



City of Portland
Bureau of Development Services
Land Use Services Division

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Date: June 23, 2008
To: Interested Person
From: Matt Wickstrom, Land Use Services
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**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 08-128562 AD

GENERAL INFORMATION

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

Owner: Reorganized Church Of Jesus Christ Of Latter Day Saints
4837 NE Couch St
Portland, OR 97213-2913

Lessee: Dana White
Providence Health System Oregon
4706 NE Glisan St
Portland, OR 97213

Site Address: 4837 NE COUCH ST

Legal Description: TL 12200 LOT A&C&E, SUNNYSLOPE; EXC N 8.5' IN E COUCH ST
LOT G, SUNNYSLOPE; TL 12100 1.25 ACRES, SECTION 31 1 N 2 E;
TL 9200 0.44 ACRES, SECTION 31 1N 2E

Tax Account No.: R811000110, R811000480, R942311060, R942312150
State ID No.: 1N2E31CA 12200, 1N2E31CA 09100, 1N2E31CA 12100, 1N2E31CA
09200

Quarter Section: 3035
Neighborhood: Center, contact Sean Besso at 503-806-9014
District Coalition: Southeast Uplift, contact Gary Berger at 503-232-0010
Zoning: R5, (Residential 5,000)
Case Type: AD (Adjustment)
Procedure: Type II, an administrative decision with appeal to the Adjustment
Committee.

Proposal:
This site is currently occupied by the Providence Health & Services (PH&S) Gately Academy, a special-needs elementary/middle-school, and a Montessori School featuring a combined

daycare/pre-school and elementary school. PH&S is currently adding one 1,400 square foot modular building to the site which will include one middle-school classroom. The additional classroom triggers the need for 4 additional long-term bicycle parking spaces in addition to the 26 long-term bicycle parking spaces which are already required based on the current development of the two schools and daycare. A total of 6 long-term bicycle parking spaces are currently located at the site and plans show that another 6 spaces will be added. The applicant requests one adjustment to reduce the total required number of long-term bicycle parking spaces from 30 (following the addition of the modular building) to 12. As justification for the proposed adjustment, the applicant cites the regional draw of the school, the relatively small classroom size (under 10 students per classroom) and the fact that bicycling to school is not an option for many of the students even if they lived in the nearby vicinity.

Relevant Approval Criteria:

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. have been met.

ANALYSIS

Site and Vicinity: The approximately 2.4 acre site is bisected by NE Couch Street. The majority of the site which is developed with the PH&S Gately Academy, a special needs elementary/middle school and a Montessori School are located northwest of the intersection of NE Couch Street and NE 50th Avenue. Both of these lots include open space and play areas. Vehicular access to the north lots is provided between the two schools and off NE Couch Street. The proposed 1,400 square foot modular middle-school classroom structure will be located at the northwest corner of the existing Gately Academy. Two parking lots serving these uses are located to the south of NE Couch Street.

The majority of the vicinity surrounding the site is developed with single-dwelling residences and a Multnomah Country building is located to the west of the parking lots.

Zoning: The site is zoned R5, Single-Dwelling Residential 5,000. The R5 Zone allows attached and detached single-dwelling structures and high density single-dwelling development. The single-dwelling zones are intended to preserve land for housing and to provide housing opportunities for individual households. Schools are Conditional Uses in the R5 zone. Alterations and additions to existing conditional uses which do not add more than 1,5000 square feet of floor area do not require a Conditional Use Review.

Land Use History: City records indicate that a number of prior land use reviews have occurred for this site.

CU 111-72 (LU 72-003718); CU 004-73 (LU 73-000551); CU 080-73 (LU 73-003064): In 1959, the Portland Union Academy which had classes for elementary and high school students received approval to add 3 temporary classrooms for a period up to 3 years. Proposals were made for a community service center in 1972 and for adult classes and emergency assistance programs for the West Coast Conference Association of Seventh Day Adventists in 1973.

CU 009-74 (LU 74-000717) gave approval to the Latter Day Saints to establish a church on the site.

