



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

1900 SW 4th Avenue, Suite 5000  
Portland, Oregon 97201  
503-823-7300  
Fax 503-823-5630  
TTY 503-823-6868  
[www.portlandonline.com/bds](http://www.portlandonline.com/bds)

**Date:** June 12, 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 09-111236 CU AD**

#### **GENERAL INFORMATION**

**Applicant:** Marlys Mock, Portland Public School District No 1  
P O Box 3107  
Portland, OR 97208-3107

Suzanne Washington  
Portland Impact  
4610 SE Belmont, Portland, OR 97215

**Representatives:** Nicholas Harris, Archon Inc  
2850 SW Cedar Hills Blvd #246  
Beaverton OR 97005

Renee Vanderweele, MCM Architects  
1022 SW Salmon St Suite 350  
Portland OR 97205

**Site Address:** 7733 SE RAYMOND ST

**Legal Description:** TL 5400 LOT 12&13, MARYSVILLE  
**Tax Account No.:** R543500820  
**State ID No.:** 1S2E17AA 05400  
**Quarter Section:** 3538

**Neighborhood:** Foster-Powell, contact Ken Pliska at 503-775-9101.  
**Business District:** Eighty-Second Ave, contact Ken Turner at 503-484-6225.  
**District Coalition:** Southeast Uplift, contact Cece Hughley Noel at 503-232-0010.  
**Zoning:** R2.5a

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

**Proposal:**

Marysville School proposes to reconfigure the parking and play area on the site, and change the parking lot access from SE 77<sup>th</sup> Ave to Raymond Street. The relocated parking lot will be along the east side of the site; it is currently directly behind and north of the school building. The parking lot will contain 25 spaces, which is the same number of existing spaces. The play area will be located directly behind the school building, with hard and soft-scaping, and the open grassy play field will remain at the rear of the site. A Conditional Use review is required because the driveway access to the parking area is changing.

The zoning code requires a 5-foot landscaping setback adjacent to the driveway, separating it from the abutting properties. In addition, the driveway must meet Fire Code standards. Where the driveway is adjacent to the stairways on the east side of the school, the landscaping setback is reduced from the required 5 feet by 8 inches, to 4'4", to allow for the minimum 18-foot width for the driveway required by Fire Code. The applicant requests an Adjustment to Zoning Code standard 33.266.130 G (parking and maneuvering setbacks and landscaping) to allow the setback for the area adjacent to the stairway to be reduced from the required 5 feet to 4'4". Since the time of the notice for this proposal, the applicant added a request of this same code standard to waive the required trees in the landscape setback adjacent to the school building, due to the mature trees along the property line on the abutting property to the east.

**Approval Criteria:**

In order to be approved, this proposal must comply with the approval criteria of 33.815.105 A.-E., Conditional Uses, and 33.805.040 A.-F., Adjustments.

**ANALYSIS**

**Site and Vicinity:** The site is just over five acres in area, developed with the Marysville elementary school building, which was built in 1921, and parking and play area behind it to the north. The school is oriented to Raymond Street, situated adjacent to the frontages of both Raymond and 77<sup>th</sup> Ave. Vehicle access is from the west side of the site, north of the building, to the 25-space parking area adjacent to the 77<sup>th</sup> Ave frontage. The parking area is separated from the asphalt play area directly behind the school, and grassy open area beyond it, by a chain-link fence and high shrubs. Shrubs and the chain-link fence also screen and separate the parking area from the street frontage.

A play structure is behind the parking area, visible from and close to the 77<sup>th</sup> Ave frontage, with pedestrian paths directly behind the school, and north of the parking area, leading into the asphalt and grassy play areas. The asphalt play area contains a full basketball court and tetherball poles.

The surrounding neighborhood consists almost entirely of single-dwelling residential development in this residential area between the arterials of Foster Rd and Holgate Blvd to the south and north, and 82<sup>nd</sup> Ave a few blocks to the east.

**Zoning:** The site is zoned R2.5a. The R2.5 zone is the highest density zone of the Single-Dwelling zones, allowing attached and detached houses on lots with average size of 2,500 square-feet. Duplexes are also allowed in this zone with the same density formula. Schools and other institutional uses, such as hospitals and religious institutions, are allowed in the Single-Dwelling zones if approved as Conditional Uses.

**Land Use History:** City records indicate that a 1978 Conditional Use review, CU 052-78, approved a 25-space parking lot behind the school. There is no other land use history for the site.

