



City of Portland, Oregon
Bureau of Development Services
Land Use Services
FROM CONCEPT TO CONSTRUCTION

Carmen Rubio, Commissioner
Rebecca Esau, Director
Phone: (503) 823-7300
TTY: 711
www.portland.gov/bds

**NOTICE OF A PUBLIC HEARING BEFORE
THE CITY COUNCIL ON AN APPEAL OF A
HEARINGS OFFICER DECISION**

CASE FILE: LU 22-185273 CU MS AD

WHEN: THURSDAY, JANUARY 11, 2024, AT 2:00 PM

ACCESS: <https://www.portland.gov/council/agenda>

(This page will provide information on how to participate virtually or in person.)

Mail Date: December 6, 2023

To: Interested Person

From: Andrew Gulizia, Land Use Services, 503-865-6714,
andrew.gulizia@portlandoregon.gov

A public hearing will be held to consider an appeal of the Hearings Officer's decision to approve with conditions a Conditional Use Master Plan and Adjustment Review at 10625 SW 35th Avenue (Jackson Middle School campus). The Hearings Officer's decision has been appealed by the West Portland Park Neighborhood Association. At the hearing, the City Council will consider the appeal. You are invited to testify at the hearing.

This will be an on-the-record hearing, one in which new evidence cannot be submitted to the City Council. Please refer to the "General Explanation of City Council Appeal Hearing Process" page attached to this notice.

GENERAL INFORMATION

Appellant: West Portland Park Neighborhood Association
4106 SW Vacuna St
Portland, OR 97219
971-221-9376, wpp-board@swni.org

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

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

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

Site Address: 10625 SW 35th Ave.

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

Tax Account No.: R991290220, R991293930

State ID No.: 1S1E29C 00100, 1S1E29C 00200
Quarter Section: 4025

Neighborhood: West Portland Park, contact Javier Moncada at javierfmoncada@icloud.com

Business District: None
District Coalition: Office of Community & Civic Life, contact at civiclife@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, with a public hearing before the Hearings Officer. The decision of the Hearings Officer can be appealed to City Council.

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>.

HEARINGS OFFICER DECISION

The following decision of the Hearings Officer was issued on November 16, 2023:

Approval of a 10-year Conditional Use Master Plan for sports facilities on the Jackson Middle School campus with the following components:

- 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 10 p.m. (with scheduled events ending at 9:30 p.m.). 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: o within 25 feet of the southern edge of the existing driveway and parking lot in the south part of the site; and o 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).

The full decision is available on the BDS website: <https://www.portland.gov/bds/zoning-land-use/news/notices>. Enter the land use case file number in the keyword search.

APPEAL

The Hearings Officer's decision has been appealed by the West Portland Park Neighborhood Association. The appellant asserts the Hearings Officer's decision erred in relying too heavily on the Stormwater Management Manual to address environmental concerns, in not adequately protecting sensitive and fragile environmental areas, and in not adequately ensuring the purposes of the Open Space zone and the policies of the Southwest Community Plan are met.

The full appeal statement can be viewed in the notice located on the BDS website at <https://www.portland.gov/bds/zoning-land-use/events>. Enter the land use case file number in the keyword search.

Review of the case file: If you are interested in viewing information in this file, please contact the planner listed on the front of this notice. The planner can email you documents from the file. A fee would be required for requests for paper copies of file documents.

We are seeking your comments on this proposal. The hearing will be held before the City Council. To comment, you may write or email in advance or testify at the hearing. In your comments, you should address the approval criteria stated above. Please refer to the file number when seeking information or submitting testimony. Written comments **must be received by the end of the hearing** and should include the case file number and the name and address of the submitter. Attached to this notice is a description of the City Council Hearing process and instructions for submitting comments.

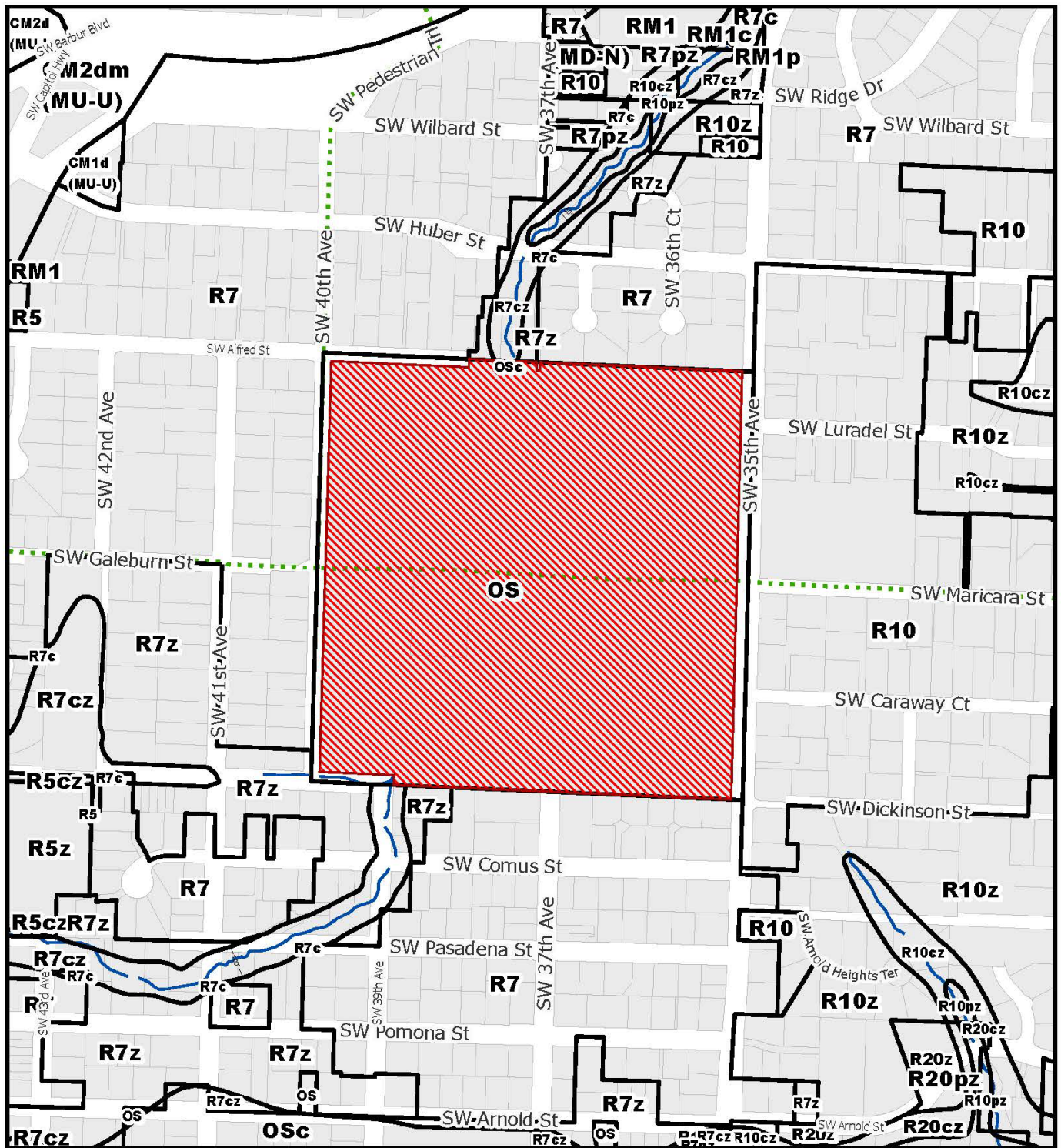
If you choose to provide testimony by email, please direct it to the Council Clerk at CCTestimony@portlandoregon.gov. Due to legal and practical reasons, City Council members cannot accept electronic mail on cases under consideration by the Council. Any emails on this matter must be received no less than one hour prior to the time and date of the scheduled public hearing. The Council Clerk will ensure that all City Council members receive copies of your communication.

The City Council's decision is the final decision of the City. Any further appeal must be filed with the Oregon Land Use Board of Appeals (LUBA). Failure to raise an issue in a hearing, in person or by letter, by the close of the record or at the final hearing on the case or failure to provide sufficient specificity to afford the City Council an opportunity to respond to the issue, precludes an appeal to LUBA on that issue. Also, if you do not provide enough detailed information to the City Council, they may not be able to respond to the issue you are trying to raise. For more information, call the Auditor's Office at (503) 823-4086.

