



CITY OF
PORTLAND, OREGON

HEARINGS OFFICE

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DECISION OF THE HEARINGS OFFICER

I. GENERAL INFORMATION

File No.: LU 09-103743 CU (HO 4090007)

Applicants: School District No. 1 (property owner)
P O Box 3107
Portland, OR 97208-3107

Terry Hoagland, Superintendent
Riverdale School District 51J
11733 SW Breyman Avenue
Portland, OR 97219

Representatives: Beverly Bookin
The Bookin Group
1020 SW Taylor, Ste 760
Portland, OR 97205

Francesca Gambetti
Shiels Oblatz Johnson, Inc
1140 SW 11th Ave, Suite 500
Portland, OR 97205

Hearings Officer: Ian Simpson

Bureau of Development Services (BDS) Staff Representative: Kathleen Stokes

Site Address: 8935 SW 52nd Avenue

Legal Description: TL 6300 BLOCKS 1-3 & 16-18, WEST PORTLAND

Tax Account No.: R301499

State ID No.: 1S1E30AB 06300

Quarter Section: 3923

Neighborhood: Ashcreek

District Coalition: Southwest Neighborhoods

Zoning: R5 (R5,000, High Density Single-Dwelling Residential)

Land Use Review: Type III, (CU) Conditional Use Review

BDS Staff Recommendation to Hearings Officer: Approval with conditions

Public Hearing: The hearing was opened at 1:31 p.m. on April 20, 2009, in the 3rd floor hearing room, 1900 SW 4th Avenue, Portland OR, and was closed at 3:38 p.m. The record was held open until 4:30 p.m. on April 27, 2009 for new evidence, until 4:30 p.m. on May 4, 2009 for rebuttal, and until 4:30 p.m. on May 11, 2009 for applicant's final rebuttal. The applicant Riverdale School District submitted its final rebuttal on May 4, 2009 and requested (Exhibit H-16) that the record be closed as of that date. The Hearings Officer approved the request, and the record was closed at that time.

Extending the 120 Day Period: During the April 20, 2009 hearing in this case, Steve Abel, representing Riverdale School District, stated that the applicants approved extending the 120 period under ORS 227.178 by seven days, from July 1 to July 8. This was done to facilitate extending the post-hearing open record period as the applicants requested.

Testified at the Hearing:

Kathleen Stokes, BDS Staff Representative

Terry Hoagland, Riverdale School District 51J Superintendent, 11733 SW Breyman Ave., Portland, OR 97219

Beverly Bookin, The Bookin Group, 1020 SW Taylor, Ste. 760, Portland, OR 97205

Kerry Hampton, 501 N. Dixon, Portland, OR 97227

Heather Bogaty, 11423 SW Northgate Ave., Portland, OR 97219

Dean Smith, 8802 SW 52nd Ave., Portland, OR 97212

Tim Spofford, 8823 SW 51st Ave., Portland, OR 97219

Gary Miniszewski, Ashcreek Neighborhood Assn. Rep., 8343 SW 57th Ave., Portland, OR 97219

John Blatt, 11639 SW 28th Pl., Portland, OR 97219

Michelle Dewey, Portland Bureau of Transportation, Bldg. 106/Room 800

Steve Abel, Stoel Rives LLP, 900 SW 5th Ave., Ste. 2600, Portland, OR 97204

Proposal: The staff report details that Riverdale School District (Riverdale) proposes relocating their elementary school program (K-8th grade) to the Smith Elementary School site. Riverdale proposes leasing the currently unused school facility from Portland Public Schools (PPS) for up to two years, while redeveloping the current Riverdale Elementary School campus at 11733 SW Breyman Ave. Riverdale's elementary program has approximately 332 students and 36 staff. Use of the site is proposed for as early as June 2009. However, the starting date to redevelop the

Riverdale campus is not known yet. Riverdale has requested approval to use the Smith School site for a maximum of two years, with an end date that is not later than summer, 2013.

General school hours are from 8:40 a.m. to 3:30 p.m. The majority of the staff is usually at the school from 8:00 a.m. until 4:00 to 5:00 p.m. Extracurricular activities include up to 28 non-sports events, such as parent-teacher conferences, 7th and 8th grade dances and general social events. These events all conclude no later than 8:30 p.m., with the exception of the three dances, which end about 9 p.m. All participants are to be gone from the site no later than 9:45 p.m. The school's athletic program (volleyball, soccer, basketball, lacrosse and track) calls for up to 78 games plus after-school practice sessions, all using the site's center west field. The field would be used after school from 3:30 to 6:30 p.m., leaving the site by 6:45 p.m., with the exception of the spring lacrosse season. The 14 lacrosse games are scheduled to occur on Mondays or Thursdays during April and May, from 7:00 to 8:00 p.m., and would have the participants at the site from 6:30 to 8:15 p.m. Portland Parks and Recreation is also expected to have a regular schedule of athletic activities on the school fields when they are not used by Riverdale.

To address potential impacts from traffic and on-street parking in the neighborhood, Riverdale proposes having four school buses to transport students each day and also to strongly encourage parental carpools for those students who do not ride school buses. Buses and parent carpools will be directed to use routes that have the least traffic impacts on the area. School staff will direct traffic in dedicated drop-off and pick-up zones along the west (school) side of SW 52nd Ave. for both buses and private vehicles. Visiting athletic teams will be bused to and from the site.

The applicants provided information on the designated travel routes for school buses, as well as the recommended routes for private passenger vehicles, that come to Smith School to drop off or pick up Riverdale students. To ensure that unloading and loading students occurs on the west (school) side of SW 52nd Ave. and vehicles do not turn around, buses and private vehicles will need to approach the school from the north and leave from the south. Working with the Portland Bureau of Transportation (PBOT) staff, Riverdale agreed to a designated route for private vehicles to the school as follows:

- To SW Multnomah Blvd. either from I-5/Multnomah Exit or south-bound from SW Barbur Blvd.;
- West on SW Multnomah Blvd. to the traffic light on SW 45th Ave. and then south-bound on SW 45th Ave. to the traffic light at SW Garden Home Rd.; and
- West (right) on SW Garden Home Rd. to SW 52nd Ave. and then south-bound (left) to the school just past SW Dolph St.

After dropping-off or picking-up students, private vehicles then would continue south on SW 52nd Ave. to SW Orchid St., east (left) on SW Orchid St. to SW 45th Dr. and then north or south depending on the vehicle's ultimate destination.

The Ash Creek Neighborhood Association (ACNA) brought to the applicants' attention that the City of Portland's Bureau of Environmental Services (BES) may start a major sanitary sewer project in SW Multnomah Blvd. during the period that Riverdale is using the Smith School site. The timing and nature of disruption is not presently known. In the event that SW Multnomah Blvd. experiences significant traffic delays due to construction, Riverdale and PBOT discussed an alternate route as follows: SW Taylors Ferry Rd; right on SW 50th Ave; left on SW Dolph St; left on SW 52nd Ave. to the front entrance of the school. The departure route would remain unchanged, taking SW 52nd Ave. to SW Orchid St. to SW 45th Dr. to points north or south.

A different route is required for school buses, because Riverdale's transportation provider, First Student, has documented that its vehicles cannot negotiate the left-hand turn from SW Garden Home Rd. to SW 52nd Ave. The preferred bus route, to which PBOT has agreed, is as follows:

- To SW Capitol Hwy. with a left turn onto SW Taylors Ferry Rd;
- Right turn from SW Taylors Ferry Rd. onto SW 50th Ave;
- Left turn from SW 50th Ave. onto SW Marigold St; and
- Left turn from SW Marigold St. onto SW 52nd Ave. to a designated bus loading zone south of the school's main entrance.

Buses will leave by the same route as private cars: south on SW 52nd Ave. to SW Orchid St., SW Orchid to SW 45th Dr. and then north or south to SW Multnomah Blvd. or SW Taylors Ferry Rd., respectively.

Relevant Approval Criteria: To be approved, this proposal must comply with the relevant approval criteria in Portland City Code 33.815.105, A through E, Institutional and Other Uses in R Zones.

II. ANALYSIS

Site and Vicinity: The staff report details that the site is the former Smith Elementary School, a property with 457,380 square feet (10.5 acres) and owned by the Portland Public School District. The site extends westward from SW 52nd Ave. for approximately 750 feet. The 610-foot long frontage on SW 52nd Ave. includes 60 feet that aligns with the SW Marigold St. right-of-way, which is vacated on the school site but provides access to the east from the intersection at SW 52nd Ave. The frontage continues for 250 feet north and 300 feet south of the SW Marigold St. right-of-way. Rights-of-way for SW 53rd Ave. and SW 54th Ave., which were also previously vacated within the boundaries of the school site, dead-end at the north property line. Southwest 54th Ave. dead-ends at the south property line, but the right-of-way for SW 53rd Ave. now ends at SW Orchid St. south of the school.

The property is developed with a 37,927 square-foot, single-story school building that was built in 1958. The building is set back about 80 to 85 feet from the street lot line on SW 52nd Ave. Beyond the relatively flat area where the school building is situated, a bank rises up as much as 16 feet to

street level at the site's southeast corner. A stairway on the south side of the building provides access to street level.

