



**City of Portland, Oregon**  
**Bureau of Development Services**  
**Land Use Services**

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[www.portlandonline.com/bds](http://www.portlandonline.com/bds)

**Date:** July 2, 2009  
**To:** Interested Person  
**From:** Nan Stark, Land Use Services  
503-823-7828 / [nstark@ci.portland.or.us](mailto:nstark@ci.portland.or.us)

## **NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD**

The Bureau of Development Services has approved a proposal in your neighborhood. The reasons for the decision are included in this notice. If you disagree with the decision, you can appeal it and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

### **CASE FILE NUMBER: LU 09-111684 CU**

#### **GENERAL INFORMATION**

**Applicant:** Sean McGinnis  
Milstead & Associates  
10121 SE Sunnyside Rd, Suite 335  
Clackamas, OR 97015

**Property Owner:** Portland Public Schools  
Bryan Winchester  
P.O. Box 3107  
Portland, OR 97208

**Site Address:** 840 NE 41ST AVE

**Legal Description:** BLOCK 57, LAURELHURST  
**Tax Account No.:** R479111820  
**State ID No.:** 1N2E31BC 16400  
**Quarter Section:** 2934

**Neighborhood:** Laurelhurst, contact Gary Naylor at 503-232-3398.  
**District Coalition:** Southeast Uplift, contact Leah Hyman at 503-232-0010.

**Plan District:** Laurelhurst-Eastmoreland  
**Zoning:** R5, Single-Dwelling Residential 5,000

**Case Type:** CU, Conditional Use  
**Procedure:** Type II, an administrative decision with appeal to the Hearings Officer.

#### **Proposal:**

As part of a district-wide redistribution policy, Grade 8 will be taught at the Laurelhurst School starting in September 2009. The applicant is requesting, through a Conditional Use Review, to install a modular building on the school campus to accommodate the eighth grade students. The proposed 1,792 square foot modular building will contain two classrooms. It will be located on the east side of the site, adjacent to NE 43rd Avenue, east of the main school building and

south of the detached school annex buildings. Landscaped planters will be located on the north and south side of the modular building to manage roof-runoff and provide screening of the structure. A 20-foot deep landscaped area will separate the building from NE 43<sup>rd</sup> Avenue.

The projected staff increase at the school will be 3 additional full-time equivalents (FTE), from current 36 FTE to 39 FTE. The projected student count for 2009 is 666, up from 606 in 2008.

The new modular building will add 1,792 square feet in new floor area to the school campus. Increases in floor area by more than 1,500 square feet but not more than 10% of the total floor area require a Type II Conditional Use review, and are subject to the approval criteria of Section 33.815.105, Institutional and Other Uses in R Zones.

## ANALYSIS

**Site and Vicinity:** Laurelhurst School is a public elementary school located on a full block, bounded on the north by NE Laurelhurst Place, on the south by Royal Ct, on the west by 41<sup>st</sup> Avenue and on the east by 43<sup>rd</sup> Avenue. The school site is just under 3 acres in area. The two-story school building is situated on the west side of the site, with entrances on 41<sup>st</sup> Avenue and Laurelhurst Place. There are three drop-off zones: two are adjacent to those entrances, and a third is on the Royal Ct side of the building, where there is an accessible entrance. East of the building, the remainder of the site is mostly paved play area with chain-link fencing around it. An annex building and modular classroom building are along the northeast property line, adjacent to the Laurelhurst Place frontage. Two four-space parking areas are on the site, adjacent to the south and east side of the building, accessed from Royal Ct.

Surrounding the school on all sides is a single-dwelling neighborhood, developed almost entirely in the early 20<sup>th</sup> century with some later mid-century houses. Curving streets with wide landscape strips and mature street trees characterize this residential neighborhood between NE Glisan St to the south, I-84 to the north, and 39<sup>th</sup> Avenue to the west.

**Zoning:** The site is zoned R5. The R5 zone is the corresponding zone to the High Density Single-Dwelling designation of the Comprehensive Plan, allowing lots with an average area of 5,000 square-feet and a density of 8.7 lots per acre. Schools and other institutional uses are allowed in the residential zones if approved through the Conditional Use process. The site is in the Laurelhurst/Eastmoreland Plan District, which was created to maintain the established character of those neighborhoods, characterized by larger than normal street setbacks.