If you have a disability and need accommodations, please call 503-823-4085 (TDD: 503-823-6868). Persons requiring a sign language interpreter must call at least 48 hours in advance.

Attachments

1. Zoning Map
2. Phase 1 site plan
3. Phase 2 site plan
4. Elevations for proposed storage/batting practice building
5. Lighting plan for north field (attached)
6. City Council appeal hearing process
7. Appeal statement (on-line version only)

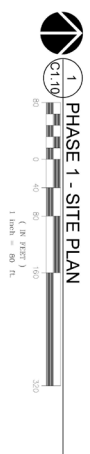
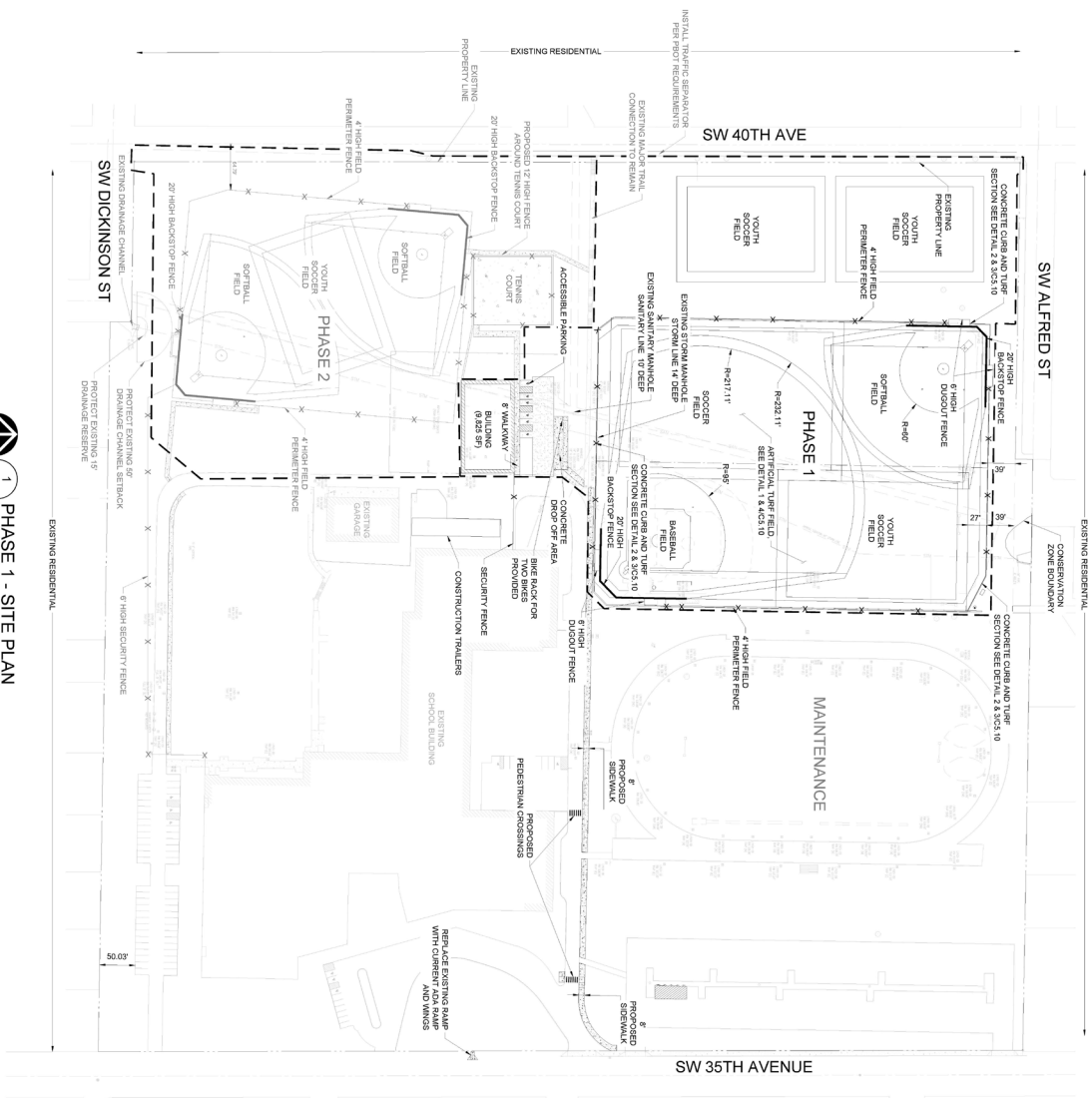


For Zoning Code in effect Post August 1, 2021

ZONING 

-  Site
-  Stream
-  Recreational Trails

File No. LU 22 - 185273 CUMS AD
 1/4 Section 4025, 4125
 Scale 1 inch = 400 feet
 State ID 1S1E29C 100
 Exhibit B Sep 21, 2022



SITE DATA

REFER TO "NOT" SHEET FOR SITE AND PARKING DATA.

SITE NOTES

1. ANY OF THE EXISTING OR PROPOSED FIELDS CAN BE USED FOR ORGANIZED SPORTS



Portland, OR
503.224.8560
Vancouver, WA
509.424.1711
Seattle, WA
206.746.3993
www.mackenzie.com

MACKENZIE
ARCHITECTURE - INTERIORS
PLANNING - ENGINEERING
CHIEF
PORTLAND PUBLIC
SCHOOLS

Project
**CONDITIONAL USE
MASTER PLAN**

REVISION SCHEDULE		
Date	Revised By	Issue Date

SUBJECT
**PHASE 1 - SITE
PLAN**

DRAWN BY: TP
CHECKED BY: RLM
SHEET:

C1.10

JOB NO.
2210283.00

CUMP RESUBMITTAL - 12/14/2022
LU 22-185273 CU MS AD

REFER TO "NCU" SHEET FOR SITE AND PARKING DATA.

Portland, OR
503.224.9560
Vancouver, WA
360.695.7879
Seattle, WA
206.749.9993

Project CONDITIONAL USE MASTER PLAN

MACHENE 2023
ALL RIGHTS RESERVED

THESE DRAWINGS ARE THE PROPERTY OF MACHENE AND ARE NOT TO BE REPRODUCED OR COPIED IN ANY MANNER WITHOUT PRIOR WRITTEN PERMISSION

REVISION SCHEDULE		
Date	Issued As	Issue Date

SHEET TITLE:
PHASE 2 - SITE
PLAN

DRAWN BY:	TP
CHECKED BY:	RJH
SHEET:	

C1.11

JOB NO. **2210283.00**

CUMP RESUBMITTAL - 12/14/2022
ZNT0300DUMHMS9CNCLEB8-C11.DWG C11 DB 06/07/23 15:26

LU 22-185273 CU MS AD



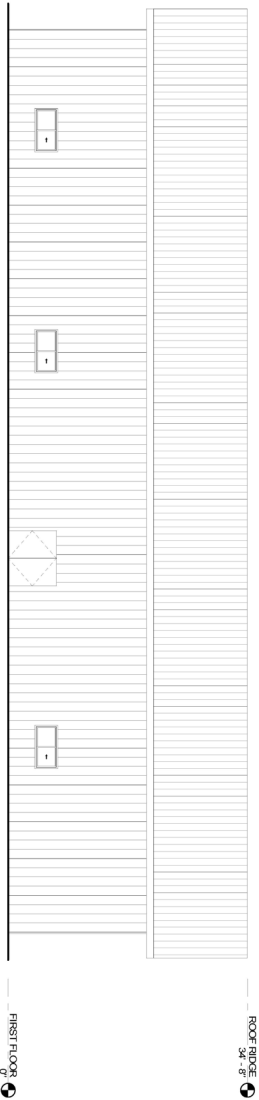
Architecture - Interiors
Planning - Engineering