CU 105-74 (LU 74-003640) granted approval to retain classrooms on the site, pending conditions that specific improvements be made to the façade of the buildings and the landscaping and that the improvements receive approval of the Design Review Committee.

CU 079-77 (LU 77-003039) gave approval until June 30, 1979, for a private elementary non-parochial school for 50 students, up through grade 6.

CU 014-79 (LU 79-000891) approved continued operation of the school, eliminating the previous condition that limited the duration of operation.

CU 117-79 (LU 79-003783) gave approval for the Church of Latter Day Saints and the Albertina Kerr Center for Children to use part of the site for a daycare center for up to 45 children, ages 3-6 years.

CU 069-81 (LU 81-002742) approved establishment of a nursery school and daycare center which served up to 81 children.

3498R (LU 90-021708) approved a request to build a 3-room classroom addition to the north end of the grade school building, to be used for a period of 3 years.

91-00614 CU (LU 91-008869) granted approval for the Portland Waldorf School to establish an elementary school for up to 225 students.

98-00457 CU (LU 98-015763) approved the Waldorf School to serve up to 247 students.

Agency Review: A “Request for Response” was mailed **May 21, 2008**. The following Bureaus have responded:

- The Site Development Section of BDS, Life Safety Section of BDS, as well as the Fire, Water and Parks Bureaus responded with no issues or concerns (Exhibit E-1).

The following Bureaus also responded with no concerns but submitted additional comments to aid the applicant with the building permit process:

- The Bureau of Environmental Services commented that further development of the property would be subject to BES review (Exhibit E-2).
- The Development Review Section of Portland Transportation responded with no objections to the proposed Adjustment. The response notes that “as a condition of obtaining the necessary Building Permit(s) for the proposed modular building” right-of-way dedications will be required. These include a 3.5-ft dedication along the south side of the NE Couch frontage and a 3-ft dedication along the NE 50th frontage (Exhibit E-3).

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **May 21, 2008**. One written response has been received from a notified property owner in response to the proposal. This response stated concerns about the additional traffic which would be generated by the additional classroom. The respondent commented that more vehicles on narrow SE 50th Avenue could potentially create safety issues for bikers and access issues for emergency response vehicles. The respondent suggested children could be picked up on SE Couch St., but did not oppose the classroom.

Staff Response: The Adjustment is for a reduction in the required amount of bicycle parking. Issues related to whether or not the classroom addition generates more traffic on SE 50th Avenue cannot be addressed through the Adjustment review process.

ZONING CODE APPROVAL CRITERIA

33.805.010 Purpose (Adjustments)

The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the zoning code's regulations would preclude all use of a site. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue to provide certainty and rapid processing for land use applications.

33.805.040 Approval Criteria

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. have been met.

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

Findings: The applicant requests one Adjustment to reduce the minimum number of required on-site, long-term bicycle parking spaces from 30 to 12. The purpose of the bicycle parking regulation is listed below:

Purpose 33.266.200 Bicycle Parking:

Bicycle parking is required for most use categories to encourage the use of bicycles by providing safe and convenient places to park bicycles. These regulations ensure adequate short and long-term bicycle parking based on the demand generated by the different use categories and on the level of security necessary to encourage the use of bicycles for short and long stays. These regulations will help meet the City's goal that 10 percent of all trips be made by bicycle.

As noted in the above purpose statement, the number of required long-term bicycle parking spaces is based on the use(s) at a site. The PHS/Gately Academy/ Montessori School site is composed of two separate uses: Middle/Elementary School and Daycare/Pre-school. The number of required bicycle parking spaces for School uses is dependent on the grades of the students. Two long-term bicycle parking spaces are required for each grade 2-5 classroom. Four long-term bicycle parking spaces are required for each grade 6-12 classroom. Two long term spaces are required for the daycare use, or one per 10,000 square feet of building area. There are no requirements for short-term bicycle parking for Schools or Daycare uses. In total, 30 parking spaces are required for this site (Following the addition of the modular classroom, Gately Academy triggers the need for 4 elementary and 20 middle-school and the Montessori Elementary and daycare triggers the need for 6 spaces). 50% of the required spaces must be covered. There are 6 existing covered spaces which meet this requirement.