In addition to the main school building and the southeast stairway, site improvements include an annex attached to the west side of the north end of the main building. This annex has most recently been used as a media center. There is a parking lot on the north side of the school building and a paved play area on the west side of the building. There are athletic fields for softball and soccer, extending across the site from the north to the south on the western half of the property. A paved pedestrian path provides access from the parking lot, along the north edge of the site, to connect at the northwest corner with SW Dolph Dr. The site's far western edge has another steep slope, similar to the one in the southeast corner, leading up to the ground level of the adjacent properties. The area around the site appears to be entirely developed with single-dwelling residences.

Zoning: The site is zoned R5, High Density Single-Dwelling Residential. This zone is intended to accommodate single-dwelling development, with an average of one unit per 5,000 square feet of site area. Institutional Uses are allowed when approved as Conditional Uses.

Land Use History: City records indicate that prior land use reviews include:

7252 A – A 1983 adoption of city zoning for the area of southwest Portland that included this site.

CU 014-71 (71-000881) – A 1971 approval of a Conditional Use Review to add a greenhouse to the site. No site plan or additional information is available.

CU 064-75 (75-001960) – A 1975 approval of a Conditional Use Review for an addition to the end of the school building. This addition included the area that staff referred to in the site description as an “annex” that was most recently used as a media center.

LUR 97-00545 CU AD (97-014591) – A 1997 approval of Conditional Use and Adjustment Reviews, to add a soccer playing field and to relocate two existing soccer fields within the required 50 foot setback, in substantial compliance with the approved site plan and subject to the following conditions:

A. [Portland] Parks & Recreation must work with residents and respond to problems by instructing the teams that use the fields at Smith Elementary School to keep down noise levels, to police the playing area for litter following the games or practices, and to use the school parking lot or street frontage for pick-up and delivery or parking.

B. A pedestrian pathway must be provided along the south edge of the site from the gate at SW 54th Ave. to the paved area south [sic – actually southwest] of the school building, to connect to SW 52nd Ave. on the south edge of the site and to the gates at SW 53rd Ave. and SW 54th Ave. on the east [sic – actually, the north] side of the site. The path must be hard surfaced and at least three feet wide.

Pedestrian Path

Staff noted that the connection from SW 54th Ave. on the south would go toward the east and cross the paved play area to connect with a pedestrian path that leads to the stairway in the site's southeast corner. The connections to SW 53rd Ave. and SW 54th Ave. are not on the site's east edge but rather on the north edge. The connection from SW 54th Ave. on the south would also link to the north, across the paved play area and then connect to a pedestrian path along the site's northern portion. This was accurately depicted in the approved site plan. While the pedestrian connection was provided, as approved, on the site's northern edge, the connection to and from SW 54th Ave. on the site's south edge has never been provided, and so this condition from LUR 97-00545 CU AD (97-014591) is still outstanding.

A representative of Riverdale responded (Exhibit H-16) to Mr. Miniszewski's proposal to amend Condition H to require "the total perimeter of the field (west and north) be provided with a well drained trail for public use at all times even during school hours and recesses." Representing co-applicant PPS, Property Development Manager Kerry Hampton acknowledged during the April 20, 2009 hearing that PPS is required to meet an outstanding condition of approval in LUR 97-00545 to build a portion of the perimeter trail from the point where SW 54th Ave. dead-ends on the south side of the site to the playground approximately 100 yards to the east. Mr. Hampton noted that PPS intends to complete the design and construct this segment of the trail before Riverdale's tenancy begins at Smith. However, Riverdale noted that requiring either PPS or Riverdale to construct a trail around the total perimeter of the field is unrelated to the approval criteria and is not related to enforcing other city regulations in this proposal. In addition, such a requirement would not be roughly proportional to the impacts of the proposed use.

The Riverdale representative noted (Exhibit 16) that U.S. Supreme Court case *Dolan v. City of Tigard* (1994) requires that a condition of approval must be "related both in nature and extent to the impact of the proposed development." In this case, the City may not require either of the co-applicants to provide the trail around the perimeter of the field because the impacts of Riverdale's using the site are unrelated to the neighborhood's desire for trails around the field's perimeter. Such improvements are not related in nature or extent to the proposed use, and so requiring such improvements would violate *Dolan*.

Steve Abel, representing Riverdale, stated during the April 20, 2009 hearing that the proposed pedestrian path is not related to the impacts of the proposed use, and so cannot be required in this decision. Staff planner Ms. Stokes agreed with Mr. Abel that the condition for building a pedestrian trail was not proportional to the proposal's expected impacts. The Hearings Officer finds that it is not appropriate to require building the pedestrian path as part of this decision. There are no requirements stemming from this decision on either applicant to build a pedestrian trail.

Gary Miniszewski, land use chair of the ACNA, stated (Exhibit 12) that the neighborhood association generally supports the proposal. However, in response to Condition of Approval A, the ACNA is concerned with Riverdale using the site until 2014, being five years. Mr. Miniszewski stated that the ACNA understands that there may be contingencies in rebuilding the new Riverdale school building that could extend beyond two years. However, Smith School has been closed for at least five years now and this is a very disconcerting situation for the neighborhood. The ACNA is

glad that the school building will be used again, and hopes that PPS will open a school here again in the coming decade. The ACNA proposes a condition of approval that the PPS and Riverdale do everything possible to have Riverdale use the building and fields for no more than three years. The Hearings Officer finds that Mr. Miniszewski did not link this proposed condition with any of the relevant approval criteria, and so it is not included as a condition of approval in this decision.

A letter was received from Scott Flor and Susan Bexton. They wrote in that they live across the street from the Smith School and would like to see the site used as it was intended, and so support it being leased to Riverdale School District (Exhibit 11).

Beverly Bookin, land use consultant for Riverdale, stated that needed GIS information, including an updated school layout of Smith Elementary School, was provided to the Portland Police Bureau, and acknowledgement of receiving the required information was submitted to BDS LUS staff. Ms. Bookin noted that this satisfied Condition of Approval G in this decision.

Mr. Hampton, of PPS, stated that the proposal was a “win-win” situation because Riverdale needs a facility for their elementary school while their own facility is rebuilt. The site’s fields will be open to the public after school and on weekends. He stated that PPS was trying to get more money to develop more pedestrian paths, such as those proposed for the site.

Heather Bogaty, parent of a Riverdale school child and a member of the Parent Teacher Club, commented during the hearing that Riverdale planned on being a good neighbor, and that school parents were eager to comply with the requested route to and from the school.

Dean Smith, neighbor to the site, stated in the hearing that it was good for the community to use the site and the neighborhood needs amenities such as the site. Mr. Smith requested that Riverdale accommodate neighborhood recreational use.

Steve Abel, representing Riverdale, addressed the concern of some neighbors about the five year time frame for the proposal. Mr. Abel suggested that Riverdale was willing to shorten the time frame to four years to allay neighbors’ concerns about how long Riverdale might use the site. Kathleen Stokes, staff planner, stated that she had no concerns with shortening the period to four years. The Hearings Officer finds that this is a reasonable accommodation on Riverdale’s part. References in this decision to 2014 for the proposal are changed to 2013.

ZONING CODE APPROVAL CRITERIA

33.815 Conditional Uses

33.815.040 Review Procedures

The procedure for reviewing conditional uses depends on how the proposal affects the use of, or the development on, the site. Subsection A, below, outlines the procedures for proposals that affect the use of the site while Subsection B outlines the procedures for proposals that affect the development. Proposals may be subject to Subsection A or B or both. The review

procedures of this section apply unless specifically stated otherwise in this Title. Proposals may also be subject to the provisions of 33.700.040, Reconsideration of Land Use Approvals.

Findings: Staff explained that the procedure for reviews of conditional uses depends on whether the applicant is proposing a new conditional use, changing to another type of conditional use, or modifying development at an existing conditional use. The review procedure may also depend upon the type of use that is being proposed. This proposal is for a school use to be reactivated in the R5 zone, after the previous school use was discontinued for more than three years. Therefore, the proposal requires approval through a Type III Conditional Use Review.

33.815.105 Institutional and Other Uses in R Zones

These approval criteria apply to all conditional uses in R zones except those specifically listed in sections below. The approval criteria allow institutions and other non-Household Living uses in a residential zone that maintain or do not significantly conflict with the appearance and function of residential areas. The approval criteria are:

A. Proportion of Household Living uses. The overall residential appearance and function of the area will not be significantly lessened due to the increased proportion of uses not in the Household Living category in the residential area. Consideration includes the proposal by itself and in combination with other uses in the area not in the Household Living category and is specifically based on:

1. The number, size, and location of other uses not in the Household Living category in the residential area; and

Findings: Staff indicated that the residential area includes residentially-zoned properties within several blocks of the site. The site is mainly surrounded by single-dwelling residential properties. The applicants' representatives indicated that in a survey of the area bounded by SW Garden Home Rd. to SW Taylors Ferry Rd. and from SW 45th Dr. to SW 55th and 57th Avenues, no other non-household uses were identified.