Portland, OR
503.224.5560
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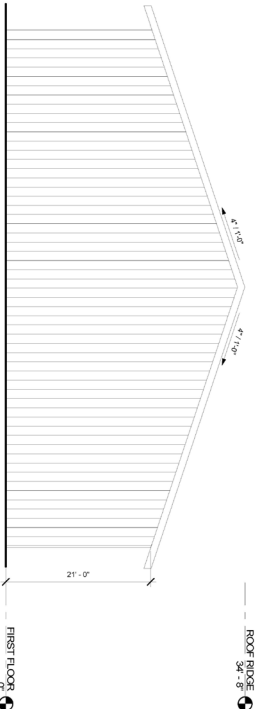
MACKENZIE
ARCHITECTS
PORTLAND PUBLIC
SCHOOLS

- LEGEND
- METAL SIDING
 - STANDING SEAM METAL ROOFING
 - GRADE CHANGE

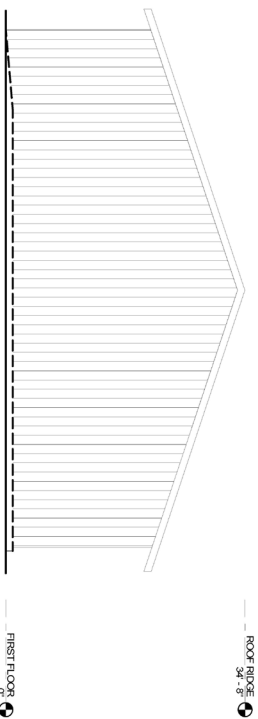
1 SOUTH ELEVATION
K1117 1/8" = 1'-0"



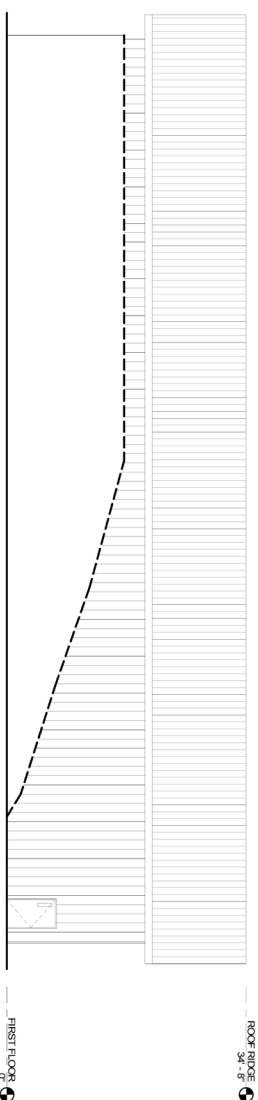
2 EAST ELEVATION
K1117 1/8" = 1'-0"



3 WEST ELEVATION
K1117 1/8" = 1'-0"



4 NORTH ELEVATION
K1117 1/8" = 1'-0"



REVISIONS			
NO.	DATE	DESCRIPTION	BY
1	12/14/2022	ISSUED FOR PERMIT	MM
2	12/14/2022	REVISIONS TO ELEVATIONS	MM
3	12/14/2022	REVISIONS TO ELEVATIONS	MM
4	12/14/2022	REVISIONS TO ELEVATIONS	MM
5	12/14/2022	REVISIONS TO ELEVATIONS	MM
6	12/14/2022	REVISIONS TO ELEVATIONS	MM
7	12/14/2022	REVISIONS TO ELEVATIONS	MM
8	12/14/2022	REVISIONS TO ELEVATIONS	MM
9	12/14/2022	REVISIONS TO ELEVATIONS	MM
10	12/14/2022	REVISIONS TO ELEVATIONS	MM

OWNER: GPO
CHECKED BY: LUV
SHEET
A1.11

CUMP RESUBMITTAL - 12/14/2022
LU 22-185273 CU MS AD

GENERAL EXPLANATION OF CITY COUNCIL APPEAL HEARING PROCESS FOR ON-THE-RECORD APPEALS

1. SUBMISSION OF LEGAL ARGUMENT

- a. On-the-record appeals are limited to legal argument only. The only evidence that will be considered by the City Council is the evidence that was submitted to the Hearings Office prior to the date the Hearings Office closed the evidentiary record. Parties may refer to and criticize or make arguments in support of the validity of evidence received by the Hearings Officer. However, parties may not submit new evidence to supplement or rebut the evidence received by the Hearings Officer.
- b. Written legal argument must be received by the time of the hearing and should include the case file number. Testimony may be submitted via email to CCTestimony@portlandoregon.gov or in writing to the Council Clerk, 1221 SW Fourth Avenue, Room 130, Portland Oregon 97204.
- c. Legal argument may be submitted orally (see below).

2. COUNCIL REVIEW

- a. The order of appearance and time allotments are generally as follows:

Staff Report	10 minutes
Appellant	10 minutes
Supporters of Appellant	3 minutes each
Applicant	15 minutes
Supporters of the Applicant	3 minutes each
Appellant Rebuttal	5 minutes
Council Discussion	
- b. The applicant has the burden of proof to show that the evidentiary record compiled by the Hearings Officer demonstrates that each and every element of the approval criteria is satisfied.
- c. In order to prevail, the opponents of the applicant must persuade the City Council to find that the applicant has not carried the burden of proof to show that the evidentiary record compiled by the Hearings Officer demonstrates that each and every element of the approval criteria is satisfied. The opponents may wish to argue the criteria are being incorrectly applied, the wrong approval criteria are being applied or additional approval criteria should be applied.
- d. The failure to address an issue with sufficient specificity to afford the decision maker and the parties an opportunity to respond to the issue precludes an appeal to the Land Use Board of Appeals (LUBA) on that issue.

3. OTHER INFORMATION

- a. If you are interested in viewing information in the file, please contact the planner listed on the front of this notice. The planner can provide some information over the phone or email. Please note only digital copies of material in the file are available for viewing. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at <https://www.portlandoregon.gov/citycode/28197>.

If you have a disability and need accommodations, please call 503-823-4085 (TDD: 503-823-6868). Persons requiring a sign language interpreter must call at least 48 hours in advance.



City of Portland, Oregon - Bureau of Development Services

1900 SW Fourth Avenue • Portland, Oregon 97201 | 503-823-7300 | www.portland.gov/bds



Type III Decision Appeal Form

LU Number: _____

FOR INTAKE, STAFF USE ONLY

Date/Time Received _____

☐ Action Attached _____

Received By _____

Fee Amount _____

Appeal Deadline Date _____

Y N Fee Waived **PENDING (requested 11/29/23)**

☐ Entered in Appeal Log _____

Bill # _____

☐ Notice to Auditor _____

Y N Unincorporated MC

☐ Notice to Dev. Review _____

APPELLANT: Complete all sections below. Please print legibly.

PROPOSAL SITE ADDRESS _____ DEADLINE OF APPEAL _____

Name _____

Address _____ City _____ State/Zip Code _____

Day Phone _____ Email _____ Fax _____

Interest in proposal (applicant, neighbor, etc.) _____

Identify the specific approval criteria at the source of the appeal:

Zoning Code Section 33. _____ . _____

Zoning Code Section 33. _____ . _____

Zoning Code Section 33. _____ . _____

Zoning Code Section 33. _____ . _____

Describe how the proposal does or does not meet the specific approval criteria identified above or how the City erred procedurally:

Appellant's Name _____

FILE THE APPEAL - Submit the following:

I acknowledge this typed name as my signature

- ☐ This completed appeal form
- ☐ A copy of the Type III Decision being appealed
- ☐ An appeal fee as follows:

Email this application and supporting documents to: LandUseIntake@portlandoregon.gov

- ☐ Appeal fee as stated in the Decision, payable to City of Portland
- ☐ Fee waiver for Civic Life Recognized Organizations approved (see instructions under Appeals Fees A on back)
- ☐ Fee waiver request letter for low income individual is signed and attached
- ☐ Fee waiver request letter for Unincorporated Multnomah County recognized organizations is signed and attached

To file the appeal, this completed application form and any supporting documentation must be emailed to LandUseIntake@portlandoregon.gov and to the planner listed on the first page of the Decision. To be valid, the City must receive the appeal by 4:30 p.m. on the deadline listed in the Decision. Once the completed appeal application form is received, a Land Use Services Technician will contact you with instructions on how to pay the fee.

The Portland City Council will hold a hearing on this appeal. The land use review applicant, those who testified and everyone who received notice of the initial hearing will receive notice of the appeal hearing date.