The intent of requiring long-term bicycle parking for School uses is to encourage and allow students to bicycle to school; however, this requirement assumes that students live within a reasonable biking distance. PHS/Gately Academy and Montessori serves a regional population rather than a local population surrounding the school. Classrooms are limited to 10 students, resulting in fewer students than the typical sized classroom. In addition, according to the applicant's statement, students who attend Gately Academy are emotionally, intellectually, and/or physically impaired or are pre-schoolers and young elementary aged students attending the Montessori School, and cannot reasonably be expected to bicycle unsupervised to school, whether or not they live in the neighborhood. For these reasons, bicycling is a less common means for students to travel to this site. The 12 spaces are expected to meet the needs of staff, faculty, and other visitors who may travel by bicycle to the site in addition to the students who do actually live within biking distance of the school and are able to bike to school. The Office of Transportation, which provides expertise in transportation-related issues, reviewed the proposal to reduce the required number of bicycle parking spaces and stated no objections. Based on this information, this criterion is met.

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

Findings: The proposal to reduce the number of required long-term bicycle parking spaces will have no negative impacts on livability or the appearance of the residential area. As noted above, the reduced number of spaces proposed by the applicant will adequately serve the uses at the site. It is expected that bicycle parking area will not be unconventional or unattractive. Based on this information, this criterion is met.

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

Findings: No impacts are expected from the reduction to long-term bicycle parking. The 12 bicycle parking spaces proposed by the applicant will adequately serve the elementary school/middle school, daycare, and pre-school uses at the site. The 6 proposed spaces will be located on the patio between the existing building and the proposed modular classroom, and the existing, covered spaces are located in front of Gately Academy and adjacent to the vehicle parking lot. All 12 bicycle parking spaces are located internally on the lot, and the spaces are in view of a students and staff who will pass the racks throughout the course of the day, and as such, meet the Zoning Code requirements for security. The Zoning Code also requires that racks for bicycle parking meet certain specifications for siting and design. These specifications will be addressed as part of the building permit plan review. Based on this information, this criterion is met.

DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for 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 applicant proposes one adjustment to the bicycle parking requirement that is associated with required non-conforming upgrades at this site. As noted in this report, the proposal to reduce the required number of long-term bicycle parking spaces from 30 to 12 is able to meet the adjustment approval criteria with approval granted based on the regional draw of students to the school rather than a local population of students, relatively small class sizes, and the fact that bicycling to school is not an option for many of the students even if they lived in the nearby vicinity. With approval requiring that the permit drawings substantially conform with the site plan attached, the request meets the applicable approval criteria and should be approved.

ADMINISTRATIVE DECISION

Approval of adjustment to 33.266.210.A.1 to reduce the number of required long-term bicycle parking spaces from 30 to 12, per the approved site plan, Exhibit C-1, signed and dated June 19, 2008, subject to the following condition:

- 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 Exhibit C.1. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 08-128562 AD."

Decision rendered by:  **on June 19, 2008.**

By authority of the Director of the Bureau of Development Services

Decision mailed: June 23, 2008

Staff Planner: Matt Wickstrom

About this Decision. This land use decision is **not a permit** for development. 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 May 12, 2008, and was determined to be complete on May 15, 2008.

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 May 12, 2008.

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 did not waive or extend the 120-day review period.

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 Adjustment Committee, which will hold a public hearing. Appeals must be filed **by 4:30 PM on July 7, 2008** 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.

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 Adjustment Committee 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 Adjustment Committee 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 8, 2008 – (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 503-823-0625.