**Summary of Applicant's Statement:** The applicants noted that this project has involved a group of volunteers over the past few years who have worked with the neighborhood through outreach with the school community and neighborhood association to create and develop the

design for the new play area, with the intention of improving the playground's openness to the community.

**Agency Review:** A "Notice of Proposal in Your Neighborhood" was mailed **April 13, 2009**. The Bureaus of Water, Fire and Transportation have responded with no issues or concerns. The Bureau of Environmental Services and the Site Development Section of BDS requested additional information to confirm that the new parking area layout would result in the capture of stormwater on the site, without creating runoff onto the abutting residential properties. This decision was delayed by about four weeks in order for the applicant to provide the requested information addressing stormwater management standards, to the satisfaction of those bureaus. The pervious paving system that was originally proposed has been modified due to the runoff issue, and has been replaced with a standard paving system and on-site detention that will ensure compliance with the City's stormwater management standards.

The Police Bureau responded with recommendations for a sidewalk serving the accessible parking spaces directly from the parking area, and communication with the area police precinct and school police regarding safety issues.

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on April 13, 2009. Staff received one letter from a neighboring property owner in response to the proposal, with support for it, and with comments that teachers and staff do not park in the existing parking lot behind the school, but rather generally park on the streets adjacent to the school; the respondent hopes that teachers will use the new parking area rather than the streets for parking. Staff also received telephone calls from two neighbors who expressed support for the project.

## ZONING CODE APPROVAL CRITERIA

### Conditional Uses

#### 33.815.010 Purpose

Certain uses are conditional uses instead of being allowed outright, although they may have beneficial effects and serve important public interests. They are subject to the conditional use regulations because they may, but do not necessarily, have significant adverse effects on the environment, overburden public services, change the desired character of an area, or create major nuisances. A review of these uses is necessary due to the potential individual or cumulative impacts they may have on the surrounding area or neighborhood. The conditional use review provides an opportunity to allow the use when there are minimal impacts, to allow the use but impose mitigation measures to address identified concerns, or to deny the use if the concerns cannot be resolved.

#### 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:** For the purposes of this review, the residential area is defined as the area in residential zones within approximately 400 feet of the site, bounded by Holgate Blvd to the north, Foster Rd to the south, 80<sup>th</sup> Ave to the east and 75<sup>th</sup> Ave to the west. There are no other uses within this radius in the R2.5 and R5 zones that are not in the Household Living category. A cemetery is in the OS, Open Space zone one block to the northeast.

The school is not expanding or changing, and there will be no change to the number of on-site parking spaces. The purpose of the review is to allow a re-design of the site to make the open play area more accessible to the surrounding neighborhood. This criterion is met.

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

**Findings:** The site has been used as a school and associated parking area and playground since it was built in the early 20<sup>th</sup> century. There is no change to the size of the school or the exterior development area. A new curb cut from Raymond Street will provide the main access to the parking area using the existing driveway on the east side of the school. The parking area will be relocated to the east side of the site adjacent to residential properties, from its current location 77<sup>th</sup> Ave behind the school. The curb cut on 77<sup>th</sup> Ave will remain for emergency use. Consequently, there is not a change to the scale or intensity from the current use. This criterion is met.

#### **B. Physical compatibility.**

1. The proposal will preserve any City-designated scenic resources; and

**Findings:** There are no City-designated scenic resources on the site; thus, this criterion is not applicable.

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

**Findings:** The overall site is just over five acres in area. The primary change to the site will be the relocation of the parking area from its current location adjacent to the 77<sup>th</sup> Ave frontage, to the east property line abutting the rear yards of residential properties that are oriented to 78<sup>th</sup> Ave. The applicants feel that this location for the parking area will accomplish two things: provide an improved buffer between the play area and the abutting residences, and open the site from the 77<sup>th</sup> Ave frontage to improve the school and play area's physical relationship within the neighborhood.

The applicant has noted that the driveway access to the parking area will be closed with bollards and chains during non-school hours, in order to make the parking for school personnel only. This will ensure to the abutting neighbors a consistent use pattern for the parking area, which will be the element of the site closest to five of those neighbors. The parking area will in effect provide a stronger setback between the most active part of the play area and the neighbors' rear yards. New landscaping in the form of trees and shrubs will further provide a stronger buffer than now exists between the site and abutting residential properties, and will also buffer and screen the parked vehicles from those properties. Therefore, this criterion is met.

3. The proposal will mitigate differences in appearance or scale through such means as setbacks, screening, landscaping, and other design features.