The property has been a school site since 1958 and the code recognizes that school sites may be retained to reactivate for their intended use, if any potential impacts on the residential area are found to be of a level that can still meet the Conditional Use approval criteria. In this case, the proposal will not alter the proportion of the area's uses that are not in the household living category because there will be no increase in the site's size or location. Staff determined that the applicants meet this section's requirements. The Hearings Officer concurs with staff and finds that this criterion is met.

2. The intensity and scale of the proposed use and of existing Household Living uses and other uses.

Findings: Staff stated that the temporary relocation of Riverdale Elementary School to the

Smith School site will involve a population of approximately 332 students and 36 staff. Although Smith School has a design capacity to accommodate 332 students, there were fewer students enrolled in its last few years of operation. According to PPS records, the maximum enrollment in the five years before its closure was 252 in 2001, decreasing to 219 in 2004. Because the school's enrollment fell so far below capacity, PPS closed the school and transferred its students to other elementary schools in the area. The school has been vacant for about four years. Thus, its reuse triggers an increase in intensity from current conditions, but not from the facility's capacity. Because the school was designed to provide an educational institution that would serve a population of this size, the intensity and scale of reactivating the facility are not expected to lessen the appearance or function of the residential area. Staff determined that the applicants meet this section's requirements.

A representative of Riverdale stated (Exhibit H-16) that although opponents raised specific concerns about impacts on the residential area, the alleged impacts of the proposal are not relevant to the inquiry under criterion (A) above, because such impacts are unrelated to an increased proportion of non-household living uses in the residential area. Moreover, the standard for determining impact is one of significance. Unless the residential appearance and function of the area will be significantly lessened, the proposal meets the criterion. Because there is no evidence in the record that the residential appearance and function of the area will be significantly lessened, the proposal meets the above criterion.

The Hearings Officer finds that this criterion is met.

B. Physical compatibility.

- 2. The proposal will be compatible with adjacent residential developments based on characteristics such as the site size, building scale and style, setbacks, and landscaping; or**
- 3. The proposal will mitigate differences in appearance or scale through such means as setbacks, screening, landscaping, and other design features.**

Findings: Staff indicated that the architecture of institutional uses is often substantially different from residential architecture, based on characteristics such as site size, building scale and style. No changes are proposed for the site's existing development. The landscaping and setbacks on the school grounds provide screening that buffers the adjacent homes, and minimizes visual impacts from institutional development upon the surrounding residential neighborhood. Staff determined that the applicants meet this section's requirements. The Hearings Officer concurs with staff and finds that this criterion 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: Staff indicated that the applicants provided the following analysis of potential impacts on nearby residential zoned lands:

Noise: There will be some noise from outdoor activities on the playgrounds and playing fields during the school day, and also on the playing fields in the late afternoon associated with middle school athletic practice and intramural games. These games include boys' and girls' soccer in the fall, and boys' and girls' lacrosse in the spring. Girls' volleyball in the fall and boys' and girls' basketball in the winter will be played in the gymnasium. There are several ameliorating factors:

- The activity will enhance safety by "adding eyes on the neighborhood."
- The number of hours of outdoor play is minimal and confined to weekday periods, when many neighbors are not home.
- The site is large, which helps to minimize the noise at the property line. For example, the main playground is on the west side of the school, so that the main wing of the building shields the noise from residences to the east. It is also located on the west side of the campus, at some distance from nearby residences.
- If not leased to Riverdale, PPS leases the fields to Portland Parks and Recreation, which then makes the fields available for permits to outside users. There have been outdoor organized sports events, with their related noise, with the school closed.

Glare: The site is over ten acres. The building is located on the east side, set back significantly from SW 52nd Ave. There will be no glare, given the distance of the building and related improvements, to nearby residences.

Late-night operations: With few exceptions, all evening extra-curricular events, including the ice cream social, back-to-school night, parent-teacher conferences and parents' sports information meetings, end no later than 8:30 p.m. There will be no one on site after 9:00 p.m. The exceptions are the three middle school dances, held on Friday or Saturday evenings in the fall and winter, which end at 9:00 p.m. For these events, there will be no one on site after 9:30 p.m. As a result, there are no proposed late-night activities.

Odors: No unpleasant odors are expected with operating the school.

Litter: Riverdale has a closed campus. As a result, there are no periods of the school day when students are off campus, and so the school's operation will not result in any littering on neighboring properties. Moreover, the school's philosophy is to teach students the values of citizenship and environmental stewardship, where both littering and vandalism are discouraged.

Privacy: There will be no adverse impact on the privacy of surrounding residences because Riverdale has a closed campus during the school day. Extra-curricular events and activities are scheduled in areas that are set back a reasonable distance from adjacent residential properties.

Security: Smith School is a fully-secured building. As noted above, Riverdale operates as a closed campus, and so students may not leave the school grounds during regular school hours. The school's reuse will not adversely affect security in the adjacent neighborhood. In fact, reusing the school is likely to enhance the safety of the neighborhood by increasing activity and "adding eyes to the neighborhood."

Staff indicated that based on the above explanations from the applicants narrative, no significant adverse impacts related to noise, glare from lights, late-night operations, odors, litter or privacy and safety issues are expected to result from the proposal. Staff determined that the applicants meet this section's requirements.

A representative from Riverdale stated that although various opponents raise concerns about the proposal's impacts, there is no evidence in the record that the proposal will significantly impact the livability of nearby residential lands due to any of the above factors (Exhibit 16).

The Hearings Officer finds that this criterion is met.

D. Public services.

- 1. The proposed use is in conformance with the street designations of the Transportation Element of the Comprehensive Plan;**
- 2. The transportation system is capable of supporting the proposal in addition to the existing uses in the area. Evaluation factors include street capacity, level of service, and other performance measures; access to arterials; connectivity; transit availability; on-street parking impacts; access restrictions; neighborhood impacts; impacts on pedestrian, bicycle, and transit circulation; safety for all modes; and adequate transportation demand management strategies;**

Findings: The site has 610 feet of frontage on SW 52nd Ave. Southwest 53rd Ave. and SW 54th Ave. on the north and SW 54th Ave. on the south dead end at the site's perimeter because these rights-of-way were vacated within the site's interior. Southwest 55th Ave. touches the southwest corner of the site and SW Dolph Dr. wraps around the site's northwest corner. Southwest 52nd Ave. is classified as a Minor Emergency Response Street, and is a City Walkway from the north end of the site to the intersection with SW Marigold St. Otherwise, all of these streets are classified as Local Service Streets for all transportation modes.

Portland Bureau of Transportation reviewed the proposal for its conformance with adopted policies, street designations, Title 33 Approval Criteria, Title 17, and for potential impacts on transportation services. The bureau's analysis (Exhibit E-2) is as follows:

Street classifications

The site's proposed school use conforms to the Local Service street designation of SW 52nd Ave. and the other surrounding local streets in the site's immediate vicinity. The Transportation System Plan (TSP) states that "Local Service Traffic Streets are intended to distribute local traffic and provide access to local residences or commercial uses."

Access to arterials

The site is centrally located between SW Taylors Ferry, SW 45th, and Garden Home. All three of these streets are designated as Neighborhood Collector Streets in the TSP.

Connectivity

The school site and related athletic fields are of a size that prevents full connectivity through the site in order to meet City spacing guidelines. Portland Bureau of Transportation will not require new streets to be constructed through the site as this could create safety issues for children passing between the school and the adjacent athletic fields. In addition, there are some steep slopes that limit east-west connectivity. Connectivity north and south of the site is not as limited as east and west of the site.

Transit availability

The site is currently served by TriMet Bus 45 on SW Garden Home, and by Bus 43 on SW Taylors Ferry, both with bus stops less than ½ mile from the site. No school children are expected to use public transit to access the site. However, the school will use private buses to bring children to the site.

Street Capacity/Level of service/other performance measures

Per Portland Policy Document TRN-10.27 - Traffic Capacity Analysis for Land Use Review Cases: For traffic impact studies required in the course of land use review or development, the following standards apply:

1. For signalized intersections, adequate level of service is LOS D, based on a weighted average of vehicle delay for the intersection.
2. For stop-controlled intersections, adequate level of service is LOS E, based on individual vehicle movement.

The industry standard is to measure street capacity and level-of-service (LOS) only at intersections during the critical time period, such as a.m. or p.m. peak hour. Although capacity is a part of the LOS, the City of Portland's performance standards are defined only by LOS, which is defined by average vehicle delay. The City does not have performance standards for any of the other evaluation factors.

Based on observations of the existing Riverdale school operation, the Smith School operation will include approximately 124 vehicles dropping children off in the morning. The impact in the afternoon will be reduced because some students stay after school for extra-curricular

activities. There will also be 26 vehicles associated with school staff members that will access the site. The applicants' narrative includes detailed information on carpool percentages and the number of students expected to be bused to and from the site. Based on the expected number of vehicles accessing the site and the proposed routing of the vehicles, PBOT requested that the applicants submit a Traffic Impact Analysis to determine if the City's performance standards, listed above, could be met at area intersections with the addition of school traffic. The applicants' traffic consultant evaluated the level-of-service at the intersections of SW 45th/SW Garden Home, SW 52nd/SW Garden Home, SW 45th/SW Orchid, SW 48th/SW Taylors Ferry, and SW 50th/SW Taylors Ferry. The study found that all intersections currently operate at acceptable levels-of-service, and will continue to operate at acceptable levels-of-service with the addition of the proposed school trips.

