access to local residences or commercial uses”

Community Corridors are “designed to include special amenities to balance motor vehicle traffic with public transportation, bicycle travel, and pedestrian travel”.

Local Streets “are designed to complement planned land uses and reduce dependence on arterials for local circulation.”

Council finds that all of the surrounding streets will continue to function as intended above; the continuation of the site as an institutional use will not impact the classifications or functions of said streets. Council therefore finds that the proposed use is supportive of the street designations of the Transportation Element of the Comprehensive Plan.

Council finds approval criterion B.1 is met.

2. Transportation system:

- a. The transportation system is capable of supporting the proposed use in addition to the existing uses in the area. Evaluation factors include safety, street capacity, level of service, connectivity, transit availability, availability of pedestrian and bicycle networks, on-street parking impacts, access restrictions, neighborhood impacts, impacts on pedestrian, bicycle, and transit circulation. Evaluation factors may be balanced; a finding of failure in one or more factors may be acceptable if the failure is not a result of the proposed development, and any additional impacts on the system from the proposed development are mitigated;
- b. Measures proportional to the impacts of the proposed use are proposed to mitigate on- and off-site transportation impacts. Measures may include transportation improvements to on-site circulation, public street dedication and improvement, private street improvements, intersection improvements, signal or other traffic management improvements, additional transportation and parking demand management actions, street crossing improvements, improvements to the local pedestrian and bicycle networks, and transit improvements;
- c. Transportation improvements adjacent to the development and in the vicinity needed to support the development are available or will be made available when the development is complete or, if the development is phased, will be available as each phase of the development is completed;

**Findings:** Council concurs with PBOT's review of the proposal and the following findings and response:

The applicant submitted a transportation impact study (TIS) prepared by Brent Ahrend, PE of Mackenzie [Exhibit A-10]. Mr. Ahrend is a registered professional traffic engineer. The study was reviewed with the Feb. 23, 2023, version being approved by PBOT employee Andy Jeffrey, PE who is a registered professional traffic engineer. The study documents the approval criteria in detail as discussed below. The study found that off-site mitigation is not required. Mitigation is proposed both on-site and in the public right-of-way abutting the subject site. The proposed mitigation has been scaled to the anticipated impact of the development proposed.

Before addressing the specific findings of the study, Council acknowledges City transportation projects that will benefit both the users of the school site and the neighborhood generally in the short-term future. The Tryon-Stephens Neighborhood Street Improvement Project includes planned improvements to SW Galeburn St. to the west of the school as depicted in the graphic below. Construction is anticipated in 2025. Jackson Middle School is the yellow area on the right-hand side of the graphic.



Portland's Safe Routes to School program also has the SW 35th Ave Sidewalk Infill and Crossing Project. Construction is anticipated in summer of 2023. The scope of the project includes sidewalk infill, ADA ramps, and a cross walk as shown in the graphic to the right. Jackson Middle School is on the left side of the photo. This will complete the SW 35th Ave. sidewalk near the school, provide an additional marked crosswalk, and ADA compliant curb ramps.



### Safety

Council finds that the submitted TIS findings show none of the study intersections have a motor vehicle crash rate above 1.00 CMEV. A crash rate above 1.00 CMEV means an intersection is experiencing more crashes than average for an intersection with the level of vehicles entering the intersection.

PBOT recently undertook a project on SW 35th Ave. to provide striped bicycle lanes. Construction was completed in March of 2022. Council finds that the creation of striped bicycle lanes on the only through street touching the school site provides an increased level of comfort and safety for cyclists.

Council finds that there are no existing safety issues that have been identified.

This evaluation factor is therefore satisfied.

#### Street capacity, Level of service

Council finds that the proposed field expansion will result in a modest increase in trips to the site.

Council finds that the TIS demonstrates that all intersections would continue to operate at the City's accepted Level of Service or better. The traffic data was collected at the time of day with the highest anticipated level of traffic, that is, during school dismissal when Jackson Middle school students are leaving, and users of the athletic fields are arriving. The TIS shows that all study intersections operate at level of service A with the following caveat noted in the TIS:

SW 35th and SW Huber Street does see a spike in queuing and delay just before and after school is dismissed for about 15 to 20 minutes. This increase in delay is outside of the normal 4:00 PM to 6:00 PM peak of the street. The pattern of an increase in delay from 3:40 to 4:00 PM should remain the same since the school has no plans to change the athletic schedule at the school during this time period. The intersection performance is acceptable even when considering that the longest delay the last vehicle in a queue experienced was about six seconds with a LOS A. Because the intersection operates at an acceptable level with a short spike in vehicle delay and queuing during 15 to 20 minutes it takes to dismiss the students, and only a few trips would be added with the field improvements, no mitigation should be needed to keep the intersection operating at an acceptable level.

Council finds that even with the modest increase in trip generation, the surrounding intersections are anticipated to continue to operate well above City standards. Council finds that this evaluation factor is satisfied.

#### Connectivity

The City's spacing goals for public through streets and public pedestrian connections is a maximum of 530-ft and 330-ft, respectively. While connectivity in public right-of-way is one of the City's goals, the City typically does not seek to further this goal by bifurcating school sites. Creating new public streets through this site would be very disruptive to the school operation and would be extremely costly to due to slope and drainage issues. Additionally, the school facilities would need to be relocated or demolished to accommodate any new public street. When streets are not viable, the City seeks alternative connections such as pedestrian pathways that connect to the public street system. In this case, the site has a major public trail designation, a designation the City has imposed through a prior legislative action that identifies the preferred connection through the school property. Consistent with this trail designation, the applicant's proposal includes installing a paved sidewalk to connect SW 40th to SW 35th Ave. through a sidewalk that will be available for public use. Given the scale of the project and the major public trail designation, Council finds that this approach to meeting the City's connectivity goals on this site is preferred and this evaluation factor is therefore satisfied.

#### Transit availability

Council finds that Tri-Met Route 43 is the closest bus route to the site, with stops at the intersection of SW 35th Avenue with Huber Street. Buses only run during peak periods on weekdays, with three morning and four afternoon buses. Headways are approximately 60 minutes. Route 44, located along Capitol Highway, provides service throughout the day on weekdays with approximately 30-minute headways during peak times. The nearest stops are at the intersections of Huber and Galeburn Streets, approximately 1,500 and 1,300 feet from the west site boundary.

Transit service is therefore provided in the vicinity of the study area. Council also finds that the proposed field upgrades are internal to the existing campus. Transit availability will not be impacted by the proposed project. Construction of the on-site path and pedestrian improvements in SW 40th Ave. will combine with PBOT funded improvements to SW Galeburn St. and together, these projects will improve the ability of area transit riders to access transit at Capitol Highway and SW Galeburn St. Council finds this evaluation factor is satisfied.

#### Availability of pedestrian and bicycle networks

Council finds that bicycle improvements were recently made within the frontage of the site on SW 35th Ave, which is the only through street touching the site. Given only a modest increase in trip generation resulting from the proposal, Council finds that additional bicycle improvements are not warranted by the scope of this project. As explained in detail below, the proposed project will make incremental improvements which will help improve pedestrian facilities. These improvements are scaled to be proportional to the impact of this project.

Council finds that pedestrian routes to schools are very important to the overall transportation network. There is an existing sidewalk for the full length of the schools' frontage on SW 35th Ave. There are also gaps in the sidewalk facilities near the school which are in the process of being filled with the Safe Routes to School project noted above. One marked crossing exists with the frontage of the site near the front door of the school between SW Maricara St. and SW Caraway Ct. The proposal includes adding an ADA compliant curb ramp at this marked crossing. An additional crossing is planned for construction this summer at the south edge of the site. The proposal also includes ADA compliant receiving ramps at the T-intersection with SW Luradel St.

There is no sidewalk within the site's frontages on SW Alfred St. or SW 40th Ave. The proposal includes repurposing a portion of the paved roadway in SW 40th Ave. from on street parking to a protected walkway. This would span the portion of SW 40th from the SW Galeburn St. stairway to the site's northern edge at SW Alfred St. Creation of a sidewalk behind the existing curb on SW 40th Ave. would be complex and expensive due to the slopes and drainage issues. Council finds that the applicant's proposal to provide the improvement to SW 40th Ave. provides enhanced pedestrian connectivity and safety for users of the site and is balanced with the relatively small scale of the project.

In addition to right-of-way improvements, the applicant is also proposing on-site improvements that will have a transportation benefit. The onsite paved pathway that will complete the major public trail through the site will provide added connectivity to both people travelling to the school and people travelling through the site to the larger neighborhood. An on-site striped crossing is also planned to aid students in crossing the bus pull through in order to access the front door of the school from the public sidewalk on SW 35th Ave. With these improvements, Council finds that the proposal will have a net positive impact on the availability of pedestrian networks in the area. This evaluation factor is satisfied.