**Findings:** The site design creates a new vehicle access to the site on the east side of the school, and adds a significant amount of new landscaping along the east property line that will provide a stronger buffer and landscaping screen between the site and abutting

residential properties. In addition, the new layout accomplishes the school's and neighborhood's desire, as stated by the applicant, to make the site more open to the surrounding community. The relocated parking area does this, while at the same time providing a stronger buffer between the play area and abutting neighbors. Thus, 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

**Findings:** One of the intended consequences of the new design is to improve the buffering and screening between the play area and abutting residential properties, which will bring outdoor play further from those neighbors. The applicant has indicated that new lighting will be added to the playground and parking area to improve visibility and safety, and that special lenses and shields will prevent glare onto adjacent residences. The addition of trees and shrubs along the property lines, where there is currently minimal landscaping, will further shield glare from vehicle headlights.

There will be no change to the school's normal hours or programs and events throughout the year, with no late-night operations. Odors and litter will not be any different from the current situation, in which these impacts are minimal or nonexistent.

To ensure that the new lighting is installed with special lenses and shields as stated by the applicant, these specifications will be required, as a condition of this approval, to be shown on the drawings submitted for building permits. The specifications must show that they comply with the glare standard of 33.262.080, Off-Site Impacts, Glare standard. With this condition, this criterion will be met.

2. Privacy and safety issues.

**Findings:** The site has been redesigned in part to better separate the play area from the abutting residential properties. The new 5-foot landscaping setback adjacent to the parking area will provide a separation by distance and a landscape screen by trees and shrubs that will form an opaque hedge between the properties. The 5-foot setback will continue with shrubs and trees along the remainder of the east property line, and to the north property line, separating the open grassy play area from the residences adjacent to it.

New lighting for the parking area and play area will enhance safety, allowing visibility to those on the site, and into the site from 77<sup>th</sup> Ave. The more open design from the street side will also provide a higher measure of security by allowing views by neighbors and passersby.

Portland Police Bureau responded to this proposal with the recommendation that the applicants and developer work with the Southeast Precinct Commander and School Police Sergeant on any public safety issues or concerns.

The improvements put forth in the new design will enhance both privacy and safety for the users of the site as well as the neighbors and surrounding neighborhood. Therefore, 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:** At this location, SE 77th Ave is designated as a Local Service Street for all transportation modes in the Transportation Element of the Comprehensive Plan (Transportation

System Plan or TSP). SE Raymond Street is designated as a Local Service Traffic street and a City Bikeway, with all other transportation modes in the TSP designated as local service.

The existing school uses are in conformance with the Local Service street designations of SE 77th Ave and SE Raymond Street in the TSP. The TSP states that, "Local Service Traffic Streets are intended to distribute local traffic and provide access to local residences or commercial uses." The existing school uses are also in conformance with the City Bikeway designation of SE Raymond. The TSP states that "auto-oriented land uses should be discouraged from locating on City Bikeways that are not classified as Major City Traffic Street." The existing school is not considered an "auto-oriented" land use. With the proposed driveway relocation the use will continue to be supportive of the street designations of the TSP. Therefore, 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:** Portland Bureau of Transportation (PBOT) has indicated that the transportation system is capable of supporting the proposed use in addition to the existing uses in the area, thus supporting this criterion. PBOT responded to the evaluation factors as follows:

**Street capacity:** The site is located within a grid pattern of streets. The site currently has direct driveway access to SE 77<sup>th</sup> Ave. The proposal includes direct driveway access to SE Raymond Street in lieu of SE 77<sup>th</sup> Ave. The nearest arterial streets in the vicinity of the site are SE Foster Road, SE 82<sup>nd</sup> Ave, and SE Holgate. SE Raymond connects directly to both SE Foster Road and SE 82<sup>nd</sup> Ave, while SE 77<sup>th</sup> Ave connects directly to SE Holgate. The proposed driveway location on Raymond Street provides equally adequate access to the arterial street system as the existing SE 77<sup>th</sup> Ave driveway.

**Connectivity:** The existing street grid pattern in the area generally meets City connectivity spacing guidelines. The site frontages are improved with curbs and sidewalks. The streets in the surrounding neighborhood are also improved with sidewalks. The proposed driveway relocation will have no negative impact on area connectivity.

**Transit availability:** The site is currently served by Tri-Met bus line 17 on Holgate, bus line 14 on Foster, and bus line 72 on SE 82<sup>nd</sup> Ave. The proposed driveway relocation will have no impact on transit availability.