On-street parking/neighborhood impacts

The applicants provided a narrative describing the proposed uses on the site, the times that those uses will occur, and the vehicles/parking demand that will be associated with each use. The applicants also provided a supplemental memorandum (dated April 2, 2009) further describing the on-street parking impacts associated with the after-school extra-curricular sports activities. The on-site parking lot has 26 parking spaces. There are approximately 15 parking spaces available on SW 52nd Ave. along the site frontage, 15 parking spaces available on SW 52nd Ave. on the east side of SW 52nd across from the school site, and approximately eight parking spaces available on SW Marigold St. between SW 52nd and SW 51st (directly east of the site), for a total of 26 on-site spaces and 38 on-street spaces. Portland Bureau of Transportation deemed the on-street parking spaces detailed above to be within a reasonable distance of the school. The applicants' memo includes a parking survey of the on-street parking areas listed above for a typical afternoon time period when extra-curricular sporting events would occur. The on-street parking survey found that at most three of the 38 available parking spaces were occupied with vehicles, leaving 35 spaces unoccupied during this time.

The applicants' memo indicates that during the fall there will be 24 after-school athletic events, with a total parking demand of 35 spaces. With 26 on-site parking spaces, these events will result in an overflow of nine vehicles needing to use on-street parking spaces. With 35 on-street parking spaces available in the site's immediate vicinity, the proposed overflow parking will only occupy about one quarter of the available on-street parking spaces. Portland Bureau of Transportation considers this a minimal impact to on-street parking.

The applicants' memo indicates that during the spring there will be 14 after-school athletic events with a total parking demand of 37 spaces. With 26 on-site parking spaces, these events will result in an overflow of 11 vehicles needing to use on-street parking spaces. With 35 on-street parking spaces available in the site's immediate vicinity, the proposed overflow parking will only occupy about 31% of the available on-street parking spaces. Portland Bureau of Transportation considers this a minimal impact to on-street parking.

In addition, the applicants' narrative included a summary of other uses during the year that will have some overflow parking onto the public streets. The majority of these events occur during

the school day when neighborhood demand for on-street parking is low. There are four events per year that will occur during the evening and will have greater on-street parking impacts. Three of the events will result in an overflow of 30 vehicles. The last event, the yearly “back-to-school night”, will result in an overflow of approximately 100 vehicles. The back-to-school night will have a significant impact on area on-street parking; however this will only occur once a year. Portland Bureau of Transportation suggests that significant neighborhood outreach occur before this event to notify neighbors of the expected impact.

Drop-off/pick-up operation

The applicants provided a supplemental narrative dated February 25, 2009 describing a marshalling plan to reduce the impact of student drop-off and pick-up operations on SW 52nd Ave. The plan consists of three staff members being posted along the site’s SW 52nd Ave. frontage to oversee and facilitate unloading and loading students. Information will be distributed to parents and will be posted on the internet instructing them to drop-off and pick-up students in the area directly in front of the school on the west side of SW 52nd. Parents will be instructed to remain in their cars to expedite the drop-off and pick-up operations and to reduce queuing as much as possible on SW 52nd Ave. This will minimize neighborhood impacts and ensure the safety of students accessing the site.

Adequate Transportation Demand Management strategies

The applicants’ February 25, 2009 supplemental narrative includes a Transportation Demand Management (TDM) Plan that encourages increased carpooling and bus usage. The existing Parent Teacher Club has assigned captains that will call every family to discuss transportation needs, organize carpools, and encourage bus use. The school district is continuing to work with the bus company on the best routing of buses to ensure maximum coverage of the Riverdale School District.

Access restrictions

No access restrictions are necessary; the site has one driveway which will remain to serve the existing parking lot. Drop-off and pick-up operations will occur on the west side of SW 52nd Ave. as there is not adequate space on site for these functions. The site’s previous public school use included drop-off and pick-up operations on SW 52nd Ave. as well.

Impact on pedestrian, bicycle, and transit circulation

There is no reason to believe that the proposal will have negative impacts on pedestrian, bicycle or transit circulation in the neighborhood.

Safety for all modes

No negative safety impacts are expected with this proposal on any mode of the transportation system. The applicants’ traffic study included a sight distance analysis at the intersections of SW 52nd/SW Garden Home and SW 45th/SW Orchid Drive and found that minimum sight distance requirements are met for the proposed routing of school traffic.

Title 17 compliance information:

Street Configuration and Public Improvement/Dedication Requirements

No public street improvements will be required with the proposal. The site's SW 52nd Ave. frontage is already improved to City standards with curb and sidewalk.

Building Permit Information

During the building permit review, following the land use review, system development charges may be assessed on the proposal.

Mr. Tim Spofford submitted a statement (Exhibit H-4) indicating general support of the proposal. However, Mr. Spofford believes neither the application nor the staff report sufficiently addresses Riverdale School bus and vehicle routing in the immediate area and to that extent he raises this objection.

Mr. Spofford states that the proposal seeks "to assure that ... vehicles do not turn around on SW 52nd Avenue," and indicates a designated route from Garden Home to 52nd and then southbound on 52nd to the school. Critically to Mr. Spofford's concern, "private vehicles then would continue south on SW 52nd to SW Orchid ... to SW 45th Dr. and then north or south [on SW 45th]."

Mr. Spofford states that although the proposed route seems reasonable, it ignores human nature. Left turns onto a two-way road are inherently more challenging than right turns. The proposal promises a line of cars leaving the school and merging with local commuters headed for work and then, at the bottom of a short steep hill, fighting to turn left (north) onto SW 45th to depart the area on SW Multnomah Blvd. Mr. Spofford stated that despite the school asking parents to follow the preferred route, it is much easier and much more likely for drivers to swing around the block and exit the area via SW 52nd or SW 50th and proceed, with a right (not left) turn onto SW Garden Home.

Mr. Spofford continues in stating that a different situation presents itself for those proceeding south from the school to SW Taylors Ferry and then Barbur Blvd. or I-5. The SW Taylors Ferry/Capitol Hwy. intersection, immediately before accessing either SW Barbur or I-5, is controlled by a four-way stop. At busy periods (such as school start and stop times) it is notoriously difficult to navigate, and is followed immediately by one (if headed to SW Barbur) or two (if headed to I-5) multi-directional, long-cycle traffic lights. For that reason alone, many neighborhood residents use mostly the northbound, SW Garden Home, SW Multnomah route to exit the neighborhood. It is unreasonable to expect Riverdale parents to do otherwise, and a significant number of them are likely to choose the lesser burden and go around the block to depart, again, via SW 50th or SW 52nd and SW Garden Home.

Mr. Spofford stated that he lives at 8823 SW 51st, one block northeast of the school's main entrance. Southwest 51st between SW Dolph and SW Marigold is quite narrow (as are SW 50th and 49th), with legal parking on only one side of the street. When such parking is used, as it

often is, there is room for only one vehicle to pass at a time, i.e. with cars parked it becomes essentially one-lane wide. Furthermore, the northern half of the block of SW 51st, between SW Dolph and SW Marigold, has at least eight children under ten years old and several under three. The child population often expands with school friends visiting and playing outside, at what would be prime Riverdale traffic times.

Mr. Spofford stated that this part of SW 51st Ave. is an element of one of several easy routes between SW Garden Home and the school. The school does not have a natural or engineered turnaround for buses or personal vehicles, and the proposed routing assumes school-related vehicle traffic will continue in a northerly or southerly direction, depending on the time of day, until intersecting one of the main east-west roads (SW Garden Home, SW Taylors Ferry and/or SW Orchid).

Mr. Spofford stated that it is natural and predictable, however, that any driver with a need to reverse direction will drive around one of several blocks, with his block being the prime candidate. Currently, one PPS school bus does exactly that, twice a day, driving north on SW 52nd, right on SW Dolph, right (south) on SW 51st, and right on SW Marigold to the corner of SW 52nd and SW Marigold, in front of the school. Common sense as well as common practice in this area suggests that significant school-related traffic will do the same or a close variation. Mr. Spofford stated that the same concerns that he is communicating here led to residents on SW 50th between SW Marigold and SW Orchid to install self-help speed bumps – since removed as non-compliant – and at least in part to residents on the block of SW 51st due south of him to leaving part of the street unpaved and pothole ridden.

Mr. Spofford continued in stating that he is aware that Riverdale proposes another route, using the through streets of SW Dolph, SW Orchid, SW Garden Home and SW 45th. To reiterate, he does not think either the application or the staff report is sufficiently strong on this point to address the concern about drivers finding their own route to leave the area. Mr. Spofford stated that he did not know, except in the most general way, what neighborhoods the students and staff will be arriving from, but it is unreasonable to believe that a simple strong request will be sufficient to dissuade parents, staff and others from using the adjacent and easily available but entirely inappropriate streets for this purpose.

Mr. Spofford closed his comments by respectfully requesting that granting the application be contingent on the applicants' submitting to the City an expanded plan for mitigating vehicle traffic on these streets by additional traffic control mechanisms or otherwise.

