



CITY OF
PORTLAND, OREGON

HEARINGS OFFICE

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DECISION OF THE HEARINGS OFFICER

I. GENERAL INFORMATION

File No.: LU 09-134675 CU AD (HO 4090021)

Applicant: Kathy Aulwes
2131 SE Brooklyn Street
Portland, OR 97202

Owner: Didi Krsna
New Day Ananda Marga
1825 SE Clinton Street
Portland, OR 97202-1135

Hearings Officer: Gregory J. Frank

Bureau of Development Services (BDS) Staff Representative: Suzanne Savin

Site Address: 1825 SE CLINTON ST, 1847 SE CLINTON ST, 1917 SE CLINTON ST

Legal Description: EXC PT IN CLINTON ST LOT 5 BLOCK 2 100% NONTAXABLE,
LEABO ADD; TL 900 0.11 ACRES, SECTION 11 1 S 1 E; TL 800 0.32
ACRES, SECTION 11 1S 1E; TL 1100 0.11 ACRES, SECTION 11 1S
1E; TL 1000 0.31 ACRES, SECTION 11 1 S 1 E

Tax Account No.: R484300190, R991110070, R991110080, R991110120, R991110130

State ID No.: 1S1E11AB 00400, 1S1E11AB 00900, 1S1E11AB 00800, 1S1E11AB
01100, 1S1E11AB 01000

Quarter Section: 3332

Neighborhood: Hosford-Abernethy

Business District: Division-Clinton Business Association

District Neighborhood Coalition: Southeast Uplift

Plan District: None

Zoning: R2.5 (Single-Dwelling Residential 2,500)

Land Use Review: Type III, CU AD (Conditional Use Review and Adjustment Review)

BDS Staff Recommendation to Hearings Officer: Approval for Conditional Use and Approval with Conditions for Adjustment

Public Hearing: The hearing was opened at 9:01 a.m. on August 17, 2009, in the 3rd floor hearing room, 1900 SW 4th Avenue, Portland, OR, and was closed at 9:40 a.m. The applicant waived applicant's rights granted by ORS 197.763 (6)(e), if any, to an additional seven day time period to submit written rebuttal into the record. The record was closed at the end of the hearing.

Testified at the Hearing:

Suzanne Savin, BDS Staff Representative

Kathy Aulwes, 2131 SE Brooklyn St., Portland, OR 97202

Ethan Timm, 2615 SE 15th Ave., Portland, OR 97202 (representing HAND)

Ashley Haywood, 2726 SE 19th, Portland, OR 97202

Fabio de Freitas, PBOT

Kurt Krueger, PBOT

Proposal:

New Day School (hereafter "The School") currently owns three sites on SE Clinton Street. Site 1, located at 1825 SE Clinton Street, has housed the original school program since 1980, and contains the school's pre-school program. Site 3, located at 1917 SE Clinton Street, contains the school's kindergarten program. (The three sites collectively shall hereafter be referred to as "The Site" – the individual sites shall continue to be referred to by the Site number).

The School recently purchased Site 2, a former *Woodsmen of the World* assembly building at 1847 SE Clinton Street. This site was purchased to accommodate expansion of the existing pre-school program that is located on Site 1. The proposed expansion of The School onto Site 2 increases the school's floor area by more than 10%. As a result, a Type III Conditional Use Review for the school expansion is required.

State of Oregon Children's Services Division has licensed Site 1 and Site 3 of The School for a total maximum of 50 students. With the addition of Site 2 to The School, the applicant's proposed maximum number of students for all three sites is approximately 110, and the proposed maximum number of full-time staff is approximately 20.5. In the future, The School plans to provide services for elementary school classes up to third grade. The location of these grade school classes would be on Site 1 or Site 2. With the addition of elementary school classes up to third grade, the proposed maximum number of students at The School would remain at approximately 110.

In conjunction with the proposed expansion, The School is proposing to convert the vehicle driveway on Site 2, along the west side of the former *Woodsmen of the World* building, into a walkway. The School is also proposing to remove the on-site vehicle parking area on Site 2, north of the building, and replace it with a garden area for students.