#### On-street parking impacts

In addition to the findings under this factor, Council incorporates by reference the findings under 33.820.070.G.2 below for a complete analysis of parking impacts [Exhibit E-3, pages 5-6]. As demonstrated by the parking demand analysis, there is ample on-site parking provided to accommodate the entire estimated demand and to exceed the observed demand. The project includes new on-site pedestrian pathways which will make accessing the fields from the existing on-site parking lot more attractive and convenient. Council finds that connecting the existing parking on-site to the fields via a pedestrian system will mitigate the impact of the proposal on the on-street parking supply by making the on-site parking supply easier to use.



Some testimony seemed to suggest that the field improvement project or the school does not have enough parking and therefore the improvement proposal will result in more on-street parking. The substantial evidence in the record is to the contrary.

PCC 33.266, Table 266-2 requires a minimum of 1.0 spaces per classroom for a middle school. The Jackson Middle School includes 42 classrooms, so the minimum required parking is 42 stalls. The proposal calls for 290 stalls in compliance with this minimum parking requirement. There is no parking requirement for Athletic Fields and Parks, so no parking is required to serve the fields, but the Institute of Transportation Engineers *Parking Generation Manual*, 5th Edition offers some guidance on demand in this case. Similar to the trip generation estimates, the traffic engineer used rates for Soccer Complex (LUC 488) and Tennis Courts (LUC 490) to predict demand.

As shown in Exhibit A-10, parking generation provided in ITE's *Parking Generation Manual*, 5th Edition, for six soccer fields estimates a peak demand of 373 spaces on Saturdays. (Exhibit A-10). This assumes all fields are full sized, which is not the case for this site. Adjusting to account for up to seven players per team – instead of a full 11 players for the four youth sized fields results in an average demand of 282 spaces (2 fields x 62.1 spaces/field + 4 fields x 7/11 x 62.1 spaces/field). Parking rates for tennis courts indicate an average rate of 2.7 spaces per court. Assuming a similar Saturday afternoon peak as the soccer fields, the two tennis courts would need six spaces. The proposed 290 parking spaces will satisfy the peak demand of 288 spaces estimated for a peak Saturday for both the soccer fields and tennis courts. Peak field use will occur on Saturdays and after school hours on weekdays; thus, there is no shared peak demand between the school and the field use.

Based on the above, Council finds there is substantial and unrefuted evidence in the record that demonstrates that the uses will not have on-street parking impacts.

This evaluation factor is satisfied.

#### Access restrictions

The site has frontage on multiple streets with all driveway access from SW 35th Ave. The proposal does not include any changes to the existing access points. There is no documented history of crashes or safety concerns with the existing access points. Relocating the access points to other streets is not viable given the location of the school and parking lots. Council therefore finds that no access restrictions are warranted. This evaluation factor is satisfied.

#### Neighborhood Impacts

##### Impacts on pedestrian, bicycle, and transit circulation

As documented throughout the findings above, Council finds that the proposed expansion of the existing fields is anticipated to result in a modest increase in trips to the site. The applicants are proposing both on-site improvements and right-of-way improvements that will address the need for pedestrian improvements in the area. Together with other in process publicly funded projects, the proposal will have a net benefit to area transportation network. Council finds, as above, that the proposal will create a new pedestrian connection with a sidewalk through the site connecting SW 35<sup>th</sup> to SW 40<sup>th</sup> Avenues. The proposal also includes a new protected pedestrian pathway along SW 40<sup>th</sup> Avenue with access to the pedestrian path. No element of the proposal will have any impact on current bicycle or transit circulation and all intersections will continue to operate in compliance with the City's designated level of service criteria.

As documented in the TIS, Council finds that area roadways are anticipated to continue to operate well within City standards. The proposal includes ample on-site parking to accommodate all the anticipated parking demand. With this evidence, Council finds that no additional mitigation

measures are recommended beyond the following proposed improvements to the transportation system, each of which are required under the conditions of approval:

- Enhanced trail through the school connecting to SW 35th Avenue and SW 40th Avenue.
- Improved sidewalk connections between the school and SW 35th Avenue.
- Install a pedestrian pathway along school's frontage of SW 40th Avenue.

Some testifiers questioned whether the site has sufficient bike parking. The TIS addressed bicycle parking. The site currently includes 16 bike parking spaces. Table 266-6 of the Zoning Code requires a minimum of 5 long term spaces per classroom, or 210 long term spaces, and 2 short term spaces based on the net area of the school building. For this site, this equates to 212 total spaces which will be provided as a nonconforming upgrade in Phase 1 of the proposal. No bike parking is required for Recreational Fields for Organized Sports. Council concurs with the TIS conclusion that bike parking is likely to peak during games and practices after school hours. On weekends, bike parking demand is likely lower due to families typically driving to and from games with one or multiple participants. Thus, the 212 bike parking spaces are expected to be sufficient for the fields given the different peak demand times for the bike parking.

With these improvements, and this evidence, Council finds that the proposal will positively contribute to the neighborhood through enhanced pedestrian connections, an increased bike parking supply and no impact on transit or bicycle circulation.

3. Public services for water supply, police and fire protection are capable of serving the proposed use, and proposed sanitary waste disposal and stormwater disposal systems are acceptable to the Bureau of Environmental Services.

**Findings:** There was significant testimony regarding this criterion and whether the City correctly determined that the proposed stormwater system is capable of serving the use and is acceptable to the Bureau of Environmental Services ("BES"). Council finds that this criterion expressly and plainly requires that the City make a finding that the proposed system is "capable" of serving the proposed use and is "acceptable" to BES. Many testifiers requested that the City broaden this criterion in a manner that would effectively prohibit artificial turf fields even if the stormwater system serving those fields was capable of serving the proposed use and acceptable to BES. Council rejects this argument. The City manages and regulates stormwater disposal systems through the Stormwater Management Manual ("SWMM") and the Source Control Manual ("SCM"). BES then reviews the proposal against each of these documents and determines whether the proposed system is "capable" of serving the use and the system is "acceptable" to BES. In both cases, BES found that the proposed system is capable of serving the proposed use and acceptable to BES. That the testifiers object to the use of artificial turf as a field material is not relevant to whether the proposed stormwater system is capable of serving the use and acceptable to BES under the SWMM and SCM.

Council finds that there is substantial evidence in the record to support BES's determination that the proposal satisfies this criterion. Consistent with the SWMM, the applicant submitted a comprehensive stormwater management report for the fields found at Exhibit A-21 of the record ("Stormwater Report"). The applicant also submitted a geotechnical report dated October 24, 2022, which evaluated the infiltration rates for the site. BES concurred with the applicant's expert study that infiltration rates would not support on site infiltration. The Stormwater Report then evaluates both the quality and quantity of the stormwater runoff from the site and proposes treatment and detention protocols that BES has determined meet all the applicable stormwater management requirements of the City's SWMM and is therefore capable of serving the proposed use and acceptable to BES.

Specifically, Council finds at least the following facilities will be installed on the site to ensure that the water quality and quantity of the stormwater from the site complies with the SWMM and SCM:

- The stormwater system will comprise a filter vault with filter cartridges.
- The phase 1 turf area is 225,438 SF. Water quality flow rate  $Q = CIA = 0.9 \times 0.19$  inch/hour  $\times 225,438$  SF  $\times 1/12$  feet/inch  $\times 1/3600$  seconds/hour = 0.892 cfs.
- 1, 18-inch Contech cartridge will provide 12.53 gpm of water quality flow.
- Therefore, the property will install 32 cartridges in a 17'x 9' vault.
- The catch basins draining the new paved area will also utilize the same calculations and the same filters.

Based on these calculations and the proposed filter system, BES found, and Council agrees that the underdrains and water quality cartridges are adequate to protect water quality. Council incorporates the additional BES findings found in Exhibit E-2. There is no evidence in the record that undermines the conclusions of the Stormwater Report or BES's concurrence that the proposed system will protect water quality under the SWMM.

In terms of water quantity and flow control, BES also found, and Council agrees, that the proposed system is SWMM compliant. In short, water quantity and flow control will be regulated with the following measures:

- The design storm(s) for flow control will be provided to restrict the post-development peak runoff rates to their pre-development rates for half of the 2-year storm plus the 5, 10, and 25-year storm events.
- For the artificial turf, the rock underneath the turf will operate as the flow control storage facility, including a 10' wide, 30" deep rock storage trench around the perimeter.
- A control manhole just downstream of the turf will be installed to provide the required flow control.
- There will be a perforated pipe at the bottom of the storage trench so it will completely drain.
- The trench under the field rock at the field perimeter will be 1473 long, with an area of 14,730 SF. The rock within the trench will have a void ratio of 0.33. Volume within storage trench =  $14,730 \times 2.5$  (depth)  $\times 0.33 = 12,152$  cu ft. Volume within turf base rock =  $225,438 \times 0.67$  (depth)  $\times 0.33 = 49,844$  cu ft.