Information about the appeal hearing procedure and fee waivers is on the back of this form.

Type III Appeal Hearing Procedure

A Type III Decision may be appealed only by the applicant, the owner, or those who have testified in writing or orally at the hearing, provided that the testimony was directed to a specific approval criterion, or procedural error made. It must be filed with the accompanying fee by the deadline listed in the decision. The appeal request must be submitted on the Type III Appeal Form provided by the City and it must include a statement indicating which of the applicable approval criteria the decision violated (33.730.030) or what procedural errors were made. If the decision was to deny the proposal, the appeal must use the same form and address how the proposal meets all the approval criteria. There is no local Type III Appeal for cases in unincorporated Multnomah County.

Appeal Hearings for Type III Decisions are scheduled by the City Auditor at least 21 days after the appeal is filed and the public notice of the appeal has been mailed.

Appellants should be prepared to make a presentation to the City Council at the hearing. In addition, all interested persons will be able to testify orally, or in writing. The City Council may choose to limit the length of the testimony. Prior to the appeal hearing, the City Council will receive the written case record, including the appeal statement. The City Council may adopt, modify, or overturn the decision of the review body based on the information presented at the hearing or in the case record.

Appeal Fees

In order for an appeal to be valid, it must be submitted prior to the appeal deadline as stated in the decision and it must be accompanied by the required appeal fee or an approved fee waiver. The fee to appeal a decision is one-half of the original Bureau of Development Services Land Use Services application fee. The fee amount is listed in the decision. The fee may be waived as follows:

Fee Waivers (33.750.050)

The director may waive required fees for Office of Community & Civic Life Recognized Organizations and for low-income applicants when certain requirements are met. The decision of the director is final.

A. Office of Community & Civic Life Recognized Organizations Fee Waiver

Neighborhood or business organizations recognized by the City of Portland Office of Community & Civic Life or Multnomah County are eligible to apply for an appeal fee waiver if they meet certain meeting and voting requirements.

These requirements are listed in the Type III Appeal Fee Waiver Request for Organizations form and instruction sheet available from the Bureau of Development Services Development Services Center, 1st floor, 1900 SW 4th, Portland, OR 97201. Recognized organizations must complete the Type III Appeal Fee Waiver Request for Organizations form and submit it prior to the appeal deadline to be considered for a fee waiver.

B. Low Income Fee Waiver

The appeal fee may be waived for an individual who is an applicant in a land use review for their personal residence, in which they have an ownership interest, and the individual is appealing the decision of their land use review application. In addition, the appeal fee may be waived for an individual residing in a dwelling unit, for at least 60 days, that is located within the required notification area. Low income individuals requesting a fee waiver will be required to certify their annual gross income and household size. The appeal fee will only be waived for households with a gross annual income of less than 50 percent of the area median income as established and adjusted for household size by the federal Department of Housing and Urban Development (HUD). All financial information submitted to request a fee waiver is confidential. Fee waiver requests must be approved prior to appeal deadline to be considered for a fee waiver.



City of Portland, Oregon - Bureau of Development Services

1900 SW Fourth Avenue • Portland, Oregon 97201 | 503-823-7300 | www.portlandoregon.gov/bds



Type III Decision Appeal Fee Waiver Request for Organizations

FOR INTAKE, STAFF USE ONLY

LU Number: _____

Date/Time Received _____

Received By _____

☐ Directors Approval Letter Requested

☐ Waiver Approved by Director

☐ Waiver Denied

Date waiver Approved/Denied: _____

APPLICANT: Complete all sections below that apply to the proposal. Please print legibly.

This form is to request a waiver for the fee charged for an appeal. To file an appeal, a separate form must be completed.

Development Site Address or Location _____

File Number _____ Appeal Deadline Date _____

Organization and Appeal Information

Organization Name _____

Person Authorized by the Organization to file the Appeal _____

Street Address _____

City _____ State _____ Zip Code _____

Day Phone _____ FAX _____ email _____

By signing this form, the organization confirms that:

- ☐ yes ☐ no The organization testified orally or in writing at the hearing, and the testimony was directed to a specific approval criterion;
- ☐ yes ☐ no The appeal is being made on behalf of the recognized organization, and not on behalf of an individual; and
- ☐ yes ☐ no The vote to appeal was done in accordance with the organization's bylaws.

Name/Title _____

Signature/Date _____

Please complete all of the information requested below.

See reverse side for additional information on fee waiver requirements.

**I acknowledge this typed
name as my signature**

Date of meeting when the vote to appeal the land use decision was taken :

The decision to appeal was made by a vote of (check one of the following):

- ☐ The general membership in a meeting of the organization as listed above.
- ☐ The board in a meeting of the organization as listed above.
- ☐ The land use subcommittee in a meeting of the organization as listed above.

Please include at least one of the following:

- ☐ A copy of the minutes from the meeting when the vote to appeal was taken.
- ☐ Vote results to appeal - Number of **YES** votes to appeal _____ Number of **NO** votes to appeal _____

To request a waiver of an appeal fee for a land use review take:

- ☐ This completed fee waiver request form and any supplemental information necessary to qualify for a fee waiver.

The City must receive the appeal fee waiver request and the appeal by 4:30 pm on the deadline listed in the Decision in order for the appeal to be valid. To file the appeal, submit the completed appeal application and fee waiver application to LandUseIntake@portlandoregon.gov or send to 1900 SW 4th Ave, Portland, Oregon by the deadline provided in the Notice of Decision.

Information about Type III Appeal Fee Waiver Requests for Organizations

The following information will help neighborhood, community, business and industrial associations and other organizations that are recognized or listed in the Office of Neighborhood Involvement Directory to apply for fee waivers when appealing a City land use review decision. The Portland Zoning Code, the Office of Neighborhood Involvement and the Oregon statutes, which regulate public meetings and public records, all describe requirements that associations and organizations must meet when requesting a fee waiver from the City for a land use appeal.

In order for an appeal to be valid, it must be accompanied by the required appeal fee or a waiver request that was approved before the appeal deadline as stated in the specific land use decision (Section 33.730.020 of the Portland Zoning Code). The Bureau of Development Services Director may waive a land use review appeal fee for a recognized organization under certain circumstances (Section 33.750.050). A recognized organization is one that is listed by the Office of Neighborhood Involvement (Portland Zoning Code Chapter 33.910).

Because the City understands that the timelines for appeals are short, we will allow the waiver and appeal to be submitted at the same time. However, if the request for a fee waiver is denied, the appeal may be invalid because the deadline passed and the fee did not accompany the appeal. Within 48 hours of receiving the fee waiver request, the Bureau of Development Services Director, or the Director's delegate, will notify the organization's contact person as to whether the request for a fee waiver is approved, or if additional information is needed to make a decision on the fee waiver request. The Director's decision to waive an appeal fee is final.

Zoning Code Requirements

The Portland Zoning Code states that the appeal fee may be waived for a recognized organization if all of the following conditions are met:

1. The recognized organization has standing to appeal. This applies only to appeals of a Type III land use review, and means that the recognized organization testified, either orally or in writing, at the initial evidentiary hearing;
2. The appeal is being made on the behalf of the recognized organization; and
3. The appeal contains the signature of the chairperson or the other person authorized by the organization, confirming the vote to appeal was done in accordance with the organization's bylaws.

Applicant contact

While it is not a requirement of the Zoning Code, you are encouraged to notify the applicant or their representative prior to the meeting where an appeal of the City's decision will be discussed and voted on. This gives the applicant, or their representative, an opportunity to attend the meeting and participate in the discussion.

Where to obtain the Type III Decision Appeal Fee Waiver Requests and Appeal Forms

To file an appeal, a separate form must be completed and submitted. Both the Appeal Fee Waiver Form and Appeal Form are available from the Bureau of Development Services, Development Services Center, 1st floor, 1900 SW Fourth Avenue, Portland, OR 97201.