The former *Woodsmen of the World* building on Site 2 does not meet the minimum setback requirements along the south and east property lines that are required by Zoning Code Section 33.110.245 (Institutional Development Standards) and Table 110-5. The standards require institutional buildings to have a minimum 15-foot setback from property lines. The standards require buffering to the L1 landscaping standard between the building and the south property line, and buffering to the L3 landscaping standard between the building and the east property line. Therefore, the applicant is requesting an Adjustment Review to allow the building on Site 2 to remain in its present location, at zero feet from the east and south property lines, without the required landscape buffering.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria are:

- 33.815.105 A – E, Institutional and Other Uses in R Zones
- 33.805.040 A – F, Adjustment Review Approval Criteria

II. ANALYSIS

Site and Vicinity: As described in the Proposal description, above, The Site consists of three subsections, which the applicant has identified as Sites 1, 2 and 3, all of which are located on the north side of SE Clinton Street between SE 18th and SE 21st Avenues.

Site 1 (1825 SE Clinton Street) is improved with a main school building in its southwest corner, a cob structure used for individual meditation that is east of the main school building, and a small garden shed in the northwest corner. There is one on-site parking space, adjacent to the main school building. A walkway connects the main entrance of the main school building to the SE Clinton Street right-of-way. An exterior circulation path connects secondary school entrances to the public right-of-way, as well as to existing gardens and play areas on the property.

Two buildings are located on Site 3 (1917 SE Clinton Street). A two-story residential structure was converted to a combined school and residential use in 1988, after approval of a Conditional Use Review was obtained for the conversion. The ground floor consists of kindergarten use, and the upper floor is limited to residential use. A converted garage, now used as a storage building, is located in the northwest corner of this property.

Site 2, the proposed expansion site (1847 SE Clinton Street) contains two buildings. One of these is the former *Woodsmen of the World* assembly building, a concrete tilt-up building. The other building on Site 2 is a storage shed, which will be removed. Site 2 also contains a one-way vehicle

driveway along the west side of the concrete tilt-up building, which leads to a paved parking area with 17 parking spaces to the north of the building. The school is proposing to remove all of the paved parking spaces and convert the area to additional garden area.

To the north of The Site lies one property that is zoned R2.5 (Single-Dwelling Residential 2,500) that is developed with a multi-dwelling residential structure; the unimproved SE 19th Avenue right-of-way; properties zoned CSm (Storefront Commercial with Main Street Corridor Overlay Zone) on the south side of SE Division Street that are developed with offices, a convent, and a supermarket; and a property zoned R5 (Single-Dwelling Residential 5,000) on the north side of SE Division Street that is developed with a church building and surface parking lot.

To the east of The Site are properties zoned R2.5, developed with single-dwelling residences. Further east, at the corner of SE Clinton Street and SE 21st Avenue, are properties zoned CN1 (Neighborhood Commercial 1), developed with a variety of retail storefronts and restaurants.

To the south and southwest of The Site are properties zoned R2.5 and R2 (Multi-Dwelling 2,000), developed with primarily with single-dwelling residences and multi-dwelling structures. However, this area includes a church with a surface parking lot on SE 17th Avenue, and a structure at 1724 SE Clinton Street that was formerly a convenience store and is currently unoccupied.

To the west of The Site are properties zoned R2.5, developed with the Clinton Community Garden and single-dwelling residences.

Zoning: The Site is zoned R2.5, Single-Dwelling Residential 2,500. The single-dwelling zones are intended to preserve land for housing and to provide housing opportunities for individual households. The zones implement the comprehensive plan policies and designations for single-dwelling housing.

Schools are conditional uses in single-dwelling residential zones and are allowed if approved through the Conditional Use Review process. In order to be approved through the Conditional Use Review process, the request for The School expansion in a single-dwelling residential zone must comply with the relevant conditional use approval criteria (Zoning Code Section 33.815.105.A – E, Institutional and Other Uses in R Zones).