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

- CU 036-68: Conditional Use for addition of two classroom buildings;
- CU 018-69: Conditional Use for installation of an incinerator.

**Summary of Applicant's Statement:** The school is adding the additional modular building as a result of a new district-wide policy of adding grade 8 to several elementary schools.

**Agency Review:** A "Notice of Proposal in Your Neighborhood" was mailed **May 18, 2009**. The following Bureaus have responded with no issues or concerns:

- Water Bureau
- Fire Bureau
- Police Bureau
- Bureau of Parks-Forestry Division
- Life Safety Review Section of BDS

The Bureau of Environmental Services (BES) commented that there are no objections to the proposed Conditional Use application because it will not impact existing BES sanitary/stormwater facilities. BDS Site Development commented that infiltration testing will be required at the time of building permit review in order to confirm whether on-site infiltration is feasible.

With pollution reduction and flow-control, BES has no objections to off-site disposal of stormwater runoff from this project to the combination sewer located in NE 43<sup>rd</sup> Avenue, if determined to be necessary.

The Bureau of Transportation Engineering responded with no concerns, with the implementation of the Transportation Management Plan proposed by the applicant.

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on May 18, 2009. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

## ZONING CODE APPROVAL CRITERIA

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

**Findings:** Within a two-block radius of the site, development is almost entirely single-dwelling residential. The only exception is a multi-unit residential complex to the northeast on 44<sup>th</sup> Avenue, in the R1, multi-dwelling zone. Providence Medical Center is the only prominent institutional use in the area, east of 47<sup>th</sup> Avenue, about ¼ mile from the site, well beyond a two-block radius.

The addition of a 28' x 63' one-story modular building for two classrooms on this school site will have minimal effect on the residential appearance and function of the area. It will be set back 20 feet from the 43<sup>rd</sup> Avenue property line, and screened by a fairly dense mix of shrubs, trees and grasses. On the eastern side of the site, it is relatively small in scale compared to the 43<sup>rd</sup> Avenue frontage, which is 350 feet long.

The school district proposes the addition of two classrooms to accommodate an additional grade (8), which is occurring at several elementary schools around the city. The 60 additional students and three teachers on this urban school site will result in a slightly higher intensity of use contained within the site. That increase will not diminish the strongly residential character of the surrounding neighborhood, which does not contain other non-residential uses between the collector streets that border this section of the Laurelhurst neighborhood. Thus, this criterion is met.

**B. Physical compatibility.**

1. The proposal will preserve any City-designated scenic resources; and
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:** There are no City-designated scenic resources on the site. The modular building is proposed on the east side of the site, adjacent to the 43<sup>rd</sup> Avenue frontage but separated from it by a 20-foot deep landscaped setback. The surrounding residential neighborhood is characterized by older and often larger 2 to 2½-story dwellings that are fairly consistently set back by 20 to 25 feet from the front property lines. The Laurelhurst/Eastmoreland Plan District was created to maintain the established character of these neighborhoods, which have larger than normal building setbacks from the street. The proposed setback is consistent with that pattern, and the building scale from the street perspective is not unlike the surrounding residential scale, but smaller than the typically taller dwellings.

The planter plan shows extensive, fairly dense plantings between the building and the street property line which will, over time, provide a strong landscape screen. It continues around the sides of the building and will provide, in addition to a buffer, stormwater capture on-site. The relatively small scale of the building, combined with the setback and landscape screening ensure compatibility with the residential area, thus satisfying this criterion.

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

1. Noise, glare from lights, late-night operations, odors, and litter; and
2. Privacy and safety issues.

**Findings:** The new modular building for 60 additional students at this urban school site will not significantly change the activity level at the existing school as it relates to the surrounding residential neighborhood. The school's typical schedule and occasional evening events will remain the same. The older students will remain on campus throughout the day, and consequently will not generate the impacts listed above any more than what currently exists. Noise is primarily associated with outdoor play times for students, which is an element that neighbors of school sites should expect at any location. As well, privacy and safety impacts are not likely to change with the addition of two classrooms. The concept of mixing ages within elementary schools provides some opportunity for older students—those who will be utilizing the new modular building—to help with the younger students in many ways, including an added level of safety for them. In addition, the school district maintains privacy and safety policies for all schools.