**Street Capacity/Level of service/other performance measures:** The existing school operation is not proposed to be changed. The relocated driveway will slightly change travel patterns at the intersection of SE 77<sup>th</sup> and SE Raymond (an unsignalized intersection); however routing to the school on the larger area transportation network is not expected to change with the relocated driveway. There are no significant street capacity/level-of-service impacts to area intersection that will result from the proposed driveway relocation.

**On-street parking/neighborhood impacts, adequate transportation demand management (TDM) strategies, access restrictions:** The existing school operation is not proposed to be changed. There are no on-street parking/neighborhood impacts expected to result from the proposed driveway relocation, and no TDM strategies are needed as a result of the proposal. No access restrictions are necessary.

Impact on pedestrian, bicycle, and transit circulation and safety for all modes: The proposed driveway relocation is not expected to have negative impacts to pedestrian, bicycle or transit circulation in the adjacent neighborhood.

In summary, and as analyzed above against the evaluation factors, the transportation system is capable of supporting the change in access to the parking area and related changes to the site design, meeting this criterion.

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 Water Bureau responded with no concerns. The Portland Police Bureau (PPB) responded with the recommendations stated in criterion C, above, regarding contact with the school and neighborhood public safety officials.

The Fire Bureau responded with no concerns related to the Conditional Use.

BES and BDS Site Development reviewed the stormwater management plans for the site that the two bureaus requested in response to the notice for this proposal, and conclude that the proposed parking area design will be able to meet the City's stormwater management standards. Site Development will require a stormwater report at the time of building permit review.

The original plans were changed to meet stormwater standards, primarily replacing the proposed pervious pavers for the driveway, parking area and pedestrian paths with standard paving and use of the existing drywells for on-site detention. As proposed, the pervious paving system could not meet on-site drainage requirements, and consequently the design was changed. The new design is acceptable to BES and the Site Development section of BDS.

Consequently, public services are adequate to continue to serve this use with the proposed change to the exterior development, and 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:** The *Foster-Powell Neighborhood Plan* was adopted by City Council in 1995, through the Outer Southeast Community Plan process. The following policies of the plan are applicable to and supported by the proposal:

Policy 1, Parks and Open Space, states: Improve and maintain Foster-Powell's parks and the 72<sup>nd</sup> Ave parks blocks so they can better serve the needs of neighborhood residents.

This policy is directly supported by the proposal because re-design of the school's play area, parking and access was initiated in part by the community with the desire to better serve the neighborhood. By opening up the playground from the street and changing the parking area, the site will be more accessible to the surrounding community.

Policy 2, Neighborhood Livability, states: Improve the appearance and livability of the Foster-Powell neighborhood. The proposal also directly supports this policy, because the reconfiguration of the parking area and playground will improve the appearance of the site, buffer the play area from the abutting neighbors, and make the play area more open from 77<sup>th</sup> Ave. The new design is intended to enhance the livability of the neighborhood and at the same time to enhance the site's appearance and its relationship to the closest neighbors.

Policy 3, Public Safety, states: Involve residents and business owners in efforts to reduce crime and vandalism in the neighborhood. The applicants indicated that there has been substantial outreach over the past few years to include the neighborhood in the new design of the school's

playground, and that many people have volunteered in this effort. One of the goals is to enhance opportunities for play areas in the neighborhood, which is related to public safety.

The proposal to upgrade the play area with a new site layout, new equipment, vehicle access that is separated from the play area and that provides a buffer to the abutting neighbors, and new landscaping on the perimeters and interior of the site support these three relevant policies of the neighborhood plan. Therefore, this criterion is met.

### **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. below, have been met.

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

**Findings:** The purpose of the parking and maneuvering setbacks and landscaping standard as set out in 33.266.130 G is to promote safe circulation within the parking area, provide for the effective management of stormwater runoff from vehicle areas, and provide for convenient entry and exit of vehicles. The setback and landscaping standards:

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

The applicants have requested an Adjustment to reduce the required 5 foot setback along a portion of the driveway that leads to the parking area to 4.29 feet, which is a reduction of about 8 inches. In addition, they request to waive the required trees in the setback for approximately the length of the building. The request is made due to an existing exterior stairway abutting the driveway that, at that point, narrows the driveway to 18 feet. The Fire Bureau has reviewed the plans and will allow the 18-foot driveway where it tapers for the stairs; the remainder of the driveway is over 20 feet wide, to meet the Fire standards.