Land Use History: City records indicate that there are 4 prior land use reviews for the site:

CU 083-67: This 1967 Conditional Use Review approved a foster care facility for 12 youth on the “Site 1” portion of the site.

CU 080-74: This 1974 Conditional Use Review approved an alternative high school program for 36 children on the “Site 1” portion of the site, with conditions of approval.

CU 038-80: This 1980 Conditional Use Review approved The School to locate a nursery school and primary school (through 4th grade) on the “Site 1” portion of the site; approved a variance to

eliminate the requirement for 12 on-site parking spaces, conditioned on weekday daytime use of 12 spaces on the adjacent property to the east; and approved a variance to eliminate the requirement for off-street loading and unloading. Conditions of approval limited the maximum number of students to 53 and maximum number of staff to 12. The applicant indicates that the number of students and full-time staff on this portion of The Site continues to comply with these conditions. The applicant also indicates that The School obtained an agreement for weekday daytime use of the parking spaces on the adjacent property to the east (former *Woodsmen of the World* site, now owned by The School), as required by the condition of this review.

CU 049-88: This 1988 Conditional Use Review approved The School kindergarten program to be located on the “Site 3” portion of the site, with conditions of approval limiting the maximum number of students to 15 and the maximum number of full-time equivalent teachers to one. The applicant indicates that the maximum number of students and full-time equivalent teachers on the “Site 3” portion of the site continues to comply with these conditions.

Agency Review: A “Request for Response” was mailed **July 1, 2009**. The following Bureaus have responded with no issues or concerns:

- Water Bureau
- Bureau of Parks-Forestry Division

The **Bureau of Environmental Services (BES)** responded that BES has no objections to the requested Conditional Use and Adjustment reviews. Further development of The Site will be subject to BES standards and requirements during the building plan review process. (Exhibit E-1)

The **Bureau of Transportation Engineering (PBOT)** responded that PBOT has no objections to the proposed Conditional Use Review. (Exhibit E-2)

The **Site Development Section of BDS** responded that Site Development has no objection to approval of the proposed Conditional Use for the proposed school expansion. Site Development has sufficient information available to confirm that existing stormwater facilities that discharge to the public combination sewer system can be used to meet the approval criterion for stormwater services, if acceptable to BES. The response included information on erosion control requirements that will apply to the removal of existing pavement within the proposed expansion area. (Exhibit E-3).

The **Fire Bureau** responded that at time of building permit review, the applicant is required to obtain a change of occupancy through the Bureau of Development Services. Through that review, the Fire Bureau will review the plans and provide any requirements through the permitting process for the required change of occupancy (Exhibit E-5).

The **Life/Safety Plan Review Section of BDS** responded that a separate building permit is required for the work proposed and the proposal must be designed to meet all applicable building codes and ordinances. (Exhibit E-6)

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on July 24, 2009. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal prior to the issuance of the BDS Staff Report and Recommendation to the Hearings Officer (Exhibit H.1). At the public hearing on August 17, 2009 BDS staff submitted two letters into the record (Exhibits H.5 and H.6). The Exhibit H.5 letter expresses concerns regarding traffic (safety of drop-off and pick-up of students). The Exhibit H.6 letter expresses support of the Hosford-Abernathy Neighborhood Development Association. Traffic safety concerns expressed in Exhibit H.5 will be discussed under the findings in approval criteria (33.815.105 D) below.

ZONING CODE APPROVAL CRITERIA

33.815.010 Conditional Uses - 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: The applicant examined the properties within a 600-foot radius of The Site that have a residential zoning, and identified the following 8 non- Household Living uses:

- St. Philip Neri Catholic Church, 2408 SE 16th Avenue: The church can seat a maximum of 500 parishioners, and has been in use since 1913. Peak hours for the church, which occur on weekends, cause no conflict with the peak hour use for the school, which occurs on weekdays. In addition, parishioners have use of a 45,000 square foot parking lot located on Division Street, which reduces any on-street parking conflicts in the area. The church is large in scale. However, it is located across Division Street, a designated transit street that effectively separates the church and its activities from New Day School. As a result, it has no impact on the pedestrian and residential scale of the Clinton Street neighborhood where The School is located.
- REACH – Social Advocacy Organization, 2532 SE 17th Avenue/2542 SE 18th Avenue/2522 – 2534 SE 18th Avenue: These properties are owned and operated by a social advocacy organization, but the buildings on the sites are single-dwelling residences and multi-dwelling structures, and they are used as long-term housing for families, and therefore do not impact the residential quality of the surrounding neighborhood. (*Note: If tenancy of these residential structures is arranged on a month-to-month basis or for a longer period, the Zoning Code categorizes the use as Household Living, rather than a non-Household Living use*).
- ACME Construction and Design, 1600 SE Division Street: This is an existing one-story industrial building. Although not residential in scale, the building is not out of scale with nearby buildings along Division Street. The building seems to be used for the warehousing of goods. Little activity seems to occur at this site in conjunction with the peak time activities anticipated for the New Day School.
- Vietnamese Christian Community Church, 2720-2734 SE 17th Avenue: The activities for this church occur on Saturdays and Sundays, which will not conflict with the weekday activities and traffic associated with the school. In addition, the church parishioners have use of a parking lot on SE 17th Avenue, which reduces on-street parking impacts of the church.
- Woodworking shop, 2837 SE 17th Avenue: The woodworking shop is housed in a converted 1 ½ story residential building. The scale of the building is consistent with the scale of surrounding residential structures. The shop appears to generate a negligible amount of additional traffic, and the intensity of the use appears to be consistent with that of a home business.
- PATH Therapy, 2025 SE Taggart Street: The building is a converted 1 ½ story residential building, so its scale is consistent with the residential area. The intensity of the use is consistent with that of a home business. The use appears to generate negligible additional traffic.
- Clinton Community Garden, 2614 SE 18th Avenue: The community garden is open every day from 7:00 a.m. to 11:00 p.m. The periods of most intense garden use appear to be weekends, and weekday evenings – which does not overlap with the periods of most intense use at the New Day School.
- Generic Commercial – Use unknown, 1724 SE Clinton Street: This one-story building is currently being improved, so its use and days/hours of operation are

unknown. The scale of the building is smaller than that of the surrounding residential buildings.

The proposed school expansion is to be located in a former *Woodsmen of the World* assembly building, which was also a non-Household Living use. Therefore, the expansion of The School use onto this site simply replaces one non-Household Living use with another, and does not change the existing balance of the non-Household Living uses in the area. However, the proposed school expansion represents a more family and neighborhood oriented use on the former *Woodsmen of the World* site, which is more in keeping with the residential neighborhood. The Bureau of Transportation reviewed the applicant's Traffic Impact Study and has concluded that the transportation system is capable of supporting the proposed use in addition to the existing uses in the area.

The Hearings Officer finds this criterion is met.

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

Findings: The applicant provided the following information about the intensity and scale of the existing school use, and of the proposed school expansion:

Student Enrollment. State of Oregon Children's Services Division has licensed the properties at Site 1 and Site 3 for a maximum of 50 students at any given time. A large proportion of the students live within the neighborhood. Currently, approximately 19 families live within a half mile of the school, and another 12 families live within one mile of the school.

The School proposes to make improvements to the expansion building on Site 2 in two phases. The first phase will provide external building improvements and site improvements to meet Conditional Use requirements and required Building Code upgrades due to the change in occupancy. The first phase will generate 30 additional students, for a total of approximately 80 students for The Site.

The second phase will provide for major tenant improvements within the expansion building. The second phase will generate another 30 students, for a total of approximately 110 students for all three subsections of The Site. The maximum enrollment of 110 students was used for the submitted Traffic Impact Study.

In the future, The School may choose to expand from a pre-school through kindergarten program to a pre-school through third grade program. At a capacity of 110 students, the number of 1st, 2nd and 3rd grade students will be limited to a class size of 15 students each. In the event that the program increases to include these grade

levels, the school's hours of operation, class sizes and total number of students will remain unchanged.