The modular building will be set back 20 feet from the property line on 43<sup>rd</sup> Avenue, and the setback will be landscaped with trees, shrubs and grasses that will provide a new level of buffering between the street and the playground. It will create a physical enhancement as well as an additional separation, thus not resulting in impacts to the nearby residential area. Thus, 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;

**Findings:** The streets surrounding the school site are designated Local Service Streets for all modes except 41<sup>st</sup> Avenue, which is a City Bikeway. Access to the surrounding streets is from 39<sup>th</sup> Avenue to the west, 47<sup>th</sup> Avenue to the east, and Glisan Street to the south. The latter two streets are Neighborhood Collector Streets and 39<sup>th</sup> Avenue is a Major City Traffic Street as classified by the City's *Transportation System Plan*. This criterion is met.

2. The transportation system is capable of supporting the proposed use 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 Bureau of Transportation (PBOT) has analyzed the proposal against all of the evaluation factors, and found the following:

- The site is centrally located between streets with higher street classifications, thus in close proximity to arterials in all directions.
- The site is located within a well-connected grid of public streets with pedestrian connections.
- Transit access is available between 1,000 feet and ¼ mile from the school on three bus lines and light-rail transit.
- The proposed increase in the number of students, and related vehicle trips, will have a minor impact in the morning peak hour at the nearby major intersections. The increase in vehicle trips will not cause those intersections to fall below the City's Level of Service standards.
- The proposed Transportation Management Plan submitted by the applicant includes a provision to encourage parents/visitors to use the playground for parking during major school events, which will be staffed with volunteers to direct drivers efficiently, in order to reduce on-street parking impacts during events.
- The proposed Transportation Management Plan describes the existing drop-off and pick-up operation and proposed changes, with 5-minute drop-off/pickup spaces along three of the adjacent street frontages. Parents are instructed to drive around the school in a clockwise direction so that students do not have to cross the street. The school will send a map to parents quarterly with instructions.
- The school surveyed students to determine mode split, and found that approximately 40 percent of students are brought to school by motor vehicle, and the remaining 60 percent use alternative modes, including walking, biking/scooter/skate board, and public transportation. The Transportation Management Plan will notify parents of the drop-off and pickup plan, which will minimize neighborhood impacts and ensure student safety.
- The school's Transportation Management Plan provides Transportation Demand Management strategies, including continuation of the safety patrol program that locates volunteers at four intersections in the vicinity of the site, which encourages the use of alternative modes. The plan also includes further engagement with the Safe Routes to Schools program to encourage use of alternative modes.
- All streets surrounding the school are improved with sidewalks, providing safe pedestrian access. The additional students resulting from the proposed modular structure will not create negative impacts to pedestrian, bicycle or transit circulation.

The analysis shows that in terms of the evaluation factors, the transportation system is capable of supporting the proposed use in addition to the existing uses in the area, with the continued implementation of the Transportation Management Plan and additions to it, including quarterly notification/reminders to parents, and use of the playground for major event parking. Thus, a condition of approval will require implementation of the plan (Exhibit A-3) by the school. With this condition, this criterion is 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:** The responses from the bureaus of Water, Police, and Fire indicate that existing services can adequately support the proposed addition of students in the modular structure. The Bureau of Environmental Services responded that the proposal will not impact existing sanitary/ stormwater facilities. With pollution reduction and flow control, BES has no objections to off-site disposal of stormwater runoff to the combination sewer in 43<sup>rd</sup> Avenue. The Site Development section of BDS commented that at the time of building permit review, infiltration testing results will be required to determine whether or not on-site infiltration is feasible. Consequently, 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:** There is not an adopted plan for the Laurelhurst Neighborhood, nor is there a community plan for the area. Thus, this criterion is not applicable.