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:

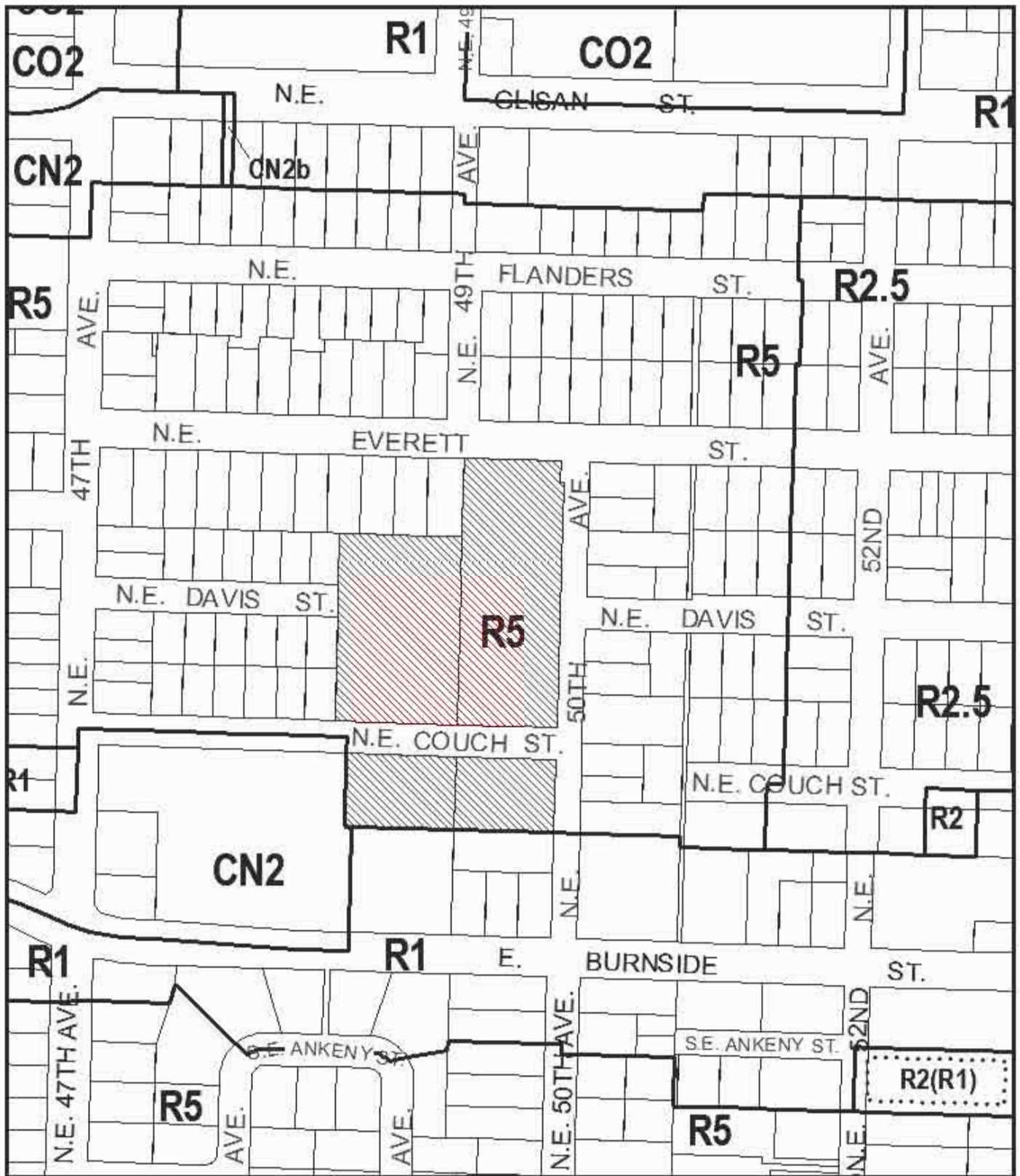
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement and Original LU Application
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Photos
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Summary of Bureau Responses Site Development Section of BDS
 - 2. Bureau of Environmental Services
 - 3. Development Review Section of Portland Transportation
- F. Correspondence:
 - 1. Kathie Serlet; May 23, 2008; concerns about additional traffic on SE 50th Avenue.
- G. Site History Research

The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-0625 (TTY 503-823-6868).