Staffing. The staff of the existing preschool and kindergarten programs consists of five full-time employees and 12 part-time employees, which equates to 11 full-time employees.

With the first phase school expansion to a total of 80 students, immediate staff needs will increase by 5.5 full-time teachers and staff. With the second phase school expansion to a total of 110 students, teacher and staff needs will increase by an additional four full-time employees, leading to a total full-time employee equivalency of 20.5. These increases in employment were included in the Traffic Impact Study.

School Hours. The school is open between the hours of 7:30 a.m. and 5:30 p.m. Pre-school hours vary based on parent needs, with heaviest attendance occurring between the hours of 8:30 a.m. and 4:30 p.m. Kindergarten is in session from 8:30 a.m. to 3:00 p.m., with after school care extending to 5:30 p.m.

Unlike typical grade schools, there is no required time for attendance (except within the kindergarten class of 12 students). As a result, families do not have specific pick-up times that can generate aggressive behavior on the part of families during pick-up and drop-off. Families arrive and leave at varied times throughout the day, resulting in limited traffic conflicts.

With the proposed expansion to a total of 110 students, school hours will remain the same. School schedules may be shifted to alleviate impacts at peak traffic times.

Student Drop-off / Pick-up. Due to the age of students, parents are required to escort their children into the school building where they sign them in for the day. The highest concentration of drop-offs occurs between the hours of 8:30 to 8:50 a.m. The highest concentration of pick-ups occurs between the hours of 4:30 to 5:00 p.m.

The School utilizes a 15-minute on-street parking zone located in front of Site 1 and another 5-minute on-street parking zone in front of Site 3. Both of these parking zones restrict parking all day, every day, and accommodate a total of four parking spaces. These on-street drop-off areas were approved as part of earlier Conditional Use approvals for The School, specifically for the loading and unloading of children. Occasional overflow loading and unloading of students occurs in front of the cob house, also located at Site 1, and in front of the expansion building at Site 2. Neither of these areas is marked for limited time parking. The existing on-street parking has been sufficient for current school use.

With the proposed expansion, The School proposes to expand the area of 15-minute on-street parking to extend across the entire frontage of the school properties for Sites

1 and 2. In addition, The School proposes an increase to the existing time limit at the Site 3 on-street parking space from 5 minutes to 15 minutes. These modifications will result in approximately seven on-street parking spaces for student drop-off and pick-up located immediately in front of the school. If approved by the Bureau of Transportation, The School proposes that the 15-minute limit for these on-street parking spaces be effective only during The School's peak pick-up and drop-off times, so that they are fully available to residents at other times.

Additional on-street parking in close proximity to The School is located along the street frontages of the Clinton Community Garden to the west of the site, which consists of four spaces along SE Clinton Street and seven spaces along SE 18th Street. With the current enrollment, these parking spaces are not needed for pick-up or drop-off. With the expansion of the student enrollment to 110 students, it is anticipated that additional pick-up and drop-off needs can be accommodated on the street frontages of the community garden without impacting the residences across the street or adjacent to the school.

The Clinton Community Garden is utilized primarily in the late spring, summer and early fall, with the heaviest use occurring in the summer. Peak-time use at the Community Garden does not coincide with peak pick-up and drop-off times at the school. As a result, on-street parking for student pickup and drop-off should not conflict with the community garden use. Since this community garden is one of the few Bureau of Parks and Recreation properties within the Hosford Abernethy neighborhood, it is unlikely that this property will be converted to another use that will conflict with this pick-up and drop-off arrangement.

Parking. The Zoning Code contains an exemption to the minimum parking requirements for sites located within 500 feet of a transit street with a minimum 20 minute peak-hour service. The Site is located within 430 feet of a bus stop on SE Division Street (a transit street), which is serviced by a bus line that provides 15-minute peak-hour service. Therefore, The Site's location complies with the standard allowing an exemption from the minimum parking requirements.