These calculations and water quality and quantity control measures address the turf fields. All other impervious areas on the school site, such as the tennis courts, buildings and parking area will be treated/detained in vegetated planters in that part of the site.

Based on this water quality and quantity detention and treatment plan, BES concluded, and the Council agrees, that the detention will restrict the flow from the post-development 24-hour storm event to no more than the flow from the pre-developed 24-hour storm event for the following storms: half of the 2-year storm, plus the full 5-year, 10-year, and 25-year storm events; that the water quality will provide the required 90% TSS using filter cartridges; and that the conveyance will be designed for a 10-year storm frequency using the City of Portland Stormwater Management Standards. (Exhibit E-2).

Therefore, Council finds that the design for Jackson School Athletic Field Improvements adheres to the City of Portland's water quality and quantity design requirements and the system is "capable" of serving the proposed use and acceptable to BES.

Council considered public testimony that the SWMM should more rigorously regulate microplastics. Council and BES applied the adopted and effective version of the SWMM to the

facts of this case. The SWMM and SCM contain the City regulations for protection of storm water quality and quantity as well as TMDLs in the Tryon Creek watershed. If testifiers believe that the SWMM should be updated to specifically address their concerns, they can participate in the next round of amendments to the SWMM and SCM and present evidence supporting their requested amendments.

To reinforce the requirements of the SWMM and SCM that have already been comprehensively addressed in this record and these findings, and to allay concerns about water quality related to the turf fields, the applicant also proposed the following conditions of approval:

“Prior to issuance of any permit that triggers stormwater management requirements, for any use under the Conditional Use Master Plan, the applicant must obtain approval from BES of a stormwater management plan that complies with all the applicable water quality and water quantity requirements, including total maximum daily loads (TMDLs), of the Stormwater Management Manual (SWMM) that are in effect on the date of the first permit submittal.”

Council accepts and adopts this condition of approval. Further, as stated above, testimony cited concerns about the condition of the stormwater pipe running beneath the school site. The applicant, in response, proposed the following condition of approval to address concerns about the function and structural integrity of the pipe. As discussed above, Council accepts and adopts this condition of approval, with one minor change:

“The applicant is required to evaluate the condition of the creek conveyance pipe that runs across the subject property to support the proposed development, including an evaluation of the field substrates and the impact of those substrates on the structural integrity of the pipe. Prior to issuance of the first permit for Conditional Use Master Plan improvements, the applicant must obtain City approval for any necessary work on the pipe as a result of the proposed development.”

In terms of sanitary service, BES found, and Council agrees that BES reviewed the proposal for impacts to sanitary waste disposal and found that with a condition of approval for improvements to a sanitary sewer main that crosses this site, the proposal will be adequately served by sanitary sewer as described in Exhibit E-2.

Council finds, based on substantial evidence in the record, that the proposed stormwater and sanitary system is capable of serving the use and has been accepted by BES. Further, Council finds that the proposed system will protect water quality and quantity as required by the provisions of the SWMM and SCM. The conditions of approval cited above do not replace but instead reinforce these conclusions.

The Council also finds that the Water Bureau reviewed the proposal and responded with no concerns, indicating that water service available to the site is adequate as described in Exhibit E-4. The Police Bureau found that police services are also adequate for the proposal as described in Exhibit E-6. The Fire Bureau reviewed the proposal and responded with no objections, indicating that fire protection services are also adequate as described in Exhibit E-5.

For these reasons, and with the conditions of approval recommended by BES and accepted by Council, we find criterion B.3 is met.

**C. Livability.** The proposal will not have significant adverse impacts on the livability of nearby residential-zoned lands due to:

1. Noise, glare from lights, late-night operations, odors, and litter; and

## 2. Privacy and safety issues.

**Findings:** The components of approval criterion C are discussed individually below:

### Noise

Council finds that the outdoor recreation on the site will continue to generate some noise, and the new field lights proposed for the north field will increase the hours of use of this field. However, no late-night use of the field is proposed, limiting noise impacts to daytime and evening hours, and each of the fields would still accommodate only one scheduled game at a time. Council finds that the applicant does not propose any public address system and therefore there will be no amplified sound from the fields. Although a small amount of existing spectator seating would remain, no new spectator seating is proposed further limiting the typical sources of noise from athletic fields or school grounds. Any future proposal to significantly increase spectator seating or to install any public address system would require approval of a new Conditional Use Review (Zoning Code Section 33.279.035.A.1 and A.7). Based on the site plan, in this case, the fields will be set back from neighboring lots with distances that exceed the setback requirements for sports fields in Zoning Code Section 33.279.040.B. The north field would be approximately 60 feet from the nearest residential lot, and the south field would be approximately 90 feet from the nearest residential lot. For these reasons, Council finds that any increased noise would not create a significant adverse impact on the residential area, and that noise would not be greater than reasonably expected from a school campus.

### Glare from lights

New field lighting is proposed for the north field. The applicant submitted testimony to the Hearings Officer demonstrating that the increased height of the poles would ensure that the light will be directed onto the field and would not be directed off site. This design will limit light spill to well below the City standard for light spill in residential areas as shown in Exhibit A-18, page 34. The proposed heights of the light poles are discussed in the findings for the Adjustment Review later in this Decision. The applicant also submitted a photometric analysis showing that glare perceptible at the nearest residential lot lines would not exceed 0.5 foot candles of light, as required by Zoning Code Section 33.262.080.A as shown in Exhibit 14, pages 6-7. A foot candle is the approximate brightness of one candle at a one-foot distance. In fact, the applicant's presentation before the Hearings Officer demonstrates that the foot candles of light within the perimeter streets and before even crossing the street to the residential area are well below the 0.5 footcandle standard. Council finds that the proposal will have no significant adverse impact based on glare from lights.

### Late-night operations

Council finds that no late-night operations are proposed. The applicant's proposal is for scheduled games to end by 9:30 pm and for all outdoor activities around the fields to end by 10pm. Lights will be turned off by 10:00 pm to aid with safe existing and a condition of approval requires that field lights are turned off by 10 pm to ensure that all activity ends by that hour. Council finds that these hours of operation are similar to the hours of operation of other lighted fields throughout the City in similar areas.

### Odors

None of the proposed improvements are expected to cause unusual or offensive odors perceptible to neighbors.

### Litter

Council finds that because no new spectator seating is proposed, the proposed improvements are unlikely to significantly increase the amount of litter compared to the existing condition. Council further finds that this is a school site with maintenance staff and a continual presence on the site. School staff will continue to be responsible for maintaining the site and therefore increased litter is not expected and will not cause a significant adverse effect on the neighborhood.

### Privacy

The school site is already developed with fields that are used by the applicant and other leagues and clubs in the City. The fields will remain in their current location and will not be located any closer to the neighboring residential lots to significantly affect privacy. The north field will be approximately 60 feet from the nearest residential lot, and the south field would be approximately 90 feet from the nearest residential lot. The applicant's landscaping plan also calls for the addition of 163 new trees on the site including street trees that will further buffer the fields from residential lots across the rights of way. Field use will terminate by 9:30 pm with lights off by 10:00 pm which will avoid any late-night operations. As discussed above, the lighting design and technology will eliminate light spill on residential properties across the street at foot candle measurements well below the permitted standard. No amplified sound is permitted under this application. With these measures, Council finds that the proposal will have no significant adverse effect on privacy.

### Safety

No significant safety impacts are anticipated. The Fire Bureau and Police Bureau both reviewed the proposal and responded with no concerns as described in Exhibits E-5 and E-6, respectively. Council also reiterates that PBOT also reviewed the proposal and found the improvements would not impact the safety of the transportation system and would in fact enhance pedestrian and bicycle safety through a number of measures including the protected pedestrian walkway along SW 40<sup>th</sup> and the new pathway for public use connecting SW 35<sup>th</sup> to SW 40<sup>th</sup> as described in Exhibit E-3, page 8-9.

Some testimony questioned whether bathroom facilities would be available. The applicant responded that it would provide portable toilet facilities on site and would work with the neighborhood on the appropriate placement of those facilities. In response to questions from the Council, the applicant confirmed that the facilities would be maintained and secured by a partnership between PIL and PPS.

Council finds based on this evaluation and evidence that the proposal will enhance several conditions in the neighborhood and will have no significant adverse effect on the livability of nearby residentially zoned lands. Council finds criterion C is met.

**D. Area plans.** The proposal is consistent with any area plans adopted by the City Council as part of the Comprehensive Plan, such as neighborhood or community plans.