The Surfacing Plan (Exhibit C-5) shows that there are 6 mature trees on the abutting property from the front property line to 150 feet back. The tree closest to the front property line is on the property line between the residence and the school, and a site visit showed that the others are, for all intents and purposes, also on the property line. These trees already provide the intended benefits of trees to parking areas, and in combination with the new required shrubs, a fairly strong screen will be created between the two properties. If additional trees were planted in the setback, even at the full width of 5 feet, they would somewhat compromise those existing mature trees, and the viability of such new trees would also be compromised. Consequently, this



reduced setback adjustment will also allow for the elimination of the required trees in the first 150 feet of the landscape setback along the driveway.

The reduction of 8 inches to the landscape setback alongside the driveway leading to the new parking area on the east side of the site will still allow the density of shrubs as required by the code standard which will provide screening and buffering, as well as stormwater runoff opportunities to much the same degree as it would with the full 5-foot setback. In the area of the new parking lot, the setback will fully meet the standard; the reduced setback will apply only to the driveway as it tapers to the narrowest point and then enlarges to the full 5 feet adjacent to the second stairways towards the rear of the building. The parking area will be in full compliance with the landscaping and setback standards. Therefore, 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; and

**Findings:** The site is in the R2.5 single-dwelling zone. The requested setback reduction is to the landscaping setback abutting residential properties to the east. The proposed 8-inch reduction in the landscaping depth is minor enough that it will allow space for the intended screening with the planting of high shrubs. The existing row of mature trees in the neighboring properties are in effect on the property line, and will continue to provide a strong buffer and screen, without compromising their viability by planting additional trees between and alongside them. The addition of new shrubs in the slightly reduced setback will further strengthen the buffer and screening between the driveway and the abutting properties. This will enhance, rather than detract from the appearance of the residential area and the site overall. Therefore, this criterion is met.

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

**Findings:** The purpose of the single-dwelling zones is to preserve land for housing and create opportunities for single-dwelling development. The applicants have requested the adjustments to the parking and maneuvering setback and landscaping standards due to the existing configuration of the school building, which will not be changed. The vehicle access is changing from 77<sup>th</sup> Ave to Raymond Street. The school has existed as an approved Conditional Use on this site for a long time, and the minor reductions to the setback and required trees uphold the allowance for the school on this residentially-zoned site. This criterion is met.

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

**Findings:** City designated resources are shown on the zoning map by the 's' overlay; historic resources are designated by a large dot, and by historic and conservation districts. There are no such resources present on the site. Therefore, this criterion is not applicable.

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

**Findings:** There are no discernible impacts that would result from granting the requested adjustment. The reduction of 8 inches to a portion of the setback along the driveway will accommodate the same amount of shrubs that can fit into a 5-foot setback. Many site enhancements are proposed, including a significant addition to the number of trees around the site's perimeter and a stronger connection between the playground and the neighborhood. The existing buffering created by mature trees on the abutting properties to the east, adjacent to the driveway, will continue without compromising the trees with the addition of new ones. The new shrubs along the driveway will, with the existing trees, provide a strong landscape edge that will further screen and buffer the driveway from the residential area. Thus, this criterion is met.

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

**Findings:** The site is not within an environmental zone, which is designated on the zoning map by either a “c” or “p” overlay. Therefore, 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 proposal is to redesign the existing playground and parking area for Marysville School, in order to enhance the playground and give it a stronger street and neighborhood orientation. In doing so, the parking area moves from its current location adjacent to 77<sup>th</sup> Ave, to the east side of the site, where it will be away from the street and buffered from the abutting properties with landscaping and separation. The change to the driveway location for access to the relocated parking area will have minimal effect on the surrounding neighborhood. The proposed design provides a greater separation of the playground from the abutting neighbors, and offers the desired result of orienting the playground more to the surrounding community. These changes support all of the Conditional Use approval criteria.

The adjustments to reduce the landscaping setback by 8 inches adjacent to the school’s east side stairways has minimal effect because the driveway will be screened and separated by new shrubs. While trees could fit into the setback, the existing mature trees on the abutting properties, very close to the property line, could be compromised with the addition of new ones. The planting of shrubs along the east property line will not create such a situation, but will strengthen the screening and buffering intended along the driveway. Consequently, the proposed reductions satisfy the relevant Adjustment approval criteria.