P383



Hearings Office

City of Portland

1900 SW 4th Avenue, Room 3100

Portland, OR 97201

RETURN SERVICE REQUESTED



Hearings Office

City of Portland

1900 SW 4th Avenue, Room 3100, Portland, OR 97201

www.portland.gov/omf/hearings

email: HearingsOfficeClerks@portlandoregon.gov

phone: 503.823.7307

fax: 503.823.4347



DECISION OF THE HEARINGS OFFICER

I. GENERAL INFORMATION

File Number: LU 22-1185273 CU MS AD (Hearings Office 4230004)

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

Applicant's Representative: Suzannah Stanley
Mackenzie
1515 SW Water Avenue, Suite 100
Portland, OR 97214
ssstanley@mcknze.com

Hearings Officer: David Doughman

Staff Representative: Andrew Gulizia, Bureau of Development Services (BDS)

Site Address: 10625 SW 35th Avenue

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

Tax Account Number: R991290220, R991293930

State ID Number: 1S1E29C 00100, 1S1E29C 00200

Quarter Section: 4025

Neighborhood: West Portland Park

District Neighborhood Coalition: Office of Community & Civic Life

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

Land Use Review: Type III, CU MS AD – Conditional Use Master Plan Review and Adjustment Review

Staff Recommendation to Hearings Officer: Approval with conditions.

Public Hearing: The hearing was opened at 1:34 p.m. on October 4, 2023, via the Zoom platform and was closed at 4:45 p.m. The record was held open as follows:

4:00 p.m. on October 16, 2023 for new evidence;
4:00 p.m. on October 23, 2023 for response to new evidence;
4:00 p.m. on October 30, 2023 for the Applicant's final argument.

The record closed at 4:00 p.m. on October 30, 2023.

The 120-day deadline is currently January 2, 2024, which includes extensions the Applicant has granted.

Testified at the Hearing:

Andy Gulizia, Planner with BDS; Christie White, Radler White Parks Alexander (for the Applicant); Heidi Bertman; Stacy Renfro; Michael Nolan; Travis Hall; Peyton Chapman; Jim Meurer; Phil Olmstead; Nick Braun; Ed Kuehnel; Graham Sweitzer; Dan Webert; Chris Campbell; Dr. Amy Tubay; Jeremy Shetler; Kathy Fetty; Betty McArdle; Marianne Fitzgerald; Madeleine; Kat Kaylegianstarkey; Teresa Peterson; Keborah; Amanda Fritz; Alexis, Tryon Creek Watershed Council; Luranell Timm; Eric Taxer; Lisa Francolini; and Linn Andren.

Proposal: The Applicant, Portland Public Schools ("Applicant" or "PPS"), seeks to improve athletic facilities located on the Jackson Middle School campus in Southwest Portland. PPS would use the improvements for organized sporting events. The application is subject to conditional use review pursuant to Section 33.279.025 of the Portland City Code ("PCC" or the "Code" or the "Zoning Code").¹ The Applicant requests approval of a Conditional Use Master Plan, which would allow PPS to build the improvements in phases 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 10:00 p.m. (with scheduled events ending at 9:30 p.m.). Existing spectator seating around this field would remain, but no

¹ The proposed use of the improvements involves "organized sports" as defined in Section 33.910.030 of the Code, and the improvements to the fields otherwise meet the standards of Section 33.279.020.

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 Applicant requests certain adjustments² to implement its proposal (the “Adjustments”), as follows:

- 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).

This Adjustment would focus illumination onto the field and limit the amount of light leaving the field which would reduce impacts to surrounding properties.

Relevant Approval Criteria: To be approved, this proposal must comply with the following approval criteria:

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

² See Chapter 33.805 of the Code (adjustments allow an applicant to request modifications to certain regulations in the Zoning Code).

Summary of Hearings Officer's Decision: Approval of the application, with conditions.

II. ANALYSIS

The application generated significant interest from members of the public and community stakeholders as well as from parents and guardians of PPS 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, which the Hearings Officer reviewed, and which reflects the importance of the application to PPS, neighbors in the vicinity of Jackson Middle School, and other interested parties.

Based on the testimony presented at the hearing, as well as the written evidence and argument in the record, the Hearings Officer finds the Applicant has demonstrated compliance with the relevant approval criteria. In support of this conclusion, the Hearings Officer adopts the findings and conclusions contained in Exhibit H.159 as his own. Exhibit H.159 is the final staff report.³

In addition, the Hearings Officer addresses the following issues that members of the public raised in support of arguments that the application does not meet the relevant approval criteria.

Applicability of Southwest Community Plan and Southwest Hills Resource Protection Plan
BDS has confirmed that the Southwest Community Plan is applicable and relevant to the Conditional Use Master Plan Review.⁴ The Hearings Officer agrees that the Southwest Community Plan applies to the application. Some of the public comments suggested the Southwest Hills Resource Protection Plan is also applicable to this application. Staff disputes this for reasons explained on page 6 of the staff report and in Exhibit G-5.

In its final argument (Exhibit H.258), the Applicant states, "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."

The Hearings Officer agrees with staff and the Applicant that the Southwest Hills Resource Protection Plan does not apply to this application for the reasons stated above.

Stormwater management

³ For clarity, this includes the "staff responses" to public comments (Exhibit H.159, pages 4-7), as well as the findings and conclusions that follow (Exhibit H.159, pages 7-28).

⁴ See Exhibit H.159 and Exhibit H.256.

Members of the public asked questions about technical aspects of proposed stormwater management for the proposed sports fields, specifically runoff from turf fields and whether the fields would protect the water quality and quantity from the site. The approval criterion in 33.815.100.B.3 that must be satisfied for the Conditional Use Master Plan Review reads:

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.

BDS staff relied on the Bureau of Environmental Services' (BES) findings in Exhibit E-2 in determining the stormwater aspect of this approval criterion is met. BES reviewed stormwater reports from the Applicant in Exhibits A-11 (original report) and A-21 (revised report), and stated, "Staff finds the applicant's proposed stormwater management plan acceptable for the purpose of reviewing the conditional use application against the stormwater management approval criterion."

This statement from BES meets the approval criterion that "proposed sanitary waste disposal and stormwater disposal systems are acceptable to the Bureau of Environmental Services." Because the application is approved, the proposed improvements will require further permit reviews in which City staff, including BES staff, will review technical plans against all applicable requirements including BES' Stormwater Management Manual.

In the second open record period, the Applicant offered a condition of approval to remove further uncertainty about the process, which reads as follows:

"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."

The Hearings Officer accepts this condition of approval proposed by the Applicant.

Approval of this application means that it 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. 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.

Pollution in the watershed

Some comments mention pollution in the Tryon Creek watershed and speculate that the Jackson Middle School site is a filtering site for these contaminants. The Hearings Officer found no evidence in the record which suggests that there is pollution in the larger watershed that is filtered on this site. The Applicant's plans lay out in detail a 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.

Requests for Environmental Overlay zoning regulations to mitigate environmental impacts

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. As stated in the Staff Report, 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.

Several comments in the record request that the City apply Environmental Overlay zoning regulations to areas of the existing grass fields where no Overlay regulations apply. Development that triggers review in an Environmental Overlay zone requires a finding that "there will be no significant detrimental impact on resources and functional values in areas designated to be left undisturbed" or that "the mitigation plan demonstrates that all significant detrimental impacts on resources and functional values will be compensated for." PCC 33.430.250(3) and (4). However, these criteria only apply if an application proposes to disturb a protected resource located within an Environmental Overlay. 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 to the Staff Report. The application does not propose any disturbance of this area.

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 percent. This increase in trees and canopy cover is in harmony with and does not contradict the edict to enhance and protect the values and functions of trees and the urban forest.

The Hearings Officer finds the arguments that request an expansion of the Overlay and the application of the "significant detrimental impact" test to any other area of the site unpersuasive, as such an expansion would not be lawful. PCC 33.700.080.A. The application does not request any disturbance or development within the mapped Environmental Conservation ("EC") Overlay, and as such complies with the City's regulations for protection of natural resources in the EC Overlay.

The same reasoning applies to comments requesting the Applicant daylight a subterranean stream that runs under the property. The underground stream is not identified as a mapped

natural resource under the EC Overlay applicable to this application and there is no approval criteria that would require the Applicant to daylight the stream.

Consistency with the intended character of the Open Space zone

PCC 33.815.100.A.1. requires a finding that the proposed use is consistent with the intended purpose of the Open Space zone. Portland City Council has found the term “consistent with” to render the pertinent question as: whether the proposal to resurface the fields and add lighting to increase the utility of the recreational resource is in harmony with and does not contradict the purpose statement.