**Findings:** As a threshold issue, Council finds that the Southwest Community Plan is applicable and relevant to the Conditional Use Master Plan Review. The Hearings Officer also agreed that the Southwest Community Plan applies to the application. Some of the public comments suggested that the Southwest Hills Resource Protection Plan is also applicable to this application. Council rejects this argument. As the Hearings Officer found:

“Under ORS 227.173(1) this application can only be subject to the standards and criteria that have been adopted by the City as part of the acknowledged provisions of Title 33. Thus, as stated in the Staff Report, plans such as the Southwest Hills Resource Protection

Plan, that were not adopted as part of the Comprehensive Plan, are not approval criteria in this review.”

Council agrees that the Southwest Hills Resource Protection Plan does not apply to this application because it has not been adopted as part of the acknowledged provisions of Title 33.

The site is within the boundaries of the Southwest Community Plan, which was adopted by the City Council as part of the Comprehensive Plan. PCC 33.820.100.D again requires that the proposal is “consistent with” the Southwest Community Plan. The Hearings Officer found, and Council concurs, that the following statements from the Southwest Community Plan are relevant to the proposal:

*Parks, Recreation, and Open Space Policy, Objective 1: Create new parks and open spaces in Southwest Portland to meet current and future needs for parks, recreation and open space at levels that meet or exceed standards adopted by the City.*

*Parks, Recreation, and Open Space Policy, Objective 4: Maintain and enhance existing parks, recreational programs, and community centers in Southwest Portland to serve current and future residents.*

Council finds that this request is in harmony with and does not contradict these objectives because it creates new recreational assets on existing field space that will meet the future needs of the applicant, PPS, as well as members of the community and public. There was substantial testimony in the record from field users and PPS that there is a recreational field deficit in this area of the City and that the condition of the present fields in the wet season and in the evenings reduces the utility of the fields for the community. With the turf replacement and the directed field lighting, this proposal significantly expands the recreational opportunities in this open space consistent with, in harmony with, these policies. Under Objective 4, maintaining these fields in a manner that enhances their utility and function will serve current and future residents.

*Parks, Recreation, and Open Space Policy, Objective 2: Preserve natural areas for wildlife habitat, environmental and scenic values.*

As explained in the Staff Report and Hearings Officer’s decision, scenic values are recognized and protected through the “s” overlay which is not present on this site. The natural areas on the site, namely the existing tree groves will be retained on the 37-acre site. Only 7 trees are proposed for removal and 163 trees will be planted, increasing the canopy coverage on the site by 50%. Council finds that the proposal is in harmony with and does not contradict natural and environmental values through a variety of means discussed in detail above under the purpose of the OS zone. The Environmental Overlay zone will not be disturbed and the natural areas of the site, namely the existing tree groves will be preserved and maintained. The grass playing fields do not provide any recognized wildlife habitat but the addition of 163 trees will certainly invite more wildlife onto the site enhancing the environmental value of the school site. Lastly, as detailed above, the field improvement project will be required to meet all the water quality, quantity and TDML requirements applicable in the Tryon Creek watershed as listed in the SWMM. With these measures, the proposal is in harmony with, enhances and does not contradict this policy.

Some testimony seemed to suggest that any resurfacing from natural grass to artificial turf would be inconsistent with this policy. Council rejects that argument. The grass fields are in use by the school and athletic programs and as some testified by users walking or exercising their dogs. The grass fields do not currently operate as a natural area for wildlife but instead a recreational field for soccer, baseball, softball and track and field. Replacing some of the natural turf with artificial turf does not convert a natural area to an unnatural area as suggested. And Council finds that planting over 163 new trees with improved stormwater management facilities will improve the

habitat and environmental conditions on the site with an increase of over 50% in new tree canopy cover.

*Parks, Recreation, and Open Space Policy, Objective 11: Encourage the development of well-designated, well-maintained trails and bicycle paths in Southwest Portland as recreational opportunities.*

Council finds, as above, that the proposal includes a new trail connection through the site linking SW 37<sup>th</sup> to SW 40<sup>th</sup> and includes a new protected pedestrian path along SW 40<sup>th</sup>. Each of these improvements introduces a well-maintained trail connection as an added recreational opportunity and offers this new connection with improvements to existing recreational fields that will serve the school and larger community in harmony with this policy.

*Transportation Policy, Objective 12: Analyze potential transportation impacts and require appropriate mitigation measures for new development consistent with review processes and provisions of the City Code.*

Council finds that the transportation impacts and proposed improvements are fully addressed above and demonstrate that the applicant complied with the review processes of the City Code for submitting a TIS and parking study. The TIS concludes that all study intersections will continue to operate at an acceptable level of service and the proposal, and this Decision, include mitigation measures that are proportionate to the impact of the projected uses including crossing improvements, a protected sidewalk along SW 40<sup>th</sup> and a new pathway that crosses the site and connects SW 35<sup>th</sup> to SW 40<sup>th</sup> Avenues. Thus, Council finds that the proposal is in harmony with this policy.

*Watershed Policy, Objective 1: Manage stormwater runoff on a watershed-wide basis to:*  
*(a) Prevent any net degradation of water quality, aquatic and streamside plant and animal habitats and ecosystems, channel stability, or watershed health.*  
*(b) Minimize risk to public safety, private property, and public infrastructure.*  
*(c) Reduce the volume, velocity and pollutant load of stormwater runoff entering streams.*  
*(d) Improve dry season stream flows, particularly in headwater areas.*

*Watershed Policy, Objective 4: Promote the maintenance and restoration of the urban forest canopy and use of native vegetation in headwater areas, within upland forests, and along riparian and wildlife corridors.*

In response to these watershed policies, Council incorporates by reference our response to the purpose of the Open Space zone and the findings related to conformance with the SWMM. Much of the testimony presented in this case by the appellant and its supporters centered on whether the artificial turf fields would harm the watersheds in the area under these watershed policies. Notably, the SWMM is structured to regulate development for its impact on the watershed:

“The SWMM allows the City to protect both watershed resources and infrastructure investments as the City experiences development by public and private entities. As each project subject to the SWMM meets the requirements of this manual, it will contribute to achieving these important citywide goals.”

And the SWMM standards are designed to protect both people and fish:

“In response to the impacts of urbanization on water quality, Congress passed the Clean Water Act (CWA) of 1972 (amended in 1987), which prohibits the discharge of pollutants into waters of the United States unless the discharge complies with a National Pollutant Discharge Elimination System (NPDES) permit. The federal Safe Drinking Water Act (SDWA) of 1974 provides a comprehensive framework to ensure



the safety of drinking water supplies. The City has two NPDES permits under the CWA: one for stormwater and the separated collection system, and one that regulates the wastewater treatment plant and the combined sewer collection system. The City also has a water pollution control facility (WPCF) permit under the SDWA for underground injection controls (UICs) to protect groundwater quality. All three of these permits are issued by the Oregon Department of Environmental Quality (DEQ) and managed by BES for the City.

The purpose of this manual is to respond to these regulatory mandates by providing stormwater management principles and techniques that help mimic the natural hydrologic cycle, minimize sewer system problems, and improve water quality. The manual provides developers and design professionals with specific requirements for reducing the impacts of stormwater from new development and redevelopment.” (Exhibit H, 257 at pages 11-12) (Emphasis added).

Council finds that Watershed Policy Objective 1 reflects the same objectives and the same intended results as the requirements of the SWMM and the SCM; that is, “to protect both watershed resources and infrastructure investments as the City experiences development by public and private entities” and “providing stormwater management principles and techniques that help mimic the natural hydrologic cycle, minimize sewer system problems, and improve water quality.” Thus, Council finds that compliance with the SWMM and SCM must also constitute compliance with Watershed Policy Objective 1. Council finds that the general Watershed Policy of the Southwest Community Plan that applies to a broad geography is satisfied by the application of the specific standards of the SWMM and SCM that apply on a project specific basis to a site within the Southwest Community Plan area. Council concludes that a project that meets the rigorous standards of the SWMM, adopted to respond to regulatory mandates to protect watershed health, and reduce the volume, velocity and pollutant load of runoff entering streams also meets the general watershed policy that is aimed at preventing net degradation of water quality, and reducing the volume, velocity and pollutant load of stormwater runoff entering streams.