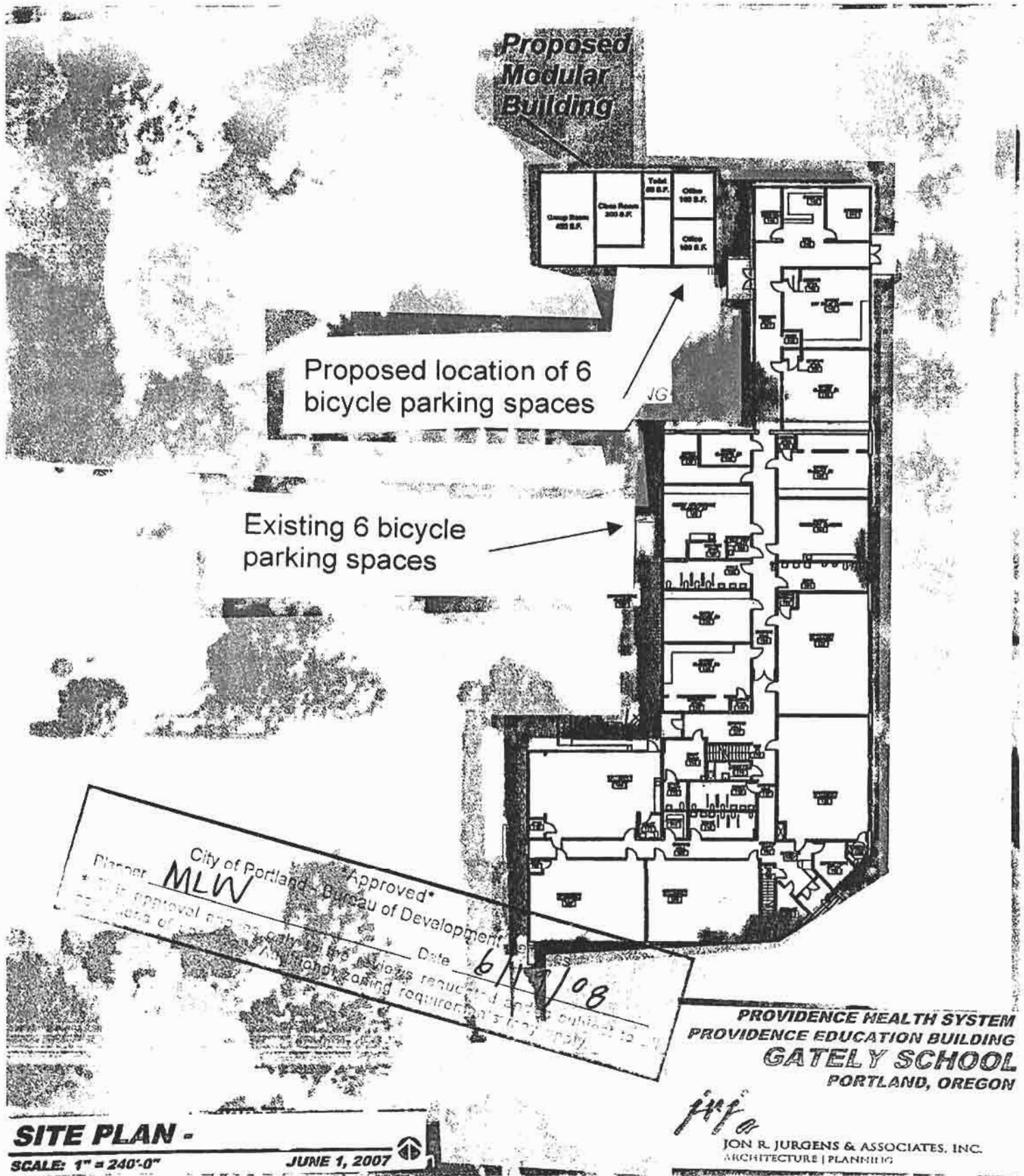


ZONING



File No.	LU 08-128562 AD
1/4 Section	3035
Scale	1 inch = 200 feet
State Id	1N2E31CA 12100
Exhibit	B (May 15, 2008)

FIGURE 1
GATELY ACADEMY/MONTESSORI SCHOOL PROJECT SITE



Approval to decrease the required number of long-term bicycle parking spaces from 30 to 12.