## 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.

## CONCLUSIONS

The addition of a modular structure to accommodate grade level 8 at Laurelhurst School satisfies all of the Conditional Use approval criteria. The structure is relatively small on this 3-acre site, and will be set back from the street property line by a 20-foot setback, landscaped with trees, shrubs and groundcover plants. The increase in the number of students will not significantly change the existing activity levels and relation between the school and surrounding neighborhood. The school has proposed a revision to its existing Transportation Management Plan which will incorporate improvements to parking during special events, and quarterly notifications and reminders to parents about the drop-off and circulation plan. Implementation of the Transportation Management Plan as revised will be required as a condition of this approval.

## ADMINISTRATIVE DECISION

Approval of a Conditional Use to add a 1,792 square-foot modular building at Laurelhurst School, subject to the approved site plan, Exhibit C-1, and planting plan, Exhibit C-2, signed and dated June 30, 2009, and to the following conditions:

- A. As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C.1-C.2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 09-111684 CU."
- B. The school will implement the Transportation Management Plan (Exhibit A-3), including quarterly notification/reminders to parents, formalized use of the playground for major event parking, safety patrols, one-way drop-off around the school, and engagement with Safe Routes to School program.

**Staff Planner: Nan Stark**

**Decision rendered by:**  **on June 30, 2009**

By authority of the Director of the Bureau of Development Services

**Decision mailed: July 2, 2009**

**About this Decision.** This land use decision is **not a permit** for development. A Final Plat must be completed and recorded before the proposed lots can be sold or developed. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

**Procedural Information.** The application for this land use review was submitted on March 4, 2009, and was determined to be complete on May 13, 2009.

*Zoning Code Section 33.700.080* states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on March 4, 2009.

*ORS 227.178* states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant extended the decision period to July 15, 2009. The 120-day review period was consequently extended by 30 days, and unless further extended by the applicant, **the 120 days will expire on October 10, 2009.**

**Some of the information contained in this report was provided by the applicant.**

As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

**Conditions of Approval.** If approved, 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.

**Appealing this decision.** This decision may be appealed to the Hearings Officer, which will hold a public hearing. Appeals must be filed **by 4:30 PM on July 16, 2009** at 1900 SW Fourth Ave. Appeals can be filed on the first floor in the Development Services Center until 3 p.m. After 3 p.m., appeals must be submitted to the receptionist at the front desk on the fifth floor.

**An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Low-income individuals appealing a decision for their personal residence that they own in whole or in part may qualify for an appeal fee waiver. 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. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Fee waivers for low-income individuals must be approved prior to filing the appeal; please allow 3 working days for fee waiver approval. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please contact the receptionist at 503-823-7967 to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal

to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at [www.portlandonline.com](http://www.portlandonline.com).

**Attending the hearing.** If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Hearings Officer is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 550 Capitol St. NE, Suite 235, Salem, Oregon 97301, or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Hearings Officer an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

**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 prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- *Unless appealed*, The final decision may be recorded on or after **July 17, 2009 – (the day following the last day to appeal)**.
- 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 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 your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-7967.

**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.

For further information on recording, please call the County Recorder at 503-988-3034.