Gary Miniszewski, of the ACNA, stated that regarding Condition of Approval D, the neighborhood association requested that the following travel route to the neighborhood be required as the school bus route: Bus vehicles heading north from the Riverdale District use Kerr Parkway/49th heading north to Capitol Highway; then go west on Taylors Ferry Rd. to the most direct and safe north-south avenue heading north to Smith School.

Riverdale's representative responded (Exhibit 16) in stating that Mr. Spofford raises concerns about traffic impacts on the local street network and the District's proposed routing plan. Mr.

Spofford requests that approval of the proposal be conditioned on submission of an expanded mitigation plan for school-related traffic on local streets. However, because Riverdale's traffic engineer has demonstrated that there will be no adverse impacts at five nearby intersections, and Riverdale and PBOT have already agreed to designated routes to bring buses and private vehicles to and from the site, it is unclear how Mr. Spofford's concerns are relevant to the approval criteria.

Portland Bureau of Transportation concluded its analysis in stating that it has no objection to approving the proposed conditional use, with the proposed TDM strategies generally described above. The bureau's response also included a recommendation that Riverdale inform neighbors of the potential for overflow on-street parking for major special events. The bureau determined that, with conditions, these criteria can be met.

The Hearings Officer finds that these criteria are met.

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: Staff stated that the City's other service agencies evaluated the proposal and found that public services are adequate, or can be made adequate to serve the proposed use. The Bureau of Environmental Services found that the sanitary waste disposal and stormwater disposal systems are acceptable, since no exterior improvements are being proposed (Exhibit E-1). The Water Bureau noted that the site is served from the four-inch water main in SW 52nd Ave., with a static water pressure range that is estimated to be 52 to 65 psi (Exhibit E-3). The Fire Bureau indicated no issues or concerns with the proposed use.

The Police Bureau noted (Exhibit E-4) that, in order to ensure that the bureau is able to meet the burden in increased demands for police surveillance, Riverdale will need to be involved in active communication with the neighborhood and the Portland Police Bureau. To this end, the following precautions and recommendations were made:

- Thefts that target schools can be reduced when adjustments are made toward environmental design and community awareness. The bureau recommended contacting the Office of Neighborhood Involvement (ONI) to assist with increased awareness toward safety designs and community meetings focused around (any issues related to) school activities.
- School administrators should provide appropriate information to students and parents about going to a new school and discuss the safety needs for this campus. Schedule a time for a Portland School Police Officer to assist the students and staff with safety and security.

- The Portland Police Bureau has been working to map all of the Portland Schools sites for emergency response and other uses. The lapse in active use of this site presents a need for updates. Due to the site's intended use, an updated school layout with GIS information should be provided to the bureau.
- With the increase of approximately 370 people (student and teachers) at the site, the pick-up and drop-off zones and the addition of vehicular traffic, parent involvement may be necessary.
- Certain limitations on areas for parents to drop off students may necessitate clearly established areas for crossing zones that use sidewalks for the safest route to and from school.
- The local community uses the athletic field area for recreation. To encourage local community support of the site's use by a non-district school and avoid community disassociation, establish a user-friendly walking path along the field. The boundary defines common use areas and the signs for the possible use can reinforce this use (as an example, "please stay on the path to preserve the use of this community supported field").
- The Police Bureau recommends that ONI have an opportunity (if they have not already done so), to voice opinions and concerns on additional elements to limit the potential for crime on the site. More specifically, consider a Crime Prevention Through Environmental Design (CPTED) evaluation that assesses the day and night conditions in and around the site.
- Before school use of the site, the Portland Police Bureau recommends that Riverdale's on-site persons establish a Community Policing Contact by working with Central Precinct Commander Mike Reese and School Police Sergeant Tom Perkins on any public safety issues or concerns identified.

Staff indicated that the applicants have proposed specific pick-up and drop-off areas in front of the school. These locations will allow students to arrive and depart without crossing the street and will be supervised by school staff, and so this recommendation of the Police Bureau is already met through the proposal. Conditions of approval will require that communication is established with ONI and the Portland School Police or the Portland Police Bureau, as noted in the Police Bureau recommendations. Portland Public Schools will also be required to provide the required GIS information regarding the school site to the Police Bureau. A pedestrian pathway already exists on the site and LUR 97-00545 CU AD (97-014591) requires that the connections be completed.

Discussions regarding the benefits and advisability of employing elements of Crime Prevention Through Environmental Design (CPTED) will also be required. However, compliance with

these design elements will be voluntary, as the proposal does not appear to create impacts sufficient to require that all of the elements be made conditions of approval. Therefore, with conditions that address the recommendations of the Portland Police Bureau as noted above, this criterion can be met.

The Hearings Officer concurs with staff and finds that this criterion is met.

E. 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: Staff indicated that the site is within the boundaries of the Southwest Community Plan. Staff determined that though none of the adopted Policies and Objectives of this plan appear to be directly related to this proposal, reusing Smith School can be found to be generally consistent with these elements of the Southwest Community Plan:

Land Use and Urban Form. I. Community Wide Objectives:

Objective 7. Encourage medical and educational institutions to appropriately house students and work cooperatively with affected neighborhood associations to minimize negative livability impacts on adjacent residents.

Objective 8. Support efficient utilization of public lands for achieving compatible multiple objectives, where appropriate.

Staff explained that it is not entirely clear what is meant by the phrase “appropriately house students” in Objective 7. If this objective refers to housing for adult students of educational institutions, such as colleges, it does not apply to this case. If the objective refers to housing students during their school hours in the educational facility, it does apply. This proposal is to provide a place to “house” the students of Riverdale Elementary School during a construction and redevelopment project on their home campus. This is entirely in keeping with both Objectives 7 and 8.

Transportation. Objective 1. Support the development of pedestrian facilities, including safe crosswalks, identified in the Pedestrian Master Plan and the SW Trails maps on arterials and local streets, at major intersections and bus stops, on unimproved rights-of-way, and across public and private lands where appropriate to provide connections between residential areas and activity centers.

Staff determined that the proposal can be found to be consistent with the relevant policies of the adopted area plan and this criterion can be met. The Hearings Officer concurs with staff and finds that this criterion is met.

Portland Parks and Recreation – Strategic Planning Projects Division responded to the proposal in noting that a significant number of southwest community sports activities are regularly

scheduled at the five athletic fields at Smith School through the Portland Parks and Recreation permitting programs. The central soccer field that Riverdale School will use as part of the lease agreement with PPS was built as a part of Portland Parks and Recreation's 1994 General Obligation Bond projects. The overlapping layout of the soccer and baseball fields will result in the bureau not having use of the baseball fields for the programs that have regularly used them on weekday afternoons. This will cause a loss of field use in an area that already has a shortage of available athletic fields. Portland Parks and Recreation's response did not indicate what limitations Riverdale's using the central soccer field would have on other sports activities that were previously scheduled by the bureau on these fields. However, Portland Parks and Recreation concluded that this situation will not have a direct impact on the livability of the immediate neighborhood and no recommendations were given for any conditions of approval (Exhibit E-6).

Nancy Engstrom, residential neighbor, commented (Exhibit 5) that she does not have any objection to PPS renting the building to Riverdale. However, as a neighbor and parent of two elementary school children, she has several concerns about neighborhood access to the site. Historically, neighbors have enjoyed using the fields, playground and blacktop area during and after school with few restrictions, other than not disturbing school activities or city sport leagues. Ms. Engstrom is concerned that renting the school out will essentially make what was a public space a private property where the neighbors are excluded, other than on weekends.

Ms. Engstrom stated that no public school exists in the Ash Creek neighborhood, and there are no public parks or other public facilities. Parks in the nearest neighborhoods are unsafe to walk or bike to due to traffic, unsafe street crossings and the lack of bike lanes and sidewalks. Such parks are also simply too far away to be a realistic option. The neighborhood depends on the site for local children to play after school. They play on the playground structures, ride bikes and scooters, roller-skate, play basketball and hopscotch on the asphalt area, and enjoy the fields for a variety of sports. Adults enjoy the fields for walking, jogging and dog exercise.

The neighborhood values the Smith School space. The Smith School PTA funded purchasing and installing the playground, and the City paid for improvements to the fields for the benefit of city sports leagues. The neighborhood association holds regular Smith School clean-up events, and the neighbors even got together to install plastic bag dispensers so that the grounds could be kept free of dog poop!

Ms. Engstrom closed in requesting that there be provisions in both this decision and the lease agreement that grants the neighborhood access rights to the site comparable to what it has historically had.

The Hearings Officer finds that Ms. Engstrom's request that this decision include a requirement for the applicants to grant the neighborhood access rights is not related to any of the approval criteria, and so is denied.

Gary Miniszewski stated (Exhibit 12) that regarding Condition of Approval H, the ACNA is very concerned with possible limitations to using the site's fields. The fields and play area have been used as a park for decades. The site has the only suitable flat turf area in the Ash Creek neighborhood and is thus the neighborhood's only active recreation use park. The neighborhood uses the park for league soccer and baseball, walking, running, Frisbee play, spontaneous football games, and dog exercise. Young parents have also been instrumental in having the play equipment constructed near the school building. Neighborhood children accompanied by parents should be able to use the playground equipment any time during the day when the school children are not using the equipment. Portland Parks and Recreation has even invested public money to improve the turf drainage for better recreation field use.