As noted in the above section on Student Enrollment, over half of the currently enrolled students live within one mile of the school. Based on a one-week count in January, 2009, The School found that over half of the families bike or walk to the school at least one day per week. As noted in the above section on Student Drop-off / Pick-up, the school is proposing to increase the number of 15-minute parking spaces along The School's street frontage, to accommodate the proposed increase in student enrollment. The School anticipates that the additional 15-minute parking spaces along the school's street frontage, combined with the on-street parking along the Clinton Community Garden street frontages, will accommodate drop-off and pick-up activities for the proposed enrollment increase without negatively impacting on-street parking in front of adjacent residences and residences across the street from The School.

Currently, off-street parking is available to accommodate teachers and staff. One off-street parking space is located on Site 1, adjacent to the main school building, and school staff were authorized to use the paved parking area to the north of the proposed school expansion building, through an agreement between The School and the former owners of the *Woodsmen of the World* site. However, this paved parking area has not been used or needed for several years, in part because of the progressive nature of the staff and families working and attending the School who intentionally choose alternative forms of transportation. As noted in the above section on Staffing, The School currently employs the equivalent of 11 full-time staff. The applicant states that over half of these staff members walk or ride their bikes to work daily, and several of the remaining staff members take alternative forms of transportation to work at least once per week. With the proposed expansion, The School is also proposing to start a ride share program for staff, as an additional means of reducing the number of staff commuting to the school via single-occupancy vehicles.

Due to the described factors above, The School has concluded that on-site parking is not needed, and the proposed expansion will include removal of all parking spaces at the north side of Site 3, to provide additional room for gardens at the back of the school. The curb cut for the driveway leading back to the parking area will also be removed and replaced with a new curb. In addition, the parking space located on Site 1 near the main school building will be removed, the curb cut removed and replaced with a new curb.

The Bureau of Transportation (PBOT) has reviewed the overall proposal for The School expansion and the removal of the on-site parking on the expansion property, as well as the applicant's Traffic Impact Study, which included an analysis of on-street parking availability. The PBOT response (Exhibit E-2) concluded that the transportation system (including on-street parking) is capable of supporting the proposed use in addition to the existing uses in the area.

In summary, the Hearings Officer finds that the overall residential appearance and function of the area will not be significantly lessened for the following reasons:

- The proportion of uses not in the Household Living category will not change with The School's expansion onto the former *Woodsmen of the World* site, because that site has historically been in a non-Household Living use. The School expansion will utilize the existing *Woodsmen of the World* building, so there will not be an increase in the number of non-Household Living buildings in the area.
- The hours of operation will not change.
- Although The School's on-site parking spaces will be eliminated, this will not affect the overall residential appearance and function of the area. The majority of The School's current staff have been utilizing alternative means of transportation to The School, and in conjunction with the proposed expansion, The School is proposing to start a rideshare

program for their staff, to maintain reductions in the number of staff vehicles coming into the neighborhood.

- With the proposed increase in the number of students, there will be a larger amount of student pick-up and drop-off activity in front of the school. However, The School is proposing the addition of 15-minute on-street parking along all of The School's street frontages to accommodate this increase, and the street frontages of the Community Garden to the west will be available to accommodate additional pick-up and drop-off activity without impacting street parking for other residences.

The Hearings Officer finds this approval criterion is met.

B. Physical compatibility.

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

Findings: The site does not contain any City-designated scenic resources; therefore 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
3. The proposal will mitigate differences in appearance or scale through such means as setbacks, screening, landscaping, and other design features.

Findings: The proposed expansion building for The School is an existing building, which formerly functioned as the *Woodsmen of the World* assembly building. The building has been present in the neighborhood for more than 50 years, since its construction in approximately 1955.

The applicant notes that the *Woodsmen of the World* building has a wall height of approximately 17.5 feet, a height of approximately 22.5 feet at the highest point of the roof, and a width of approximately 45 feet at the Clinton Street frontage. The adjacent two-story residential building at 1905 SE Clinton Street is similar in scale, as it is approximately 30 feet in height at the roof ridge, and approximately 30 feet in width at the street frontage. As a result, the school's expansion building does not seem excessively large in scale at the street frontage. There are multi-family buildings within a block of the school site that are larger in scale than the school's expansion building. The expansion building has been and will continue to be a small scale community building nestled into the existing neighborhood.