**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:

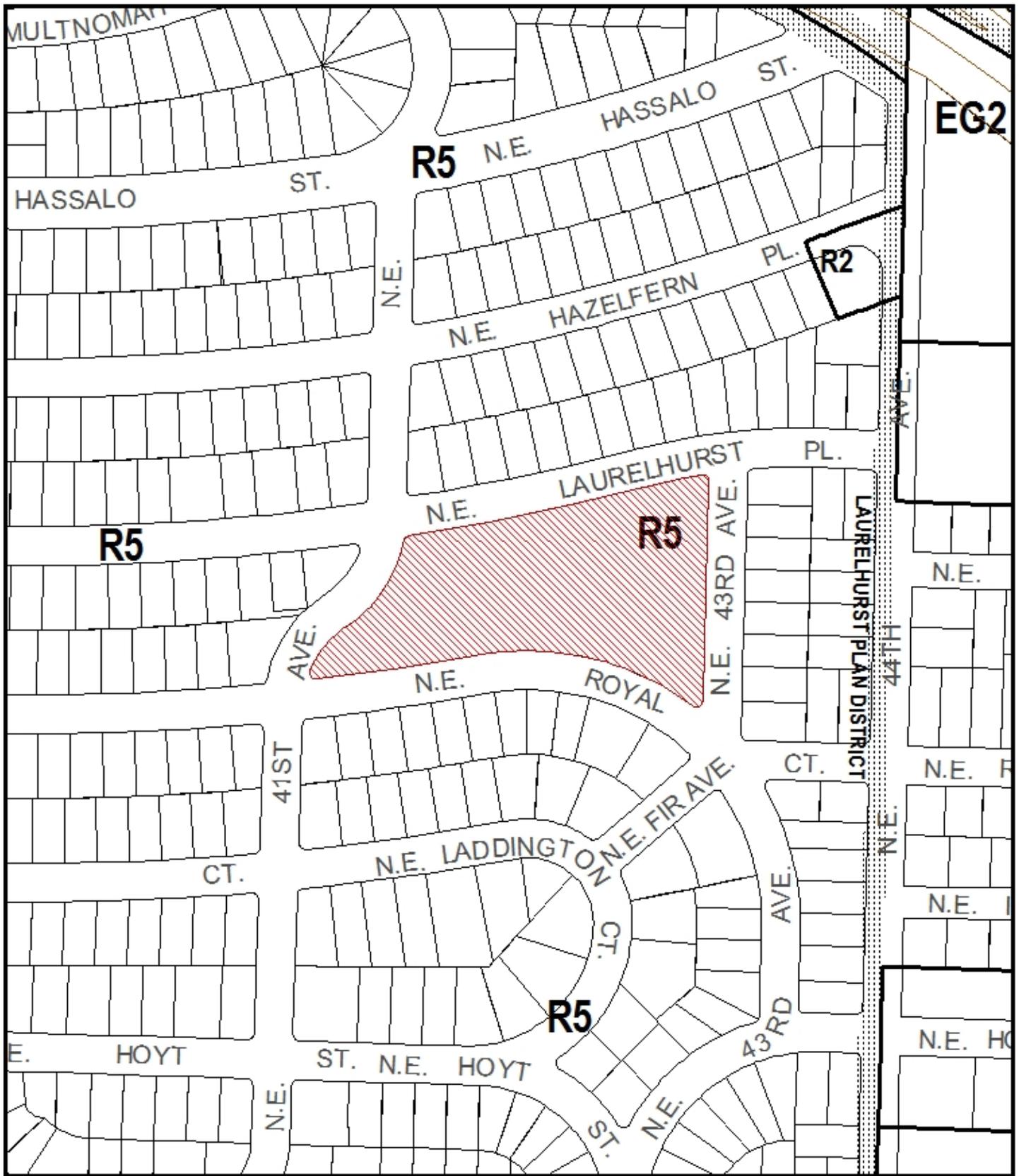
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

**EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. 1. Applicant's Statement
- 2. Transportation survey results of students and staff
- 3. Transportation Management Plan
- B. Zoning Map (attached)
  
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. Planting plan
  - 3. Elevation drawings
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Bureau of Transportation Engineering and Development Review
  - 3. Water Bureau
  - 4. Fire Bureau
  - 5. Police Bureau
  - 6. Site Development Review Section of BDS
  - 7. Bureau of Parks, Forestry Division
- F. Correspondence:
  - 1. Emails from S. Frugoli to E. Cassella in response to telephone inquiries, May 28 and June 1, 2009
- G. Other:
  - 1. Original LU Application
  - 2. Site History Research
  - 3. Emails between S. McKinney and applicants, May 5, 2009
  - 4. Incomplete application letter, Frugoli to applicants, March 17, 2009