## ADMINISTRATIVE DECISION

Approval of a Conditional Use for a new 25-space parking area to replace the existing 25-space parking area, with access from the driveway on SE Raymond St, with two Adjustments to Zoning Code standard 33.266.130 G (parking and maneuvering setbacks and landscaping) to reduce the landscape setback along the Raymond St driveway from the required 5 feet to 4’4”, and to waive the required trees in the east landscape setback along the driveway from Raymond St. This approval is subject to general conformance with the site and landscape plans, Exhibits C-1 and C-2, signed and dated June 9, 2009., 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 Exhibits C.1-C.2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 09-111236 CU AD."

**Staff Planner: Nan Stark**

**Decision rendered by:**  **on June 9, 2009**

By authority of the Director of the Bureau of Development Services

**Decision mailed: June 12, 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 February 27, 2009, and was determined to be complete on April 9, 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 February 27, 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 did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on August 7, 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 Adjustment Committee, which will hold a public hearing. Appeals must be filed **by 4:30 PM on June 26, 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 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 **June 29, 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

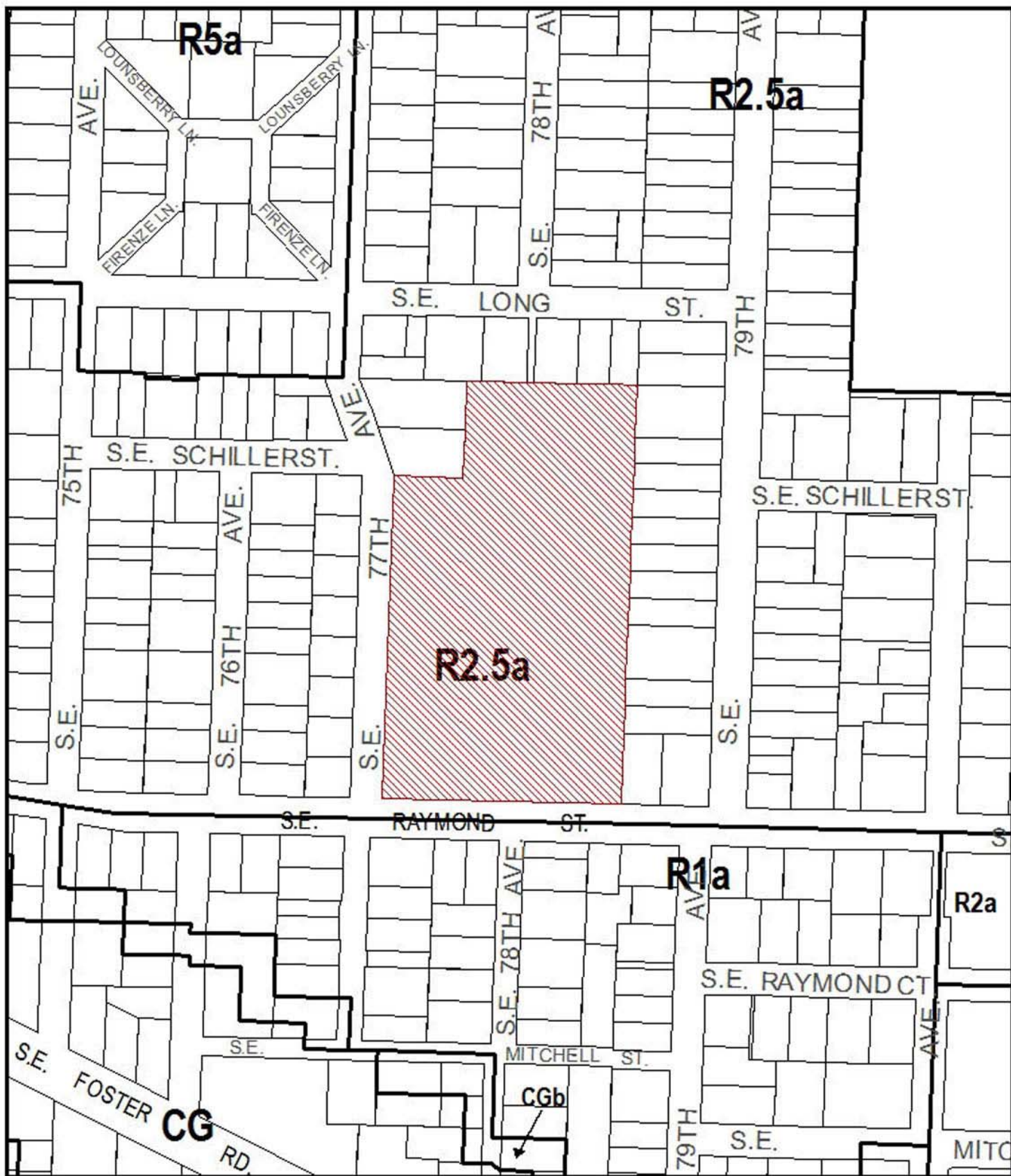
**Applying for your permits.** A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