The purpose statement for the Open Space zone (PCC 33.100.010) recognizes several categories of uses that are to be preserved and enhanced. A non-exhaustive list is included in this section of the code.

The Applicant argues that “the term ‘consistent with,’ together with the list of many functions that serve the OS purpose, requires 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. The applicant supports this argument as follows:

...As demonstrated in the record, the fields will be resurfaced to turf to provide more opportunities for outdoor recreation. The field lighting will extend the hours available for recreation resulting in no impact from light spill on surrounding properties. (See Applicant’s Presentation to the Hearings Officer, October 4, 2023). 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, there is no real question that the resurfacing and field lighting will ‘provide opportunities for outdoor recreation’ in harmony with this listed function of the OS zone.”

The Hearings Officer agrees with the Applicant, and finds the application is consistent with the intended purpose of the Open Space zone. The Hearings Officer adopts the proposed findings and conclusions of the Applicant as his own.⁵

Installation and maintenance of trees

In compliance with PCC 33.248.040 (Installation and Maintenance) relating to landscaping, the application proposes a planting plan comprised of 163 new trees, 115 of which are on-site trees, and 48 new street trees. Seven trees will be removed across the 37-acre site. Concerns were raised relating to maintenance of the new trees. Although the project includes a

⁵ Exhibit H.258, pages 2-7.

permanent built-in irrigation system with an automatic controller, and although it is not required to do so, in order to allay community concerns about maintenance, the Applicant has proposed the following condition of approval, which the Hearings Officer accepts:

"The applicant will comply with the requirements of PCC 33.248.040 governing the installation and maintenance of the proposed landscaping, including both the on-site trees and the street trees."

Artificial Turf

While there was a great deal of testimony in opposition to artificial turf, the Applicant's decision whether or not to use artificial turf does not fall within the Hearings Officer's purview. 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.

Traffic and Parking

Some testimony suggested that the field improvement project or the school does not have enough parking or there is congestion in the area that does not meet the City's level of service standard. According to the Applicant's plans, the existing off street parking lot will remain in its current location immediately adjacent to the fields and will include a new landscape plan that will not reduce the on-site parking supply of 284 spaces, together with six new ADA spaces for a total of 290 spaces. The on-site parking area will be conveniently connected to the athletic fields with a walkway along the major trail connection, providing direct access from the parking area to the playing fields.

The Applicant submitted a parking impact study within the required Transportation Impact Study ("TIS") that concludes there is sufficient and even ample on-site parking to

accommodate all the demand based on field use and school use. The Portland Bureau of Transportation (PBOT) reviewed the study and agreed.

The field improvement project also conducted a comprehensive TIS that evaluated street capacity and level of service, connectivity, transit availability, pedestrian and bicycle networks, and safety. No existing safety issues are identified in the TIS or in PBOT's assessment.

The Hearings Officer finds there is no contrary evidence in the record that credibly undermines these conclusions.

Lights, Noise, Maintenance of Fields, and Funding

Testimony was given around glare issues connected with existing lights at Jackson Middle School. The Applicant indicated that PPS Projects and Construction Department has assigned a project manager to confirm that the exterior lights for this project comply with the requirements of ORS 455.573 (Outdoor shielded lighting fixtures) and also plans to replace the current fixtures with Dark Sky Compliant, fully shielded fixtures. This lighting technology will avoid light spill on neighboring properties. The Applicant indicated that consistent with lighted fields throughout the City, activity on the fields will conclude by 9:30 p.m. and lights will be turned off by 10:00 p.m.

While there were a number of public comments relating to funding and financing of the project, there is no requirement under any of the applicable approval criteria that an applicant for a Conditional Use Master Plan submit a funding and/or financing plan for uses that are proposed over a 10-year term.

There was some discussion of the concerns around maintenance of the fields at Grant High School. Those fields were designed, constructed, and are owned by the Portland Bureau of Parks and Recreation, not the Applicant. This is not relevant to this decision.

No new spectator seating is proposed, and no amplification is requested.

III. CONCLUSIONS

The Hearings Officer finds that the application meets the relevant approval criteria. Therefore, the application is approved with conditions.

IV. DECISION

Approval of a 10-year Conditional Use Master Plan for sports facilities on the Jackson Middle School campus with the following components:

- 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 10 p.m. (with scheduled events ending at 9:30 p.m.). 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).

The approval of the Conditional Use Master Plan and the approval of the Adjustments are based upon the current plans, Exhibits C-1 through C-4, and subject to the following conditions of approval:

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

- C. The plans for the first permit for Conditional Use Master Plan improvements must show the extension of the existing sidewalk through the site from SW 40th Avenue to SW 35th Avenue, as illustrated in Exhibit A-20, page 4. The sidewalk extension must be completed before final inspection approval of the permit.
- D. The field lights around the Phase 1 baseball/softball/soccer field must be turned off by 10 p.m. 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.
- H. 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.
- I. 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.
- J. 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.

- K. 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.
- L. Crumb rubber shall not be used in the development of the turf fields on the subject property.



David Doughman, Hearings Officer

November 16, 2023

Date

Application Determined Complete: March 14, 2023
Report to Hearings Officer: June 2, 2023
Corrected Report to Hearings Officer: September 26, 2023
Decision Mailed: November 16, 2023
Last Date to Appeal: 4:30 p.m., November 30, 2023
Effective Date (if no appeal): December 1, 2023

Conditions of Approval. This project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term “applicant” includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

Appeal of the decision. ANY APPEAL OF THE HEARINGS OFFICER’S DECISION MUST BE E-MAILED TO LANDUSEINTAKE@PORTLANDOREGON.GOV. The appeal application form can be accessed at <https://www.portlandoregon.gov/bds/45477>. If you do not have access to e-mail,

please telephone (503) 823-7617 for assistance on how to submit the appeal; please allow one business day for staff to respond. **An appeal fee of \$5,789.00 will be charged.**

Who can appeal: You may appeal the decision only if you wrote a letter which is received before the close of the record on hearing or if you testified at the hearing, or if you are the property owner or applicant. If you or anyone else appeals the decision of the Hearings Officer, only evidence previously presented to the Hearings Officer will be considered by the City Council.

Appeal Fee Waivers: Neighborhood associations recognized by the Office of Community and Civic Life may qualify for a waiver of the appeal fee provided that the association has standing to appeal. The appeal must contain the signature of the chairperson or other person authorized by the association confirming the vote to appeal was done in accordance with the organization's bylaws.

Neighborhood associations who wish to qualify for a fee waiver must complete the Type III Appeal Fee Waiver Request for Organizations Form and submit it prior to the appeal deadline. The Type III Appeal Fee Waiver Request for Organizations Form contains instructions on how to apply for a fee waiver, including the required vote to appeal.

Recording the final decision. If this land use review is approved the final decision will be recorded with the Multnomah County Recorder by the Bureau of Development Services. The applicant, builder, or a representative does not need to record the final decision with the Multnomah County Recorder.

Expiration of this approval. Conditional Use Master Plans and any concurrent reviews other than a Zone Change or Comprehensive Plan Map Amendment remain in effect until:

- All development allowed by the plan is completed; or
- The plan is amended or superseded; or
- As specified in the plan; or
- As otherwise specified in the final decision.

Applying for permits. A permit would be required for the proposed development. At the time they apply for a permit, permittees must demonstrate compliance with:

- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS RECEIVED IN THE HEARINGS OFFICE – SEE NEXT PAGE
(NOT ATTACHED UNLESS INDICATED)

The exhibits in the land use case file are all assigned a letter (example A-1). The Hearings Office accepts exhibits filed online in its case management system. These exhibits are marked in the lower right hand corner that identifies the exhibit as a "Portland Hearings Office" exhibit. All of these exhibits are designated "H Exhibits" (that is, Hearings Office Exhibits). See the BDS Staff Report for a list of exhibits prior to "H."

Exhibits H.236, H.237 and H.244, H.245 were not timely filed, and thus were rejected and not considered by the Hearings Officer.