**The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-7300 (TTY 503-823-6868).**



# ZONING

 Site



This site lies within the:  
LAURELHURST PLAN DISTRICT

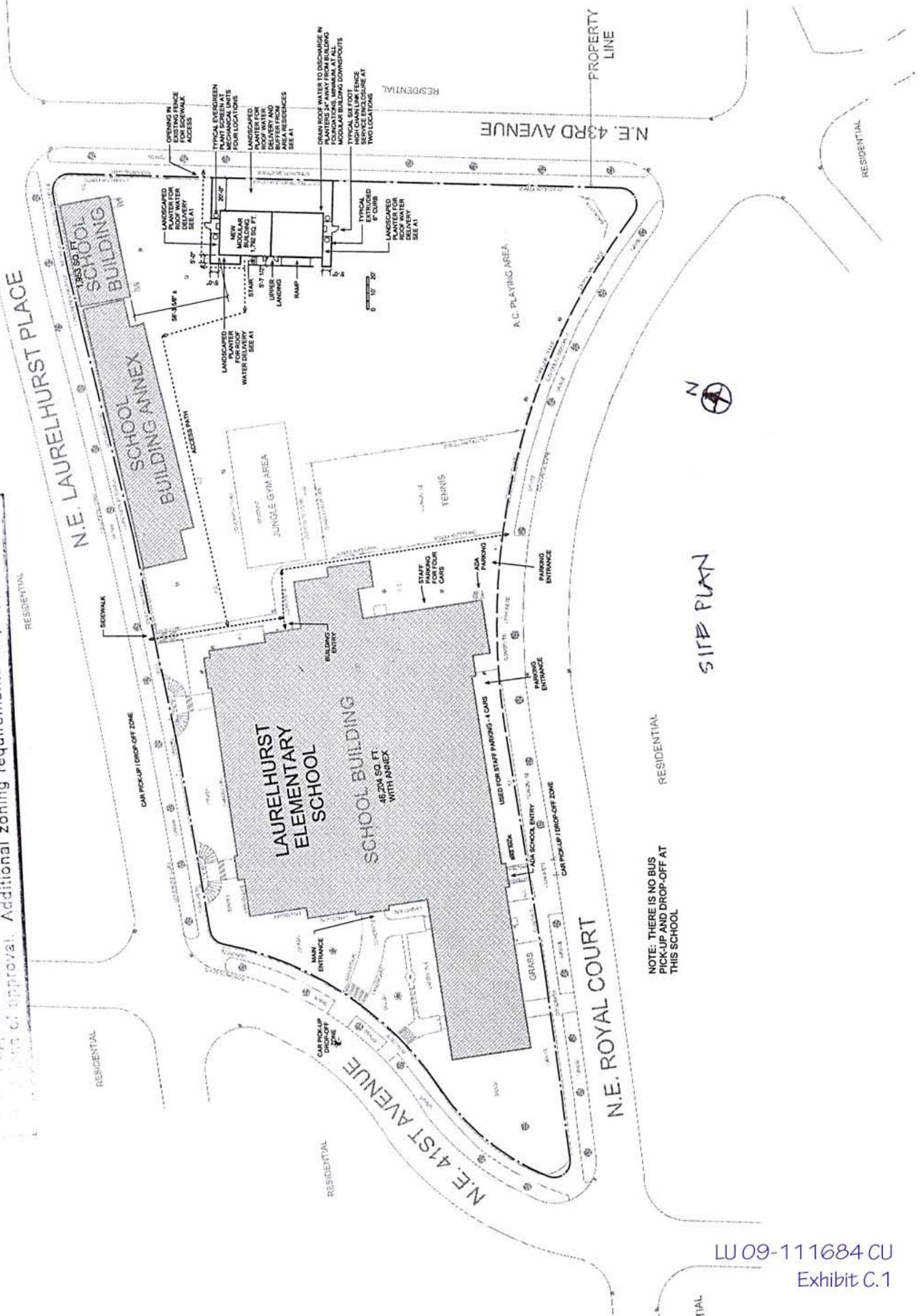
File No.	LU 09-111684 CU
1/4 Section	2934, 2935
Scale	1 inch = 200 feet
State_Id	1N2E31BC 16400
Exhibit	B (Mar 05, 2009)

\*Approved\*

City of Portland - Bureau of Development Services

Planner: NRB Date: June 30, 2009

This approval applies only to the reviews requested and is subject to all other requirements of approval. Additional zoning requirements may apply.



SITE PLAN

NOTE: THERE IS NO BUS PICK-UP AND DROP-OFF AT THIS SCHOOL

LU 09-111684 CU  
Exhibit C.1