With this background, the specific requirements for this proposal were addressed in the Stormwater Report submitted by the applicant and approved by BES for purposes of responding to the Conditional Use Master Plan criteria. Council finds that at the time a development permit that triggers the SWMM and SCM is submitted under this approval, BES will once again review the operational parameters proposed for the specific project and will evaluate that project against the SWMM and SCM and require the applicant to meet all the water quality, water quantity and TMDL standards for this Tryon Creek watershed. Thus, in any case, Council finds that this proposal will be in harmony with the policies that aim to prevent any net degradation of water quality, aquatic and streamside plant and animal habitats and ecosystems, channel stability, or watershed health. Compliance with the SWMM and SCM will ensure that the project will minimize risk to public safety, private property, and public infrastructure, reduce the volume, velocity and pollutant load of stormwater runoff entering streams and improve dry season stream flows, particularly in headwater areas.

There is also substantial evidence in the record that clearly demonstrates that compliance with the SWMM will ensure compliance with these objectives. The criterion is whether the project is in harmony with and does not contradict these policies. The proposal is in harmony with these policies because it will not degrade any of the listed resources and will reduce stormwater flows through compliance with the SWMM.

This Conditional Use Master Plan approval is not itself a development permit. Instead, it is a decision that can only be implemented by subsequent development permit applications with specific designs and those designs will be required to meet all the applicable stormwater requirements for water quality, quantity and TMDLs that apply on the date the first development permit that triggers stormwater management is submitted. That does not mean, as some

opponents have suggested, that we are deferring our evaluation and review. In fact, the applicant was required to design and propose a stormwater system consistent with the SWMM and SCM that demonstrates that all the proposed development could be adequately served and compliant with the watershed sensitive standards of the SWMM and SCM. As comprehensively discussed above, the applicant made that showing and Council finds no evidence in the record that undermines that showing. As the Hearings Officer concluded:

“Turf fields are a permitted use in the City and the City regulates the impact of turf fields through comprehensive stormwater management protocols that prevent and mitigate the kinds of impacts some of the opponents have identified in their testimony. The Applicant did propose a condition of approval relating to crumb rubber turf, which the Hearings Officer accepts:

“Crumb rubber shall not be used in the development of the turf fields on the subject property.”

Some opponents requested the Applicant identify the type of turf field that it will be using in the future. Because this is a Conditional Use Master Plan with a 10-year term, it is reasonable to assume there will be improvements in material design and technology over the life of the Master Plan that will dictate the turf surface that PPS elects to install at the school, and it is unreasonable to require PPS to commit to a particular type of turf field now. Regardless, the selection of the turf product will be required to comply with the operational and water quality and quantity standards of the City of Portland SWMM. The Applicant has demonstrated, and BES concurs, that the project will meet all the applicable standards for water quality and quantity control.”

Council concurs with the Hearings Officer and with the proposed condition of approval to prohibit the use of crumb rubber.

Lastly, this proposal is in harmony with promoting the maintenance and restoration of the urban forest. As stated above, the proposal preserves existing tree groves and will plant 163 more trees on the site and add 50% more canopy coverage than exists today. Council finds that this addition to the urban forest, together with the automatic irrigation system for tree establishment, growth, and maintenance, is in harmony with the objective to maintain and restore urban forest.

For these reasons, and with a recommended condition of approval to prohibit the use of crumb rubber, Council finds the proposal is consistent with the Southwest Community Plan and that approval criterion D is met.

### **Adjustment Review**

#### **33.805.040 Approval Criteria**

Adjustment requests will be approved if the applicant has demonstrated that approval criteria A through F, below, have been met.

- A.** Granting the Adjustment will equally or better meet the purpose of the regulation to be modified; and

**Findings:** The applicant is requesting the following Adjustments:

- To waive the requirement for L3 (high screen) landscaping buffers in the following locations:

- within 25 feet of the southern edge of the existing driveway and parking lot in the south part of the site; and
- within 25 feet of the north side of the existing driveway to the north of the existing school building.
- To increase the maximum structure height for 10 new field light poles proposed for the Phase 1 field in the northwest part of the site from 50 feet to between 60 feet and 90 feet (Zoning Code Section 33.100.200.B.1, Zoning Code Table 110-9).

Consistency with the purpose of each requirement to be modified is discussed below.

#### Vehicle area landscape buffering

This text from Zoning Code Section 33.266.130.A states the purpose of landscaping requirements for vehicle areas:

*The setback and landscaping standards:*

- *Improve and soften the appearance of parking areas;*
- *Reduce the visual impact of parking areas from sidewalks, streets, and especially from adjacent residential zones;*
- *Provide flexibility to reduce the visual impacts of small residential parking lots;*
- *Direct traffic in parking areas;*
- *Shade and cool parking areas;*
- *Reduce the amount and rate of stormwater runoff from vehicle areas;*
- *Reduce pollution and temperature of stormwater runoff from vehicle areas; and*
- *Decrease airborne and waterborne pollution.*

Because the north and south lot lines of the subject site abut residential property, Zoning Code Section 33.266.130.G.2.d.2 requires dense, formal rows of trees and tall evergreen shrubs on the south side of the south driveway and parking lot and on the north side of the north driveway. This requirement applies regardless of the distance between the vehicle areas and the residential lot lines, and it would apply to these existing vehicle areas through the nonconforming upgrades requirement in Zoning Code Section 33.258.070.D.2.

The south driveway is set back 70 feet from the south lot line and the south parking lot is set back 50 feet. These setbacks are significantly greater than the 5-foot minimum setback for vehicle areas (Zoning Code Section 33.266.130.G.2.c). Although there are no formal rows of evergreen shrubs in the setback, there are dozens of existing trees between the vehicle area and the south lot line that provide buffering.

The driveway immediately north of the school building is set back approximately 630 feet from the north lot line, a distance so great that the visual impacts of the driveway on properties to the north is already minimal. However, there are several mature trees between the north driveway and the north lot line that interrupt views toward the driveway.

Council finds the large setbacks between these vehicle areas and the residential lot lines, along with existing trees between the vehicle areas and the lot lines, already soften the appearance of the vehicle areas, reduce their visual impacts, provide shading and cooling, and help to mitigate stormwater and pollution impacts.

The Adjustment requests to waive the perimeter landscaping requirements in these locations would have no effect on traffic and circulation within the vehicle areas.

For these reasons, Council finds these Adjustment requests are equally consistent with the purpose of the landscape buffering requirement.

#### Light pole height

Structure height in the OS zone is regulated by the Institutional Development Standards for single-dwelling residential zones, which limits structure height to 50 feet (Zoning Code Section 33.100.200.B.1, Zoning Code Table 110-9). Zoning Code Section 33.110.270.A states the purpose of the Institutional Development Standards:

*The general base zone development standards are designed for residential buildings. Different development standards are needed for institutional uses which may be allowed in single-dwelling zones. The intent is to maintain compatibility with and limit the negative impacts on surrounding residential areas.*

The applicant proposes 10 new light poles around the north field. Four of these light poles would be 60 feet tall, three would be 80 feet tall, and three would be 90 feet tall (Exhibit C-4). Though these heights are significantly greater than the 50-foot height permitted outright, Council finds that the height of these poles would not create significant negative impacts. While buildings of these heights would appear massive and cast wide shadows, the light poles would be only about 1 foot in diameter (Exhibit A-15) and each pole would be more than 100 feet from any other pole (Exhibit C-4). Tall mounting poles allow the light fixtures to be aimed more directly downward onto the field, reducing light spill into surrounding areas compared to lower light fixtures requiring shallower angles toward the field. The applicant submitted a photometric analysis showing that glare perceptible at the nearest residential lot lines would be well below the 0.5-foot candles of light, as required by Zoning Code Section 33.262.080.A (Exhibit A-14, pages 6-7).

Council also finds that several existing trees north of the field and a row of new trees planned for west of the field would help reduce the visual prominence of the tall light poles, particularly as the new trees mature (Exhibit A-9, pages 15-16). Council therefore concurs with a condition of approval to require the existing trees to remain and the new trees to be planted.

Finally, Council notes the proposed light pole heights are comparable to those recently approved for Grant High School (LU 20-214838 CU AD, Exhibit G-3), and Central Catholic High School (LU 18-276459 CU MS AD, Exhibit G-4), in similarly zoned neighborhoods and proximities.

With the condition of approval to maintain the trees to the north and west of the lighted field, Council finds the proposed Adjustment is equally consistent with the intent of the standard to maintain compatibility and limit negative impacts.

With the recommended condition of approval, Council finds the proposal is equally consistent with the purposes of both requirements to be modified, and that approval criterion A is therefore met.

- B.** If in a residential, CI1, or IR zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, I, or CI2 zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

**Findings:** Since the site is in the OS zone, the Adjustments must be consistent with the classifications of the adjacent streets and the desired character of the area. Again, the Adjustments are for vehicle area landscaping buffer and pole height.

### Street classifications

As stated above, PBOT reviewed both of these Adjustments and found it to be consistent with the classifications of adjacent streets (Exhibit E-3, pages 6-7). Council concurs and finds the Adjustment requests are consistent with the adjacent street classifications based on these findings from PBOT. The vehicle area landscaping Adjustment and the increased height on the pole will not have any impacts on the function or operation of the street classifications and are consistent with these classifications.