Gary Miniszewski noted (Exhibit 12) that Portland Parks and Recreation and Police crime prevention representatives commented on the fields' use in the staff report. Portland Parks and Recreation stated that they coordinate league recreation on the fields, although they did not make any specific recommendation on how Riverdale's using the fields would be coordinated with historic league use. The ACNA recommends modifying Condition of Approval H to prevent reducing the current nature and level of field use programming by Portland Parks and Recreation. This will ensure that Riverdale and Portland Parks and Recreation work together to ensure that Riverdale's use of the fields not disrupt historic league use. In addition, the ACNA recommends amending this condition to require that the total perimeter of the field (west and north) be provided with a well drained trail (crushed rock or bark mulch above a rock base) for public use at all times, even during school hours and recesses. The newly added trail segments along the west and north boundaries of the fields would give the public the ability to use the fields while not being in close proximity to school children mainly playing on asphalt near the building. Signs should be posted stating that the general public on the perimeter pathways respect the privacy and safety of the school children. Mr. Miniszewski suggested that the Police Bureau recommended this in the staff report.

John Blatt, President of Wilson Junior Baseball, made a statement on behalf of Wilson Junior Baseball and Southwest Portland Little League (Exhibit 13). Mr. Blatt's objection relates to using the site's fields during non-school hours between March 1 and July 31. He notes that according to Portland Parks and Recreation, the proposal will significantly impact existing neighborhood recreational programs because there is already a shortage of fields and the proposal will further reduce field availability. Mr. Blatt said that the staff report states Portland Parks and Recreation will permit regular field use when not in school use, despite Portland Parks and Recreation clearly stating that if the proposal is approved then regular use will be denied.

Mr. Blatt states that the proposal will also violate the Southwest Community Plan as adopted by the Portland City Council, and in no way mitigates the impacts. The Southwest Community Plan states that the objective for "parks, recreation and open space" is to "[m]aintain and enhance existing parks, recreational programs, and community centers in Southwest Portland to serve current and future residents" (page 25).

Mr. Blatt noted that the staff report appears to blame the proposal's lack of mitigating conditions on the lack of recommendations by Portland Parks and Recreation (Staff Report, page 6). Mr. Blatt believes that Portland Parks and Recreation is saying there is little chance for mitigation because there is already a shortage of fields in SW Portland. Any loss of fields would not meet the standard in the community plan. The burden is on the applicant to show that they can mitigate negative impacts caused by approving a conditional use. The staff report fails to address the fact that the applicant has failed to meet this standard because this is a "loss of field use in an area that already has a shortage of available fields." The impact on community recreational programs has not been addressed at all in the staff report. The part of the conditional use that includes using the fields after 3:30 p.m. between March 1 and July 31 should be denied because the applicant is not responsive to an identified impact on the Southwest Community Plan.

Mr. Blatt stated that Smith field is the only field on the west side of Portland that can accommodate the variously sized fields used in baseball for different aged teams. It is also one of the fastest drying fields in the region which allows its use more regularly than any other field. Forcing the baseball teams to use other already overused fields will impact other fields. Overusing fields is an impact that must be mitigated.

It appears that the applicant may be proposing high school lacrosse be played here, but it's not clear the application includes high school use. Hosting high school level sports, such as lacrosse, is very different than hosting K-8 and should not be folded into this application.

Mr. Blatt noted the staff report characterizes this as a reactivation of a previous school conditional use. This may be true for the school use, but there is no evidence that the previous Conditional Use allowed the school to use the fields after school hours to the exclusion of other users. In the nine years Mr. Blatt has been a resident in the area, he has never seen or heard of any school-sponsored sport using these fields after school. Wilson Junior Baseball, an existing and historic user of these fields, asserts that the applicant has not met the conditions of Conditional Use approval for this element of their proposal and therefore, the part of the Conditional Use that includes using the fields after 3:30 p.m. between March 1 and July 31 should be denied.

A representative of Riverdale responded (Exhibit 16) that although Mr. Blatt argues that the proposal conflicts with Southwest Community Plan objectives for parks, Mr. Blatt has not identified how the community plan's objective relates to the proposal's approval criteria. The site is a school owned by PPS District 1, and is not a public park. Because the Smith site is not a public park and the neighborhood's desire to use the school grounds as a park is not related to the applicable approval criteria, it is irrelevant to determining whether the proposal complies with PCC 33.815.105. As such, the site's fields are intended for school use. It is unclear how using the fields for school athletic events is somehow contrary to the objective.

Moreover, although Mr. Blatt calls attention to Portland Parks and Recreation's conclusion that the proposal "will cause a loss of field use in an area that already has a shortage of available

fields,” he fails to note Portland Parks and Recreation’s conclusion that the issue with the fields is not relevant to the applicable approval criteria, as staff stated at page 5. However, Riverdale has agreed to forgo using the fields in the spring so as to cooperate with community members who have come to rely on using the fields. As such, the fields will continue to be available for Wilson Junior Baseball and Southwest Portland Little League. Riverdale requests, however, that it be allowed to hold track practices at the site’s fields during the spring, provided that the track team runs around the perimeter of the exiting baseball and softball fields (Exhibit 16).

Riverdale rejects proposed conditions of approval made by opponents (Exhibit 16). Mr. Miniszewski’s proposal to amend Condition D to include an alternative bus route is unrelated to the approval criteria and has nothing to do with enforcing other City regulations. The bus route beyond the neighborhood’s boundaries has nothing to do with the appearance and function of the residential neighborhood, and the evidence in the record demonstrates that the transportation system is capable of supporting the proposed use.

Mr. Miniszewski (Exhibit 12) requested that a condition of approval be added requiring that the ACNA be allowed to use a space at Smith School for its monthly meetings. Riverdale responded (Exhibit 16) that at the April 20 hearing, District Superintendent Terry Hoagland agreed to accommodate the neighborhood association’s request to use Smith for their meetings. However, Riverdale believes there is no need to impose a condition of approval to this end. To the extent it is necessary to impose a condition of approval related to Riverdale’s communication with the neighborhood association, Riverdale proposes the following condition of approval:

The Riverdale School District Superintendent or his designee will meet with the Ash Creek Neighborhood Association quarterly, with additional meetings on an as-needed basis, to address issues of concern related to the District’s use of Smith.

The Hearings Officer finds that ACNA’s request for a condition of approval requiring Riverdale to accommodate ACNA monthly meetings with space at Smith School to be well beyond the scope of any relevant approval criteria. Riverdale’s offer of a condition of approval requiring a Riverdale representative to meet with the ACNA on a regular basis is reasonable and will be included.

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 a building or zoning permit 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 a building or zoning permit.

III. CONCLUSIONS

Staff determined that all of the relevant approval criteria for the requested Conditional Use Review can be met, with conditions to ensure that traffic and parking impacts on the neighborhood are minimized and that safety and security measures are enacted. Reusing the Smith School facility for its intended purpose as an elementary school will not change the proportion of household uses in the area. No negative impacts from the intensity of the use are expected to occur. There will be no physical changes to the site, other than cosmetic improvements, so it will still maintain adequate setbacks and buffering to be consistent with the appearance of the residential area. Using the school is not expected to create any significant impacts to the livability of the residential area due to noise, glare from lights, late-night operations, odors, litter or privacy and safety issues. Implementing the proposed TDM Plan, including using school buses and carpooling, defined routes for school-related commuting, staff oversight of designated drop-off and pick-up areas, and information for the neighborhood regarding overflow parking from major events, will ensure that impacts to traffic and parking in the residential area are maintained at a manageable level. The requirement to establish communication channels with ONI and the Portland Police Bureau, along with providing security information and practices, will address any potential for increased crime or other safety considerations related to using the site. Staff determined that with these requirements, the request can be approved. The Hearings Officer concurs with staff and finds that the proposal can be approved.

IV. DECISION

Approval of a Conditional Use Review to allow the Riverdale School District to use the Smith School facilities, at 8935 SW 52nd Ave., for its elementary school program (K-8th grade) for up to a maximum of two years, within the period beginning as early as June 2009 and ending no later than the summer of 2013, subject to the following conditions:

- A. If for any reason the construction project(s) at the Riverdale campus are not completed within the expected timeframe, extending this Conditional Use approval (beyond the end of August, 2013) may be requested through a Type II Review process.
- B. The proposed school program, including the numbers of students and teachers, school hours and additional activities for teachers, students and parents, is to generally correspond to the proposal described in this review and detailed in the applicants' narratives (Exhibits A-1 through A-4).
- C. At least 60 days before classes start for Riverdale Elementary School at the Smith School facility, documentation that the following conditions (Conditions D-H) have been met or will be met must be provided to BDS LUS staff. The designated BDS LUS contact person for the submittal and review of the required information is the staff planner for this review.
- D. To ensure that the Transportation Demand Management Plan is implemented, copies of the information that will be provided to Riverdale parents must also be provided to BDS LUS staff. These subjects include the designated travel routes for school buses and private

automobiles, the designated drop-off and pick-up zones with oversight by at least three staff members, and the school carpooling program.