- 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
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan, final revised dated June 1, 2009 (attached)
  - 2. Landscape plan (attached) and notes/details (not attached)
  - 3. Index of drawings
  - 4. Site demolition plan
  - 5. Grading and utility plan
  - 6. Details (3 pages)
  - 7. Erosion control plan and details (2 pages)
  - 8. Original plan drawings
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. a. Bureau of Environmental Services
    - b. addendum, June 9, 2009
  - 2. Bureau of Transportation Engineering and Development Review
  - 3. Water Bureau
  - 4. Fire Bureau
  - 5. a. Site Development Review Section of BDS
    - b. addendum, June 8, 2009
  - 6. Bureau of Parks, Forestry Division
  - 7. Life Safety Review section of BDS
  - 8. Police Bureau
- F. Correspondence:
  - 1. Clark, T, 4/15/09
- G. Other:
  - 1. Original LU Application
  - 2. Site History Research
  - 3. Fee waiver letter
  - 4. Incomplete application letter, March 13, 2009
  - 5. Email correspondence between N. Stark and applicants' representatives
  - 6. Additional submittals: March 27, April 16, June 1

**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

File No. LU 09-111236 CU AD

1/4 Section 3538

Scale 1 inch = 200 feet

State Id 1S2E17AA 5400

Exhibit B (Apr 10, 2009)



NORTH





RECEIVED

JUN 03 2009

- GENERAL NOTES:**
1. Contractor is to verify all plant quantities.
  2. Adjust plantings in the field as necessary.
  3. Bidders are to provide three bid proposals for design/build irrigation, gutterline system for a minimum one year. See specifications for details.
  4. All plants are to be fully foliated, well branched and true to form.

**PLANT LIST**

# STVL LATIN NAME / Common Name SIZE SPACING

- GROUNDCOVER, PERENNIALS & VINES**
- 296 AUV *ACTOSTAPHYLOS UVIA-URGI* "MASS" 1 gal. 3' o.c.
  - 9 AQ *AERBA QUINATA* 1 gal. 16" o.c.
  - 241 COE *COTONEASTER DAMERI* "DICKL" 1 gal. 4' o.c.
  - 155 LSS *ELONOR COPRINATA* "SILVER SPRING" 1 gal. 18" o.c.
  - GRASS SEED MIX 1 (46,343 SF) See Specifications for Details.
  - GRASS SEED MIX 2 (18,478 SF) See Specifications for Details.

- SHRUBS**
- 51 BCP *BERBERIS THUN*, "JAPANESE PYRAM" 2 gal. 30" o.c.
  - 110 ELS *EUONYMUS JAPONICA* "SILVER PRINCESS" 2 gal. 3' o.c.
  - 68 LJC *LIQURICITIS CHINENSIS* "ELEGANT" 3 gal. 4' o.c.
  - 27 SBC *SPYRALIS X BULG*, "COLDWIND" 2 gal. 3' o.c.
  - 212 VTS *VIBURNUM THUN* "SPRING BOUQUET" 3 gal. 4' o.c.

- TREES**
- 17 FOR *FRAXINUS ORYCALIPA* "HAYWOOD" 2" cal. As shown
  - 10 FMU *FRAXINUS THUN*, "HAYSPALL" 2" cal. As shown
  - 3 OSS *QUERCUS TRIACANTHOS* "SUNBURST" 2" cal. As shown

- PLANT LIST: INFILTRATION PLANTERS**
- | #                        | STVL | LATIN NAME / Common Name                  | SIZE    | SPACING  |
|--------------------------|------|---|---------|----------|
| <b>HERBACEOUS PLANTS</b> |      |   |         |          |
| 706                      | CL   | <i>CAMASSIA LEICHTLII</i>                 | 1 gal.  | 12" o.c. |
| 737                      | CO   | <i>CAREX OBRUPITA</i>                     | 1 gal.  | 12" o.c. |
| 1,275                    | DC   | <i>DIELIS SEDGE</i> "ESPPOSITA"           | 1 gal.  | 12" o.c. |
| 1,275                    | JP   | <i>JUNCUS PATENS</i> "SPREADING RUN"      | 1 gal.  | 12" o.c. |
| <b>SHRUBS</b>            |      |   |         |          |
| 29                       | CS   | <i>CORNUS SERICEA</i> "RED" 1 gal.        | 4' o.c. |          |
| 63                       | PC   | <i>PHYSCALOPUS CAPITATUS</i> 1 gal.       | 3' o.c. |          |
| 68                       | RP   | <i>ROSA PISCOARPA</i> "Swamp Rose" 1 gal. | 3' o.c. |          |