### Desired character of area

“Desired character” is defined in Zoning Code Chapter 33.910. Pursuant to this definition, the desired character for this site is determined by:

- the purpose statement for the OS zone;
- the purpose statement for the Environmental Conservation (“c”) overlay zone; and
- the Southwest Community Plan.

### OS zone

The purpose of the OS zone is stated in Zoning Code Section 33.100.010:

*The Open Space zone is intended to preserve and enhance public and private open, natural, and improved park and recreational areas identified in the Comprehensive Plan. These areas serve many functions including:*

- *Providing opportunities for outdoor recreation;*
- *Providing contrasts to the built environment;*
- *Preserving scenic qualities;*
- *Protecting sensitive or fragile environmental areas;*
- *Enhancing and protecting the values and functions of trees and the urban forest;*
- *Preserving the capacity and water quality of the stormwater drainage system; and*
- *Providing pedestrian and bicycle transportation connections.*

Council incorporates the findings above under the conditional use review related to the purpose of the OS zone. Council finds that the increased pole height will direct the light onto the field and away from the residential areas and improve the utility of the fields for recreational use. The fields as appropriately lighted would continue to provide opportunities for outdoor recreation and open area contrasting with the built environment. Much of the site would remain grassy open area, even if both sports fields would use artificial turf. (The applicant indicated the Phase 1 field would be artificial turf and the Phase 2 field may be artificial turf or natural turf.) The sensitive environmental area designated by the City is a small Environmental Conservation (“c”) overlay zone on the north side of the property (Exhibit B), and no construction or disturbance is proposed within the “c” overlay zone. While 7 trees would be removed from the site (Exhibit A-9, page 16), the applicant’s landscaping plan shows a much larger number of new trees to be planted (Exhibit A-9, page 15). An existing pathway would be improved and extended from SW 40<sup>th</sup> Avenue to SW 35<sup>th</sup> Avenue, increasing pedestrian connectivity between residential areas on either side of the site (Exhibit A-20, page 4). The increased pole height is located outside of the Environmental Conservation zone and because of the additional height will direct light onto the field and away from existing and proposed new tree canopy. Council also finds that the purpose of the OS zone is largely unaffected by the vehicle area landscaping adjustment. The south driveway is set back 70 feet from the south lot line and the south parking lot is set back 50 feet. These setbacks are significantly greater than the

5-foot minimum setback for vehicle areas (Zoning Code Section 33.266.130.G.2.c). Although there are no formal rows of evergreen shrubs in the setback, there are dozens of existing trees between the vehicle area and the south lot line that provide buffering.

Council finds that the Adjustment for vehicle area landscaping and pole height is consistent with the purpose of the OS zone.

#### Environmental Conservation (“c”) overlay zone

The purpose statement for the “c” overlay zone is in Zoning Code Section 33.430.017:

*The Environmental Conservation zone conserves important resources and functional values in areas where the resources and functional values can be protected while allowing environmentally sensitive urban development.*

No construction or disturbance is proposed within the “c” overlay zone area of the site, even though some disturbance in this area would be allowed by Zoning Code Chapter 33.430. Therefore, Council finds the designated environmental resource is conserved and protected, and that the proposal is therefore consistent with the purpose of the “c” overlay zone.

#### Southwest Community Plan

Council again finds the following statements from the Southwest Community Plan to be relevant:

*Parks, Recreation, and Open Space Policy, Objective 1: Create new parks and open spaces in Southwest Portland to meet current and future needs for parks, recreation and open space at levels that meet or exceed standards adopted by the City.*

*Parks, Recreation, and Open Space Policy, Objective 2: Preserve natural areas for wildlife habitat, environmental and scenic values.*

*Parks, Recreation, and Open Space Policy, Objective 4: Maintain and enhance existing parks, recreational programs, and community centers in Southwest Portland to serve current and future residents.*

*Parks, Recreation, and Open Space Policy, Objective 11: Encourage the development of well-designated, well-maintained trails and bicycle paths in Southwest Portland as recreational opportunities.*

*Transportation Policy, Objective 12: Analyze potential transportation impacts and require appropriate mitigation measures for new development consistent with review processes and provisions of the City Code.*

*Watershed Policy, Objective 1: Manage stormwater runoff on a watershed-wide basis to:*  
*(a) Prevent any net degradation of water quality, aquatic and streamside plant and animal habitats and ecosystems, channel stability, or watershed health.*  
*(b) Minimize risk to public safety, private property, and public infrastructure.*  
*(c) Reduce the volume, velocity and pollutant load of stormwater runoff entering streams.*  
*(d) Improve dry season stream flows, particularly in headwater areas.*

*Watershed Policy, Objective 4: Promote the maintenance and restoration of the urban forest canopy and use of native vegetation in headwater areas, within upland forests, and along riparian and wildlife corridors.*

As already specifically addressed above in these findings, Council has already determined that the entire proposal is consistent with these policies. Our previous findings on these policies are incorporated here by reference. In terms of the vehicle area landscaping and pole height, neither have any direct relevance or impact on these policies. Council finds that improving the sports facilities on this public-school campus will enhance the quality of recreational opportunities for young people in the neighborhood. Even with the proposed construction, much of the site will remain open area with grass and trees, preserving wildlife habitat and scenic quality. No disturbance is proposed within the Environmental Conservation (“c”) overlay zone at the north end of the site (Exhibit B). The vehicle area landscaping Adjustment simply requests the use of existing buffers that are larger than the required setback and natural on-site vegetation to replace a smaller buffer with a cultivated buffer. Retaining the larger buffer with its existing natural vegetation is consistent with and in harmony with these policies.

PBOT reviewed the proposal and will require public improvements (ADA ramps and pedestrian improvements) appropriate and proportional to the anticipated impacts (Exhibit E-3, pages 3-5). An existing pathway internal to the site will be improved and extended from SW 40<sup>th</sup> Avenue to SW 35<sup>th</sup> Avenue, creating a new connection through the site for pedestrians (Exhibit A-20, page 4). BES reviewed the drainage plan and proposed water quality measures for the site and found them to be adequate to protect the health of the watershed (Exhibit E-2).

For these reasons, Council finds the Adjustments consistent with the Southwest Community Plan.

- C.** If more than one Adjustment is being requested, the cumulative effect of the Adjustments results in a project which is still consistent with the overall purpose of the zone; and

**Findings:** The purpose of the OS zone is stated in Zoning Code Section 33.100.010:

*The Open Space zone is intended to preserve and enhance public and private open, natural, and improved park and recreational areas identified in the Comprehensive Plan. These areas serve many functions including:*

- *Providing opportunities for outdoor recreation;*
- *Providing contrasts to the built environment;*
- *Preserving scenic qualities;*
- *Protecting sensitive or fragile environmental areas;*
- *Enhancing and protecting the values and functions of trees and the urban forest;*
- *Preserving the capacity and water quality of the stormwater drainage system; and*
- *Providing pedestrian and bicycle transportation connections.*

As previously stated, the pole height and vehicle area landscape adjustment are proposed to enhance the use of the sports fields and continue to provide opportunities for outdoor recreation and open area contrasting with the built environment. Much of the site would remain grassy open area, and no construction or disturbance is proposed within the “c” overlay zone. While 7 trees would be removed (Exhibit A-9, page 16), the applicant’s landscaping plan shows a much larger number of new trees to be planted (Exhibit A-9, page 15). BES reviewed the drainage plan and proposed water quality measures for the site and found the proposal would adequately maintain the capacity and water quality of the stormwater drainage system (Exhibit E-2). An existing pathway would be improved and extended from SW 40<sup>th</sup> Avenue to SW 35<sup>th</sup> Avenue, increasing pedestrian connectivity in the neighborhood (Exhibit A-20, page 4). For these reasons, Council finds approval criterion C is met.

**D.** City-designated scenic resources and historic resources are preserved; and

**Findings:** City-designated scenic resources are identified on the official zoning maps with a lower case “s,” and historic resources are identified either with a dot or as being within the boundaries of a Historic or Conservation district. As there are no scenic resources or historic resources mapped on the subject site, Council finds this criterion is not applicable.

**E.** Any impacts resulting from the Adjustment are mitigated to the extent practical; and

**Findings:** Council finds the Adjustments to the landscaping buffer requirement for two existing vehicle areas would not create negative impacts that require mitigation. These vehicle areas are set back much further from the lot lines than required, and existing trees in the setbacks would continue to provide benefits intended by the landscaping buffer requirement.