- E. To ensure that neighbors surrounding the Smith School site receive advance knowledge of the potential impacts on area street parking from the overflow parking for major school events, the school must request to meet with the Ash Creek Neighborhood Association to provide this information at a public meeting that would be held at least two weeks before the first Back-to-School Night (probably an August monthly meeting). Information that must be provided at the meeting is the projected number of overflow cars that would be parked on the neighborhood streets and the approximate dates for Back-to-School Night, 7th/8th Grade School Dances, Sports Night Information and Boys/Girls 6th through 8th Grade Track. If the ACNA meeting schedule does not allow an appropriate time frame for meeting this requirement, Riverdale must alternatively ask to present the required information at a meeting of the Southwest Neighbors, Inc. If neither of these alternatives can meet the requirements of this condition, Riverdale must request that the City of Portland Office of Neighborhood Involvement arrange for a meeting for the surrounding neighbors. Documentation of the request for the required meeting must be submitted to BDS LUS staff.
- F. Portland Public School District and Riverdale School District must contact ONI to discuss assistance with increased awareness regarding safety designs (CPTED). Riverdale must establish a contact with ONI for community meetings focused around any issues related to school activities and to also schedule a time for a Portland School Police Officer to assist students and staff with addressing safety and security for the school. Southwest Neighborhoods, Inc and ACNA must also be invited to participate in these discussions. Copies of a request to meet for the afore-mentioned discussions must be submitted to BDS LUS staff.
- G. Portland Public School District or Riverdale School District must provide needed GIS information, including an updated school layout of Smith Elementary School, to the Portland Police Bureau. Acknowledgement of receiving the required information by the Police Bureau must be submitted to BDS LUS staff.
- H. The Riverdale School District Superintendent or his or her designee will meet with the Ash Creek Neighborhood Association quarterly, with additional meetings on an as-needed basis, to address issues of concern related to the District's use of the Smith Elementary School site.

Ian Simpson, Hearings Officer

Date

Application Deemed Complete:	March 2, 2009
Report to Hearings Officer:	April 10, 2009
Decision Mailed:	May 21, 2009
Last Date to Appeal: 4:30 p.m.,	June 4, 2009
Effective Date (if no appeal):	June 5, 2009

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 FILED AT 1900 SW 4TH AVENUE, PORTLAND, OR 97201 (823-7526). Until 3:00 p.m., Monday through Friday, file the appeal at the Development Services Center on the first floor. Between 3:00 p.m. and 4:30 p.m., file the appeal at the Reception Desk on the 5th Floor. **An appeal fee of \$5,978.50 will be charged (one-half of the application fee for this case).** Information and assistance in filing an appeal can be obtained from the Bureau of Development Services at the Development Services Center.

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 an 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 Neighborhood Involvement 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 Chair person or other person authorized by the association, confirming the vote to appeal was done in accordance with the organization’s bylaws.

Neighborhood associations wanting to qualify for a fee waiver must complete the Type III Appeal Fee Waiver Request for Organizations Form and submit it before 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.

BDS may also grant fee waivers to low income applicants appealing a land use decision on their primary residence that they own in whole or in part. In addition, an appeal fee may be waived for a low income individual if the individual resides within the required notification area for the review, and the individual has resided at that address for at least 60 days. Individuals requesting fee waivers must submit documentation certifying their annual gross income and household size (copies of tax returns or documentation of public assistance is acceptable). Fee waivers for low-income individuals must be approved before an appeal is filed; please allow three working days for fee waiver approval.

Recording the final decision.

If this Land Use Review is approved the final decision must be recorded with the Multnomah County Recorder. A few days before the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- A building or zoning permit will be issued only after the final decision is recorded.

The applicant, builder, or a representative may record the final decision as follows:

- **By Mail:** Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- **In Person:** Bring the two recording sheets (sent in a separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034
For further information on recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

Expiration of this approval. An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

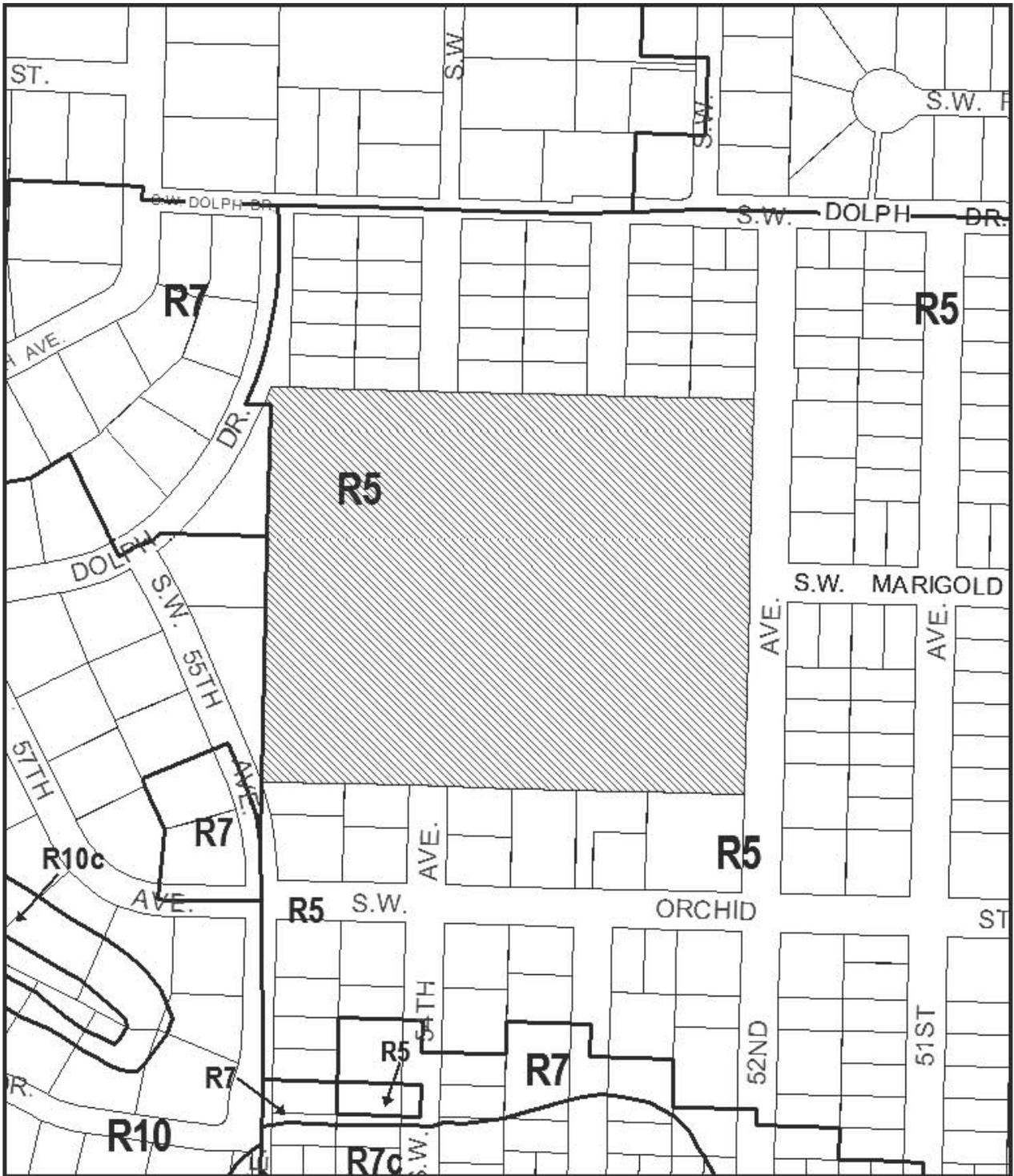
Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

- 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
NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement:
 - 1. Application Form
 - 2. Original narrative, plans and traffic impact study
 - 3. Supplemental information, dated February 25, 2009
 - 4. Supplemental information, parking analysis, dated April 2, 2009
- B. Zoning Map (**attached**):
- C. Plans & Drawings: (**8 ½ x 11 attached**)
 - 1. Site Plan
 - 2. Diagram of Bus and Auto Loading/Drop-Off
- D. Notification information:
 - 1. Request for response
 - 2. Posting letter sent to applicant
 - 3. Notice to be posted
 - 4. Applicant's statement certifying posting
 - 5. Mailing list
 - 6. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Police Bureau
 - 5. Site Development Review Section of Bureau of Development Services
 - 6. Portland Parks and Recreation, Strategic Projects
- F. Letters: (none received)
- G. Other:
 - 1. Site History Research
 - 2. Letter from Kathleen Stokes to applicant, February 11, 2009
 - 3. Pre-application Conference Summary Notes
- H. Received in the Hearings Office:
 - 1. Hearing Notice - Stokes, Kathleen
 - 2. Staff Report - Stokes, Kathleen
 - 3. Memo to HO - Stokes, Kathleen
 - 4. Letter - Spofford, Tim
 - 5. Letter (w/duplicate attached) - Engstrom, Nancy
 - 6. Chart w/map attached - Hoagland, Terry
 - 7. Duplicate of Exh. H-6 - Hoagland, Terry
 - 8. Letter - Miniszewski, Gary
 - 9. Letter - Blatt, John
 - 10. Notes on PowerPoint presentation - Stokes, Kathleen
- H-10a PowerPoint presentation - Stokes, Kathleen