To further mitigate differences in appearance or scale of the expansion building, the applicant proposes the following:

- The width of the asphalt vehicle driveway on the west side of the building will be reduced, to convert the vehicle driveway into a pedestrian walkway;
- An approximately 5-foot landscape area will be provided on the west side of the expansion building. This landscape area will be planted with columnar trees, shrubs and groundcover to soften the visual scale of the west side of the expansion building;
- The existing chain-link fence that runs north-south along the west side of the site will be removed;
- The existing 6-foot decorative wood fence on Site 1, which is set back approximately 15 feet from the front property line and is parallel with SE Clinton Street, will be extended eastward to the expansion building. A new wood gate to match the fence will be provided at the proposed walkway on the west side of the expansion building;
- The asphalt parking area at the north portion of Site 2 will be removed and replaced with a garden area;
- If approved by PBOT, a 2-foot portion of the existing concrete sidewalk corridor adjacent to the south side of the expansion building will be removed, to allow for the installation of a landscape strip at the front (south) side of the building. This landscape strip aligns with the edge of the landscaping at the residential property to the east, and with the school property to the west. The landscaping of this area is typical within the residential neighborhood, and will help create a sense of continuity across all three sites, while matching typical landscaping within the residential area;
- Required street trees will be provided within the public right-of-way. These will break down the scale of the expansion building at the SE Clinton Street frontage;
- The building will be cleaned and painted with several paint colors, to reduce the visual scale of the building and to provide variety at the street frontage.

Due to the fact that the proposed expansion building has been in its present location in the neighborhood for at least 50 years, and with the above modifications to the building to add landscaping and decorative elements to reduce the building's visual scale, the Hearings Officer concludes that differences in the expansion building's appearance and scale have been mitigated to the extent practicable.

This criterion is met.

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

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

Findings: The applicant notes that the potential for noise comes from two main sources: children at play in the outdoor play area, and noises generated by cars and school

families during school pick-up and drop-off periods. To limit potential conflict from these noise sources, the applicant proposes the following:

- Noise associated with pick-up and drop-off will be minimized through school policies to limit loud conversations at the front entry to the school.
- Parents will be encouraged to use the designated on-street parking spaces in front of The School, with overflow parking limited to the spaces in front of the Clinton Community Garden. Parents will be directed not to park on the south side of SE Clinton Street, or in front of the property at 1905 SE Clinton Street.
- Noise associated with playground use will be low impact, given the proportion of unconcentrated play and the size of the play area.
- To limit noise impacts to the properties immediately east of the proposed expansion building (1905 & 1913 SE Clinton Street), The School will focus group play within the field and patio area located north of the main school building at 1825 SE Clinton Street.
- Landscaping at the eastern edge of the site will focus on garden and orchard uses, which will be utilized by the students in smaller, more focused groups. This will limit noise at the east property line.

Regarding glare, the applicant states that an existing light located between the cob building and the expansion building will remain for security reasons, and existing downlights at the front and back entries to the buildings will remain. However, no additional lights will be installed on-site that will affect residents. The existing lighting does not produce glare at adjacent properties.

Regarding late night operations, the applicant states that these will not occur. Evening operations at the school are limited to occasional after-school events. Outdoor events, consisting of a May Day event and a Fall Celebration, take place in the early evening, and do not require additional electric lighting.

The applicant states that no activities or operations occur on site that will create unpleasant odors, and no activities occur that generate on-site or off-site litter.

The applicant states that The School expansion will have no impacts on privacy. All student loading and unloading will occur in those on-street parking spaces located immediately in front of The School properties, and in front of the Clinton Community Garden. This will reduce interaction between school users and nearby residents, thus contributing to the privacy of nearby residents.