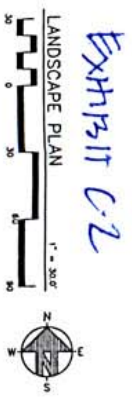
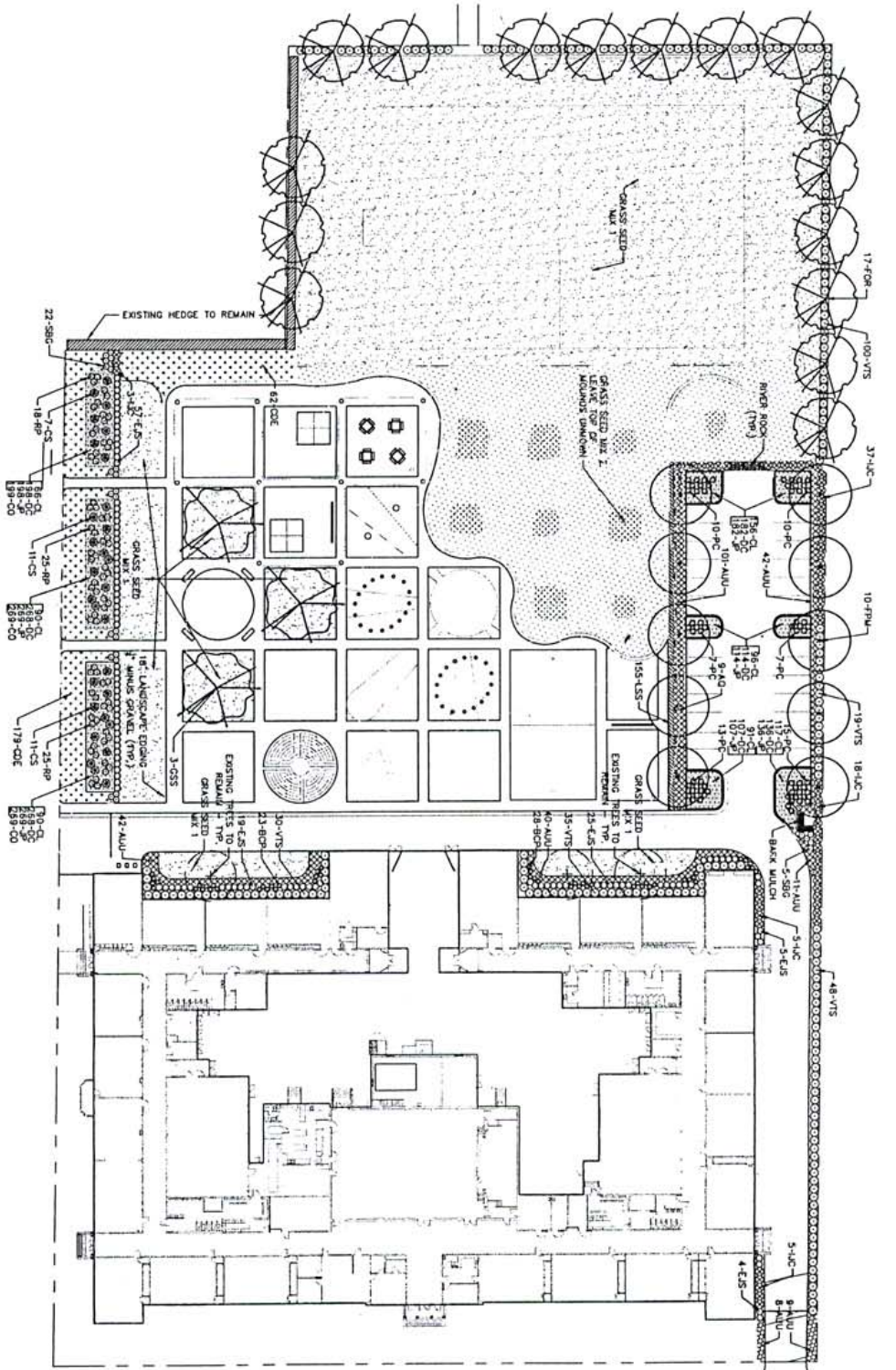


EXHIBIT C.2