- H-11 Letter - Flor, Scott
- H-12 Revised testimony document - Miniszewski, Gary
- H-13 Revised testimony document - Blatt, John
- H-14 2nd Revised testimony document - Blatt, John
- H-15 Letter to Hearings Officer - Stokes, Kathleen
- H-16 Letter - Stauffer Curtiss, Sarah

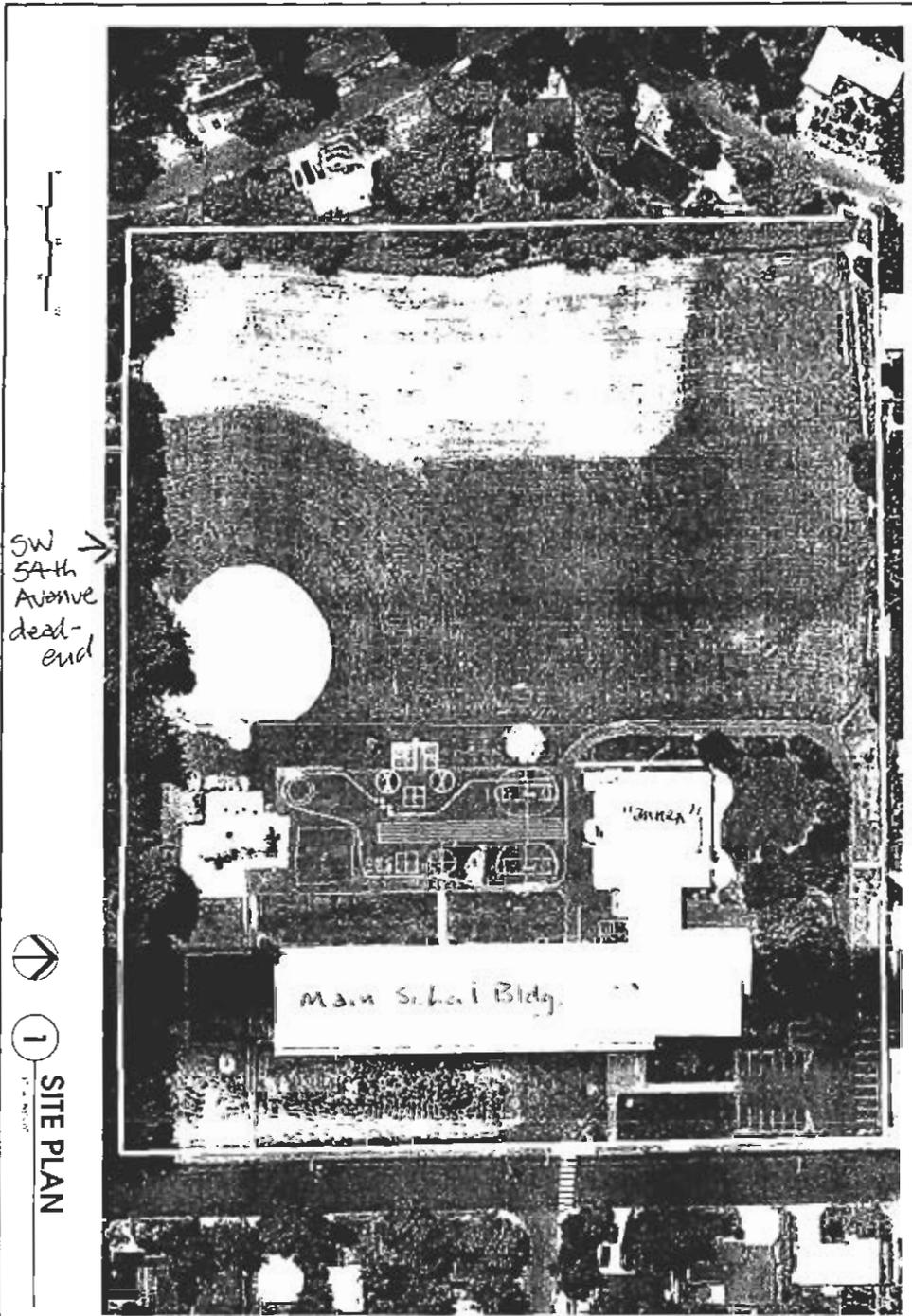


ZONING

 Site



File No.	<u>LU 09-103743 CU</u>
1/4 Section	<u>3923,3924</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1S1E30AB 6300</u>
Exhibit	<u>B (Apr 03,2009)</u>



SW 54th Avenue
dead-end



1

SITE PLAN

DATE: _____
 FILE: _____
 JOB: _____
 SHEET NUMBER _____

SMITH
 8935 SW 52ND
 L 209-16374300
 Exhibit C-1

PROJECT: SMITH MIDDLE SCHOOL
 LOCATION: SW 52ND AVENUE, MIAMI, FL 33155
 DATE: 10/10/09
 DRAWN BY: [unreadable]
 CHECKED BY: [unreadable]
 APPROVED BY: [unreadable]



EXHIBIT E: DIAGRAM OF BUS & AUTO LOADING/DROP-OFF

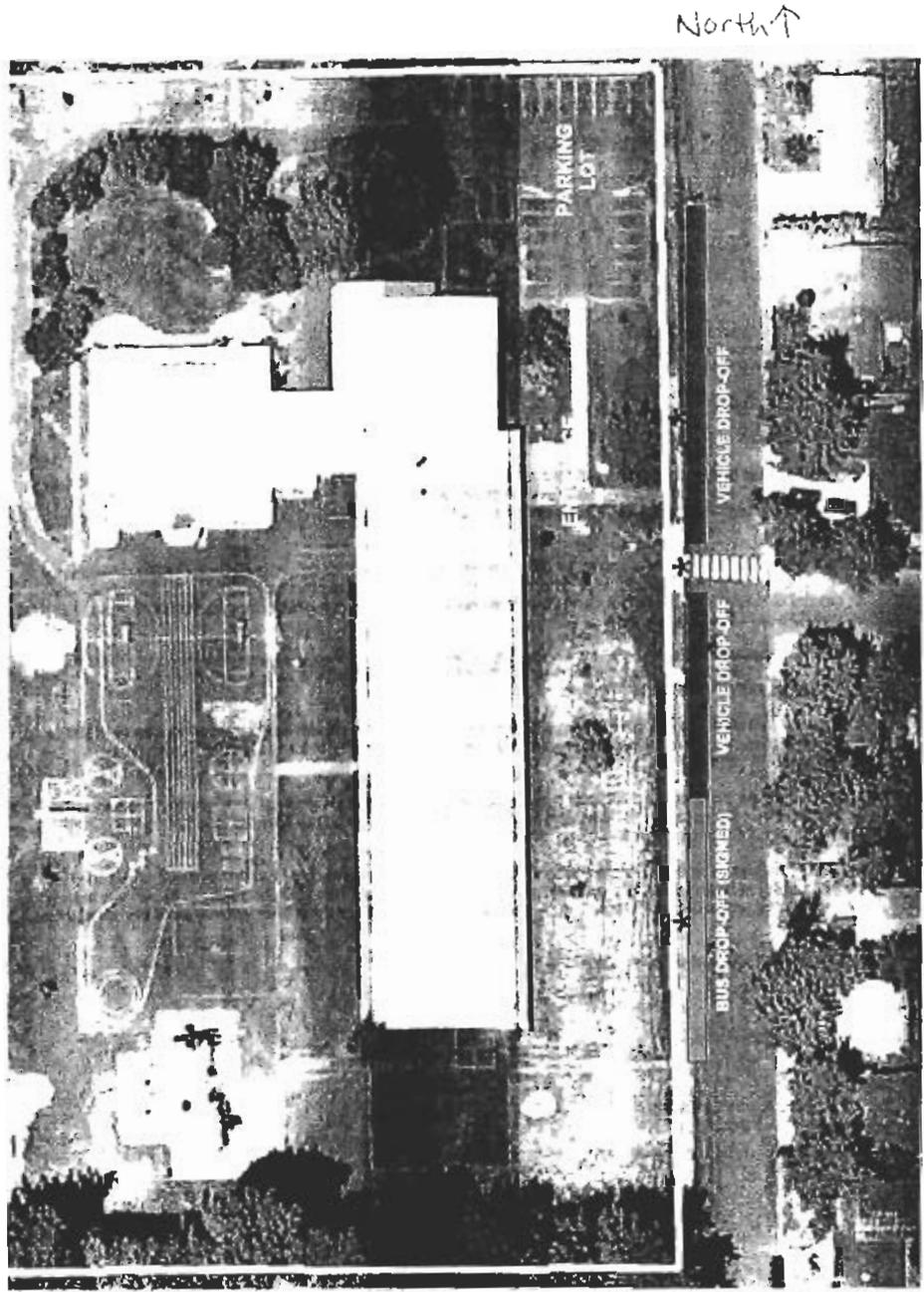


Exhibit C-2
1009-103743-2