Council finds impacts from the height of the new light poles around the north field would be effectively mitigated by new and existing trees between the field and the adjacent residential areas to the north and west. These trees would not fully block the light poles from view, but they would reduce the relative visual prominence of the light poles, particularly as the new trees mature. The height of the poles allows the proposal to reduce light spill to surrounding residential areas and the poles maintain a very thin profile and therefore have a limited visual impact.

For these reasons, Council finds impacts are mitigated to the extent practical and that approval criterion E is therefore met.

**F.** If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable;

**Findings:** A small area at the north of the site is within the Environmental Conservation (“c”) overlay zone (Exhibit B). Since no construction or disturbance is proposed within this area even though some disturbance would be allowed by Zoning Code Chapter 33.430, Council finds the proposal adequately avoids detrimental impacts on the environmental resource. Council finds approval criterion F is met.

## DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for permits must demonstrate that all development standards of Title 33 can be met or have received an Adjustment or Modification via a land use review prior to the approval of the permit.

## CONCLUSIONS

Council finds that the proposal is consistent with the purpose of the OS zone and with the Southwest Community Plan, that the improvements would not cause significant, negative impacts on neighbors’ livability, and that public services are adequate to support the proposal.

Council also finds the requested Adjustments are consistent with the purposes of the requirements to be modified, with the purpose of the OS zone, and with the Southwest Community Plan.

With the conditions of approval listed below, Council finds the approval criteria for the Conditional Use Master Plan and Adjustments are met.



## CITY COUNCIL FINDINGS AND FINAL DECISION

It is the decision of the City Council to approve the Conditional Use Master Plan and Adjustments for the field improvement project at Jackson Middle School. This proposal will enhance the recreational opportunities for area residents while appropriately managing stormwater quality and quantity under the SWMM and SCM.

### **Approval** of a 10-year Conditional Use Master Plan:

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

### **Approval** of the following Adjustments:

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

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

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

illustrated in Exhibit A-20, page 4. The sidewalk extension must be completed before final inspection approval of the permit.

- D. The field lights around the Phase 1 baseball/softball/soccer field must be turned off by 10pm every evening they are used.
- E. Prior to issuance of the first permit for Conditional Use Master Plan improvements, the applicant must obtain concept approval for a public works permit for the public improvements identified in Public Works Alternative Review 23-016893 PW and post a financial guarantee for these public improvements to the satisfaction of Public Works.
- F. Through a public works permit, the applicant is required to make improvements to the existing sanitary sewer main that runs across the subject property to support the proposed development. Prior to issuance of the first permit for Conditional Use Master Plan improvements, the applicant must obtain 30 percent concept approval for the necessary work on the pipe as a result of the proposed development. The applicant must submit approved engineered plans, provide a financial guarantee, pay all outstanding fees, and provide a signed permit document.
- G. Existing trees to the north of the Phase 1 baseball/softball/soccer field must be preserved as illustrated in Exhibit A-9, page 16. These trees may be removed in the future if found by a certified arborist to be dead, dying, or hazardous, but each tree removed must be replaced with a new tree planted to the north of the Phase 1 field. Replacement trees must meet the planting size requirements in Zoning Code Section 33.248.030.C.1.
- H. The permit for the Phase 1 baseball/softball/soccer field must show a row of new trees along the west lot line to the west of the Phase 1 field, approximately as illustrated in Exhibit A-9, page 15. These new trees must meet the planting size requirements in Zoning Code Section 33.248.030.C.1, and they must be planted before final inspection approval of the permit. Any of these trees that are removed in the future must be replaced with a new tree in approximately the same area of the site.
- I. Prior to issuance of any permit that triggers stormwater management requirements, for any use under the Conditional Use Master Plan, the applicant must obtain approval from the Bureau of Environmental Services of a stormwater management plan that complies with all the applicable water quality and water quantity requirements, including total maximum daily loads (TMDLs), of the Stormwater Management Manual (SWMM) that are in effect on the date of the first permit submittal.
- J. The Applicant will comply with the requirements of Portland City Code 33.248.040 governing the installation and maintenance of the proposed landscaping including both the on-site trees and the street trees.
- K. Crumb rubber shall not be used in the development of the turf fields on the subject property.
- L. The applicant is required to evaluate the condition of the creek conveyance pipe that runs across the subject property to support the proposed development, including an evaluation of the field substrates and the impact of those substrates on the structural integrity of the pipe. Prior to issuance of the first permit for Conditional Use Master Plan improvements, the applicant must obtain City approval for any necessary work on the pipe as a result of the proposed development.

## **EXHIBITS**

A. Applicant's Statement:

Original submittal

1. Narrative
2. Plan set
3. Transportation study
4. Athletic fields schedule
5. Pre-Application Conference packet

February 23, 2023 submittal

6. Revised transportation study

March 8, 2023 submittal

7. Incompleteness determination letter response
8. Revised narrative
9. Revised plan set
10. Final revised transportation study
11. Stormwater report
12. Geotechnical report
13. Geotechnical report addendum
14. Photometric plan
15. Light pole elevations
16. Class schedule
17. Email from applicant

March 14, 2023 submittal

18. Final revised narrative

April 20, 2023 submittal

19. Request to reschedule public hearing and extend 120-day review period by 42 days

May 8, 2023 submittal

20. Amended and additional plan sheets in response to BES concerns
21. Final revised stormwater report

August 17, 2023 submittal

22. Corrected civil details plan sheet (supersedes page 11 of Exhibit A-20)

B. Zoning Map

C. Plans/Drawings:

1. Phase 1 site plan
2. Phase 2 site plan
3. Elevations for proposed storage/batting practice building
4. Lighting plan for north field

D. Notification Information:

1. Request for Response
2. Posting letter
3. Applicant's statement certifying posting
4. Original Notice of Public Hearing, mailed April 12, 2023
5. Mailing list for original Notice of Public Hearing
6. Notice of Rescheduled Public Hearing, mailed April 25, 2023
7. Mailing list for April 25, 2023 Notice of Rescheduled Public Hearing
8. Notice of Rescheduled Public Hearing, mailed June 14, 2023
9. Mailing list for June 14, 2023 Notice of Rescheduled Public Hearing

10. Statement from applicant that signs were re-posted before rescheduled hearing, received September 5, 2023
- E. Agency Responses:
  1. Bureau of Environmental Services (original memo dated April 18, 2023)
  2. Bureau of Environmental Services (revised memo dated May 11, 2023)
  3. Portland Bureau of Transportation
  4. Water Bureau
  5. Fire Bureau
  6. Police Bureau
  7. Site Development Review Section of BDS
  8. Life Safety Review Section of BDS
  9. Parks and Recreation - Urban Forestry Division
- F. Correspondence:
  1. Letter from Amanda Fritz, received April 14, 2023
  2. Email from Sara Morse, received April 14, 2023
  3. Letter from the Tryon Creek Watershed Council, received April 17, 2023
- G. Other:
  1. Land use review application
  2. Incompleteness determination letter, dated October 7, 2022
  3. LU 20-214838 CU AD decision
  4. LU 18-276459 CU MS AD decision
  5. Email from Bureau of Planning and Sustainability staff re: Southwest Hills Resource Protection Plan, dated August 1, 2023
- H. Hearings Office Decision (November 16, 2023), Notice of Decision Mailing List and Exhibits:
  1. Hearing request info
  2. Hearing participation instructions
  3. Land use hearing scheduled information
  4. Vivian Solomon written testimony
  5. Sam Defever comment
  6. Reschedule request
  7. Rescheduled hearing participation instructions
  8. Land use hearing rescheduled information
  9. Pruss email
  10. Michael Wolfson comments
  11. Reiss email
  12. Rhodes email with attachment
  13. Timm email
  14. Stanley response to Rhodes email
  15. Rhodes/Gulizia email exchange
  16. Stanley response to Rhodes email
  17. Marshall Park Neighborhood Association email
  18. Rhodes response email
  19. Wells email
  20. Francolini email
  21. Fetty email
  22. Timm email
  23. Sandy Streit written testimony
  24. Denko email
  25. McRoberts written testimony
  26. Tobias email
  27. Park email
  28. Denko email
  29. Dant email
  30. SWNI email and letter
  31. Mullinax email

32. Timm email
33. Crestwood NA email and letter
34. Staff report
35. Amanda Fritz comments
36. Willoughby email
37. Woodward email
38. Woodward attachment to email
39. Reschedule request #2
40. 2nd rescheduled hearing participation information
41. Land use hearing (2nd re) scheduled information
42. Steinberg email
43. Machinski email & letter
44. Mackenzie storm report
45. Land use response from BES
46. Comments – Carol Green
47. Timm email
48. Timm email
49. Webert email
50. Campbell email
51. Timm email
52. Maloney email
53. Bishop email
54. Black email
55. Schweitzer email
56. Carr email
57. Hartmeyer email
58. J. Black email
59. Higgins email
60. Willey email
61. Sage email
62. Evenhus email
63. Prentice email
64. Manning email
65. Glover email
66. W. Woodward email
67. Pettijohn email
68. Lewis email
69. Lodzinski email
70. Firestone email
71. Church email
72. Sagen email
73. Baker email
74. Foster email
75. Madaus email
76. Renfro email
77. Tubay email
78. Hoffman email
79. Morrison email
80. Goudy email
81. McFarlane email
82. Kinney email
83. Refvem email
84. Muhm email
85. Abrahamson email
86. Beam email