Hearing Office

City of Portland

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Exhibits, Orders, and Other Attachments

Number	Title	Status
Exhibit 1	Hearing Request Info.	Accepted
Exhibit 2	Hearing Participation Instructions	Accepted
Exhibit 3	Land Use Hearing Scheduled Information	Accepted
Exhibit 4	Vivian Solomon Written Testimony	Accepted
Exhibit 5	Sam Defever Comment	Accepted
Exhibit 6	RESCHEDULE REQUEST	Accepted
Exhibit 7	Rescheduled Hearing Participation Instructions	Accepted
Exhibit 8	Land Use Hearing (Re) Scheduled Information	Accepted
Exhibit 9	Pruss Email	Accepted
Exhibit 10	Michael Wolfson Comments	Accepted
Exhibit 11	Reiss Email	Accepted
Exhibit 12	Rhodes Email with Attachment	Accepted
Exhibit 13	Timm Email	Accepted
Exhibit 14	Stanley Response to Rhodes Email	Accepted
Exhibit 15	Rhodes/Gulizia Email Exchange	Accepted
Exhibit 16	Stanley Response to Rhodes Email	Accepted
Exhibit 17	Marshall Park Neighborhood Association Email	Accepted
Exhibit 18	Rhodes Response Email	Accepted
Exhibit 19	Wells Email	Accepted
Exhibit 20	Francolini Email	Accepted
Exhibit 21	Fetty Email	Accepted
Exhibit 22	Timm Email	Accepted
Exhibit 23	Sandy Streit Written Testimony	Accepted
Exhibit 24	Denko Email	Accepted
Exhibit 25	McRoberts Written Testimony	Accepted
Exhibit 26	Tobias Email	Accepted
Exhibit 27	Park Email	Accepted
Exhibit 28	Denko Email	Accepted
Exhibit 29	Dant Email	Accepted
Exhibit 30	SWNI Email and Letter	Accepted
Exhibit 31	Mullinax Email	Accepted
Exhibit 32	Timm Email	Accepted
Exhibit 33	Crestwood NA Email and Letter	Accepted
Exhibit 34	STAFF REPORT	Accepted
Exhibit 35	Amanda Fritz - Comments	Accepted

Exhibit 36	Willoughby Email	Accepted
Exhibit 37	Woodward Email	Accepted
Exhibit 38	Woodward Attachment to Email	Accepted
Exhibit 39	RESCHEDULE REQUEST #2	Accepted
Exhibit 40	2nd Rescheduled Hearing Participation Information	Accepted
Exhibit 41	Land Use Hearing (2nd Re) Scheduled Information	Accepted
Exhibit 42	Steinberg Email	Accepted
Exhibit 43	Machinski Email & Letter	Accepted
Exhibit 44	Mackenzie Storm Report	Accepted
Exhibit 45	Land Use Response from BES	Accepted
Exhibit 46	Comments - Carol Green	Accepted
Exhibit 47	Timm Email	Accepted
Exhibit 48	Timm Email	Accepted
Exhibit 49	Webert Email	Accepted
Exhibit 50	Campbell Email	Accepted
Exhibit 51	Timm Email	Accepted
Exhibit 52	Maloney Email	Accepted
Exhibit 53	Bishop Email	Accepted
Exhibit 54	Black Email	Accepted
Exhibit 55	Schweitzer Email	Accepted
Exhibit 56	Carr Email	Accepted
Exhibit 57	Hartmeyer Email	Accepted
Exhibit 58	J. Black Email	Accepted
Exhibit 59	Higgins Email	Accepted
Exhibit 60	Wiley Email	Accepted
Exhibit 61	Sage Email	Accepted
Exhibit 62	Evenhus Email	Accepted
Exhibit 63	Prentice Email	Accepted
Exhibit 64	Manning Email	Accepted
Exhibit 65	Glover Email	Accepted
Exhibit 66	S. Woodward Email	Accepted
Exhibit 67	Pettijohn Email	Accepted
Exhibit 68	Lewis Email	Accepted
Exhibit 69	Lodzinski Email	Accepted
Exhibit 70	Firestone Email	Accepted
Exhibit 71	Church Email	Accepted
Exhibit 72	Sagen Email	Accepted
Exhibit 73	Baker Email	Accepted
Exhibit 74	Foster Email	Accepted
Exhibit 75	Madaus Email	Accepted
Exhibit 76	Renfro Email	Accepted
Exhibit 77	Tubay Email	Accepted
Exhibit 78	Hoffman Email	Accepted
Exhibit 79	Morrison Email	Accepted
Exhibit 80	Goudy Email	Accepted
Exhibit 81	McFarlane Email	Accepted
Exhibit 82	Kinney Email	Accepted

Exhibit 83	Refvem Email	Accepted
Exhibit 84	Muhm Email	Accepted
Exhibit 85	Abrahamson Email	Accepted
Exhibit 86	Beam Email	Accepted
Exhibit 87	Moore Email	Accepted
Exhibit 88	Naslund Email	Accepted
Exhibit 89	C. Morrison Email	Accepted
Exhibit 90	Ewing Email	Accepted
Exhibit 91	Hasenstab Email	Accepted
Exhibit 92	Walters Email	Accepted
Exhibit 93	Poole Email	Accepted
Exhibit 94	Freeman Email	Accepted
Exhibit 95	Kuehnel Email	Accepted
Exhibit 96	Hammer Email	Accepted
Exhibit 97	Kaylegian-Starkey Email	Accepted
Exhibit 98	S. Black Email	Accepted
Exhibit 99	Stermer Email	Accepted
Exhibit 100	Le Email	Accepted
Exhibit 101	Noelck Email	Accepted
Exhibit 102	Murphy Email	Accepted
Exhibit 103	Beyer Email	Accepted
Exhibit 104	STAFF REPORT	Accepted
Exhibit 105	J. Beyer Email	Accepted
Exhibit 106	Polance Email	Accepted
Exhibit 107	Matthews Email	Accepted
Exhibit 108	Andren Email with Attachment	Accepted
Exhibit 109	EPA Priority Pollutants 2014	Accepted
Exhibit 110	EPA Findings on Crumb Rubber Synthetic Fields	Accepted
Exhibit 111	Andren Email	Accepted
Exhibit 112	Andren Email	Accepted
Exhibit 113	Fetty Email without attachment	Accepted
Exhibit 114	Fetty Email with Attachment	Accepted
Exhibit 115	Kuehlthau Email	Accepted
Exhibit 116	Steinberg Email	Accepted
Exhibit 117	Kershner Email	Accepted
Exhibit 118	Andren Testimony on Criteria pt. 1	Accepted
Exhibit 119	Andren Testimony on Criteria pt. 2	Accepted
Exhibit 120	Andren Testimony on Criteria pt. 3	Accepted
Exhibit 121	Andren Testimony on Criteria pt. 4	Accepted
Exhibit 122	Andren Testimony PPS Revised CUMP pt. 5	Accepted
Exhibit 123	Andren Testimony PPS Revised CUMP pt. 6	Accepted
Exhibit 124	Andren Revised CUMP Testimony pt. 7	Accepted
Exhibit 125	Andren Revised CUMP Testimony pt. 8	Accepted
Exhibit 126	Andren LU 22-185273 Testimony pt. 9	Accepted
Exhibit 127	Andren LU 22-185273 Testimony pt.	Accepted

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Exhibit 128	Andren LU 22-185273 Testimony pt. 11	Accepted
Exhibit 129	Andren Testimony Staff Report pt. 12	Accepted
Exhibit 130	Andren Testimony Staff Report pt. 13	Accepted
Exhibit 131	Andren Testimony Staff Report pt. 14	Accepted
Exhibit 132	Andren LU 22-185273 Testimony Conclusion pt. 15	Accepted
Exhibit 133	Andren All Applicable Code Criteria - LU 22-185273 pt. 16	Accepted
Exhibit 134	Andren PPS LU 22-185273 Summary	Accepted
Exhibit 135	Andren Testimony Criteria pt. 17	Accepted
Exhibit 136	PPS LU 22-184780-000-00-SD for tennis courts 9-20-22	Accepted
Exhibit 137	PPS- LU 22-184780-000-00-SD compatibility DEQ permit review 9-27-22	Accepted
Exhibit 138	Planning&Zoning 22-184780-000-00-SD compatibility 10-18-2022	Accepted
Exhibit 139	BES Approved LU 22-184780-000-00-SD Tennis Court 9-28-22	Accepted
Exhibit 140	PPS Building Permit application 9-14-22	Accepted
Exhibit 141	BES Internal Emails re Tennis Court LU 22-184780-000-00-SD	Accepted
Exhibit 142	BDS & BES Teams Communication re Filling Wetland	Accepted
Exhibit 143	BES Source Control Check Sheet transmission 9-28-22	Accepted
Exhibit 144	BES Source Control Checklist 10-10-22	Accepted
Exhibit 145	BDS checklist for Tennis Courts 10-10-22	Accepted
Exhibit 146	JMS Map Sanitary Sewer pipes @ Tennis Courts	Accepted
Exhibit 147	BES Geomorphic Risk Assessment pt. 1	Accepted
Exhibit 148	BES Geomorphic Risk Assessment pt. 2	Accepted
Exhibit 149	BES Geomorphic Risk Assessment pt. 3	Accepted
Exhibit 150	BES Geomorphic Risk Assessment pt. 4	Accepted
Exhibit 151	BES Geomorphic Risk Assessment pt. 5	Accepted
Exhibit 152	Emails w BES Chief Engineer re Risk Assessment	Accepted
Exhibit 153	Emails w BES Chief Engineer	Accepted
Exhibit 154	PPS site plan demolition & filling wetland pt. 1	Accepted
Exhibit 155	PPS site plan demolition & filling wetland pt. 2	Accepted
Exhibit 156	PPS site plan demolition & filling wetland pt. 3	Accepted
Exhibit 157	PPS site plan demolition & filling wetland pt. 4	Accepted
Exhibit 158	PPS site plan demolition & filling wetland pt. 5	Accepted

Exhibit 159	STAFF REPORT - CORRECTED - change to conclusions paragraph page 28	Accepted
Exhibit 160	Peterson Email	Accepted
Exhibit 161	Zimmerman Email	Accepted
Exhibit 162	Wentworth Email	Accepted
Exhibit 163	Steinbergs Email	Accepted
Exhibit 164	Altavilla Email	Accepted
Exhibit 165	Alpern Testimony	Accepted
Exhibit 166	Fetty Testimony	Accepted
Exhibit 167	B. Dant Email	Accepted
Exhibit 168	D. Dant Email	Accepted
Exhibit 169	Denko Email	Accepted
Exhibit 170	Alpern Testimony	Accepted
Exhibit 171	Alpern Additional Testimony	Accepted
Exhibit 172	DeLong/Parrish Email	Accepted
Exhibit 173	McDonald Email	Accepted
Exhibit 174	Peterson Email	Accepted
Exhibit 175	Julian Email	Accepted
Exhibit 176	Gupta Email	Accepted
Exhibit 177	Kelley Letter	Accepted
Exhibit 178	PPS Synthetic Turf & Crumb Rubber	Accepted
Exhibit 179	A. Gupta Email	Accepted
Exhibit 180	Lee Kwai Email	Accepted
Exhibit 181	Lincoln Volleyball Coaches Email	Accepted
Exhibit 182	Placeholder for Andren Video #1	Accepted
Exhibit 183	Placeholder for Andren Video #2	Accepted
Exhibit 184	Placeholder for Andren Video #3	Accepted
Exhibit 185	Placeholder for Andren Video #4	Accepted
Exhibit 186	Placeholder for Andren Video #5	Accepted
Exhibit 187	Placeholder for Andren Video #6	Accepted
Exhibit 188	Placeholder for Andren Video #7	Accepted
Exhibit 189	Placeholder for Andren Video #8	Accepted
Exhibit 190	Placeholder for Andren Video #9	Accepted
Exhibit 191	L. Andren Testimony	Accepted
Exhibit 192	Markley & Johnson Email	Accepted
Exhibit 193	von Reis Email	Accepted
Exhibit 194	Noveshen Email	Accepted
Exhibit 195	Cushman Email	Accepted
Exhibit 196	K. Andren Email Requesting Record to Be Held Open	Accepted
Exhibit 197	Chapman Email	Accepted
Exhibit 198	STAFF PRESENTATION	Accepted
Exhibit 199	Forbes Email	Accepted
Exhibit 200	Levin Email	Accepted
Exhibit 201	Applicant's Memorandum in Support of Staff Report Recommendation of Approval and Response to Public Comment	Accepted
Exhibit 202	Synthetic Turf and Water Quality	Accepted

Exhibit 203	Hall Testimony	Accepted
Exhibit 204	Kuhn Testimony	Accepted
Exhibit 205	Myers Submittal	Accepted
Exhibit 206	Fritz Testimony	Accepted
Exhibit 207	Crosby Testimony	Accepted
Exhibit 208	Record Closing Information	Accepted
Exhibit 209	Placeholder for K. Andren Video #10	Accepted
Exhibit 210	Fitzgerald Email	Accepted
Exhibit 211	Tubay Email	Accepted
Exhibit 212	Chabala Email	Accepted
Exhibit 213	Holdsworth Email	Accepted
Exhibit 214	Barton Email	Accepted
Exhibit 215	Gulizia Email	Accepted
Exhibit 216	Costarella Email	Accepted
Exhibit 217	Limited 120 Day Extension Agreement	Accepted
Exhibit 218	Applicant's Presentation - Part 1	Accepted
Exhibit 219	Applicant's Presentation - Part 2	Accepted
Exhibit 220	Applicant's Presentation - Part 3	Accepted
Exhibit 221	Applicant's Presentation - Part 4	Accepted
Exhibit 222	Applicant's Presentation - Part 5	Accepted
Exhibit 223	Peterson Email	Accepted
Exhibit 224	McArdle Testimony	Accepted
Exhibit 225	To Hearings Officer	Accepted
Exhibit 226	Hearing Discrepancies & Questions	Accepted
Exhibit 227	4230004 Hearing Testimony	Accepted
Exhibit 228	PPS Master Site Plan Diagrams with Underdrain highlights pt. 4	Accepted
Exhibit 229	PPS Master Site Plan Diagrams with highlights pt. 3	Accepted
Exhibit 230	PPS Master Site Plan Diagrams with highlights pt. 2	Accepted
Exhibit 231	PPS Master Site Plan Diagrams with highlights pt. 1	Accepted
Exhibit 232	PBOT Notification on Culvert & Trash Bin	Accepted
Exhibit 233	BDS Require Submittal Criteria 10-7-22	Accepted
Exhibit 234	Excerpt Composite of SWMM, SCM	Accepted
Exhibit 235	Microplastics & Stormwater	Accepted
Exhibit 236	microplastics & aquatic organisms	Submitted after record closed
Exhibit 237	Crumb rubber & environmental impacts	Submitted after record closed
Exhibit 238	Andrews Email	Accepted
Exhibit 239	Timm Email	Accepted
Exhibit 240	Applicant's Submission During First Open Record Period	Accepted
Exhibit 241	Timm Email	Accepted
Exhibit 242	Andren Email	Accepted
Exhibit 243	Northwest Environmental Defense Center Testimony	Accepted
Exhibit 244	Andren -synthetic turf	Submitted after record closed

Exhibit 245	PPS application for stormwater runoff	Submitted after record closed
Exhibit 246	Pali Consulting Geotech Report Highlights pt 1	Accepted
Exhibit 247	Baretich Email with Attachment	Accepted
Exhibit 248	Tryon Creek Watershed Council Email and Attachment	Accepted
Exhibit 249	microplastics & environmental impacts	Accepted
Exhibit 250	technical issues	Accepted
Exhibit 251	Pali Consulting Geotech Report Highlights pt 2	Accepted
Exhibit 252	Pali Consulting Geotech Report Highlights pt 3	Accepted
Exhibit 253	Pali Consulting Geotech Report Highlights pt 4	Accepted
Exhibit 254	Pali Consulting Addendum	Accepted
Exhibit 255	Artificial Turf Drainage Investigations	Accepted
Exhibit 256	LU 22-185273 CU MS AD - MEMO TO HO	Accepted
Exhibit 257	Applicant's Email and Letter	Accepted
Exhibit 258	Applicant's Final Argument	Accepted