87. Moore email
88. Naslund email
89. C. Morrison email
90. Ewing email
91. Hasenstab email
92. Walters email
93. Poole email
94. Freeman email
95. Kuehnel email
96. Hammer email
97. Kaylegian-Starkey email
98. S. Black email
99. Stermer email
100. Le email
101. Noelck email
102. Murphy email
103. Beyer email
104. Staff report
105. J. Beyer email
106. Polance email
107. Matthews email
108. Andren email with attachment
109. EPA Priority Pollutants 2014
110. EPA Findings on Crumb Rubber Synthetic Fields
111. Andren email
112. Andren email
113. Fetty email without attachment
114. Fetty email with attachment
115. Kuehlthau email
116. Steinberg email
117. Kershner email
118. Andren testimony on criteria pt. 1
119. Andren testimony on criteria pt. 2
120. Andren testimony on criteria pt. 3
121. Andren testimony on criteria pt. 4
122. Andren testimony PPS revised CUMP pt. 5
123. Andren testimony PPS revised CUMP pt. 6
124. Andren revised CUMP testimony pt. 7
125. Andren revised CUMP testimony pt. 8
126. Andren LU 22-185273 testimony pt. 9
127. Andren LU 22-185273 testimony pt. 10
128. Andren LU 220185273 testimony pt, 11
129. Andren testimony staff report pt. 12
130. Andren testimony staff report pt. 13
131. Andren testimony staff report pt. 14
132. Andren LU 22-185273 testimony conclusion pt. 15
133. Andren all applicable code criteria – LU 185273 pt. 16
134. Andren PPS LU 22-185273 summary
135. Andren testimony criteria pt. 17
136. PPS LU 22-184780-000-00-SD for tennis courts 9-20-22
137. PPS- LU 22-184780-000-00-SD compatibility DEQ permit review 9-27-22
138. Planning&Zoning 22-184780-000-00-SD compatibility 10-18-2022
139. BES approved LU 22-184780-000-00 SD tennis court 9-28-22
140. PPS building permit application 9-14-22
141. BES internal emails re tennis court LU 22-184780-000-00-SD

142. BDS & BES Teams communication re filling wetland
143. BES Source Control checksheet transmission 9-28-22
144. BES Source Control checklist 10-10-22
145. BDS checklist for tennis courts 10-10-22
146. JMS map sanitary sewer pipes @ tennis courts
147. BES geomorphic risk assessment pt. 1
148. BES geomorphic risk assessment pt. 2
149. BES geomorphic risk assessment pt. 3
150. BES geomorphic risk assessment pt. 4
151. BES geomorphic risk assessment pt. 5
152. Emails w BES chief engineer re risk assessment
153. Emails w BES chief engineer
154. PPS site plan demolition & filling wetland pt. 1
155. PPS site plan demolition & filling wetland pt. 2
156. PPS site plan demolition & filling wetland pt. 3
157. PPS site plan demolition & filling wetland pt. 4
158. PPS site plan demolition & filling wetland pt. 5
159. Staff report – corrected – change to conclusions paragraph page 28
160. Peterson email
161. Zimmerman email
162. Wentworth email
163. Steinbergs email
164. Altavilla email
165. Alpern testimony
166. Fetty testimony
167. B. Dant email
168. D. Dant email
169. Denko email
170. Alpern testimony
171. Alpern additional testimony
172. DeLong/Parrish email
173. McDonald email
174. Peterson email
175. Julian email
176. Gupta email
177. Kelley letter
178. PPS synthetic turf & crumb rubber
179. A. Gupta email
180. Lee Kwai email
181. Lincoln volleyball coaches email
182. Placeholder for Andren video #1
183. Placeholder for Andren video #2
184. Placeholder for Andren video #3
185. Placeholder for Andren video #4
186. Placeholder for Andren video #5
187. Placeholder for Andren video #6
188. Placeholder for Andren video #7
189. Placeholder for Andren video #8
190. Placeholder for Andren video #9
191. L. Andren testimony
192. Markley & Johnson email
193. Von Reis email
194. Noveshen email
195. Cushman email
196. K. Andren email requesting record to be held open

197. Chapman email
198. Staff presentation
199. Forbes email
200. Levin email
201. Applicant's memorandum in support of staff report recommendation of approval and response to public comment
202. Synthetic turf and water quality
203. Hall testimony
204. Kuhn testimony
205. Myers submittal
206. Fritz testimony
207. Crosby testimony
208. Record closing information
209. Placeholder for K. Andren video #10
210. Fitzgerald email
211. Tubay email
212. Chabala email
213. Holdsworth email
214. Barton email
215. Gulizia email
216. Costarella email
217. Limited 120 day extension agreement
218. Applicant's presentation – part 1
219. Applicant's presentation – part 2
220. Applicant's presentation – part 3
221. Applicant's presentation – part 4
222. Applicant's presentation – part 5
223. Peterson email
224. McArdle testimony
225. To Hearings Officer
226. Hearing discrepancies & questions
227. 4230004 hearing testimony
228. PPS master site plan diagrams with underdrain highlights pt. 4
229. PPS master site plan diagrams with highlights pt. 3
230. PPS master site plan diagrams with highlights pt. 2
231. PPS master site plan diagrams with highlights pt. 1
232. PBOT notification on culvert & trash bin
233. BDS require submittal criteria 10-7-22
234. Excerpt composite of SWMM, SCM
235. Microplastics & stormwater
236. Microplastics & aquatic organisms
237. Crumb rubber & environmental impacts
238. Andrews email
239. Timm email
240. Applicant's submission during first open record period
241. Timm email
242. Andren email
243. Northwest Environmental Defense Center testimony
244. Andren – synthetic turf
245. PPS application for stormwater runoff
246. Pali Consulting geotech report highlights pt. 1
247. Baretich email with attachment
248. Tryon Creek Watershed Council email and attachment
249. Microplastics & environmental impacts
250. Technical issues



251. Pali Consulting geotech report highlights pt.2
252. Pali Consulting geotech report highlights pt. 3
253. Pali Consulting geotech report highlights pt. 4
254. Pali Consulting addendum
255. Artificial turf drainage investigations
256. LU 22-185273 CU MS AD – memo to HO
257. Applicant's email and letter
258. Applicant's final argument
- I. City Council Exhibits
  1. Appeal statement
  2. Notice of City Council hearing
  3. Notice of City Council hearing mail list
  4. 120-day extension request form 12/1/23
  5. 120-day extension request form 1/16/24
  6. Holly Matthews comments
  7. Nathan Butler comments
  8. Eddie Glover comments
  9. Amanda Fritz comments
  10. Asa Christiana comments
  11. Sally Wilson comments
  12. Betty McArdle comments
  13. Stacy Renfro comments
  14. Keborah Andren comments pt. 1
  15. Keborah Andren comments pt. 2
  16. Keborah Andren comments pt. 3
  17. Josh Clark comments
  18. Gary Runde comments
  19. Tryon Creek Watershed Council comments
  20. Aletha, Lincoln, Colton, Flynn Foster comments
  21. Lincoln Foster/ Wells Youth Sports comments
  22. Sharon Keast comments
  23. Alexis Haslam comments
  24. Oregon Health Sciences University comments
  25. Nadya Burchette comments
  26. Adam Haslam comments
  27. Michael D Brown comments
  28. Amy Tanner Tubay, MD FAAFP comments
  29. Matt Kelley comments
  30. James Meurer comments
  31. Cerissa McFarlane comments
  32. Garrett Bishop comments
  33. Michael Warren comments
  34. Foothills Soccer Club comments
  35. Ken Wilson comments
  36. Jordon Hamman comments
  37. Ryan Kelley comments
  38. Michael and Regina Wolfson comments
  39. Anna Stermer comments
  40. Zach Fritz comments
  41. Marisa Walter comments
  42. Rebecca Crosby comments
  43. Applicant response to appeal statement
  44. Crestwood Neighborhood Association letter
  45. Jessica Schimkowitsch comments
  46. Wells Football Foundation comments

47. Jeff Feld-Gore comments
48. Gabe Sheoships comments
49. Sarah Black comments
50. Staff presentation
51. Applicant presentation