The applicant states and BDS staff concurred that the proposed use does not generate safety issues. The expansion site contains a currently vacant building. Greater neighborhood security will be provided once the building is occupied. The expansion of school activities into this building will introduce more children and families to the area, and will strengthen community, thereby creating a safer environment. The Hearings Officer concurs with the applicant and BDS staff in this matter. Safety regarding traffic

(student drop-off and pick-up) will be discussed in the public services approval criteria below.

To reduce the potential for vandalism or vagrancy on or near the site, The School will extend the decorative wood security fence at the front of the property to the proposed expansion building, and maintain the security fences at the remaining perimeters. Additionally, the existing security light will remain, to discourage loitering when the school is not in use. Because the expansion building is located near the kindergarten building, which is the living quarters of 3 of the school staff, surveillance of the property is easier.

Given the above information provided by the applicant, the Hearings Officer concludes that the expansion proposal will not have significant adverse livability impacts.

The Hearings Officer finds this approval 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: Portland Transportation (PBOT) provided the following information to address this criterion, in their response (Exhibit E-2):

“At this location, SE Clinton is classified as a Local Service street for all transportation modes in the City’s Transportation System Plan, except one. It is also classified as a City Bikeway. The proposed expansion of the New Day School is supportive of the Local Service street designations of SE Clinton. The TSP states that, “Local Service Traffic Streets are intended to distribute local traffic and provide access to local residences or commercial uses.” The New Day School has historically attempted to attract students from the surrounding neighborhood, but given its unique programming, also attracts families that must travel greater distances to arrive at the school. The proposed Conditional Use will not result in negative impacts related to the TSP’s goals and objectives for Local Service streets.”

The Hearings Officer finds that the proposed use is in conformance with the street designations of the Transportation Element of the Comprehensive 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: Portland Transportation (PBOT) provided, in Exhibit E-2, the following information to address this criterion (the indented section below is quoted from Exhibit E-2):

Street Capacity/Level of service/other performance measures

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

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

The industry standard is to measure street capacity and level-of-service (LOS) only at intersections during the critical time period, such as AM or PM peak hour. Although capacity is a part of the LOS, the City of Portland's performance standards are defined only by LOS, which is defined by average vehicle delay. The City does not have performance standards for any of the other evaluation factors. To adequately address this evaluation factor, the applicant was required to submit a Traffic Impact Study (TIS) prepared by a registered traffic engineer in conjunction with the other application materials.

The applicant's traffic consultant was given a scope of the study information that was necessary for PBOT staff to conduct the capacity/level of service evaluation. The scope included providing trip generation and trip distribution relative to the proposed project. The applicant was also directed to study area intersections and to provide empirical data for review by City staff.

With regard to trip generation, the applicant has determined that the proposed expansion of the New Day School use will generate a net increase of approximately 48 am peak hour trips and 49 pm peak hour trips. As identified in the applicant's TIS, the additional trips were assigned to the study roadways and intersections based upon the distribution developed for the school. There is a very strong directionality along SE Division that was accounted for in the trip assignment (there is a noticeable directional difference between the morning and evening peak hour).

An operational analysis was conducted at the study intersections during the morning and evening peak hours. The intersections that were analyzed included SE 18th/Division as well as SE 20th/Ladd/21st/Division ("seven corners"). All studied intersections currently operate at acceptable levels of service and will

continue to operate at acceptable levels of service with the expansion of the New Day School.

Access to arterials

The site is located within a well connected grid pattern of streets. From the site's frontage along SE Clinton, parents of the students attending New Day School have access to SE Division (north of the site), SE Powell (south of the site) and SW 11th & 12th Avenues west of the site. Each of these streets is identified as an arterial in the City's TSP.

Connectivity

The existing street grid pattern in the area meets City connectivity spacing guidelines for public streets and pedestrian connections. The public streets are within the recommended 530-ft spacing goals. Except for the subject block however, the goal of having pedestrian connections no further than 330-ft apart is satisfied. PBOT recognizes this minor shortfall, however, does not recommend that the applicant provide a public pedestrian connection through the subject site. Due to the lot and block patterns in the area, as well as the existing development found throughout the neighboring block areas, a pedestrian connection through the subject site would/could not connect to any other such pedestrian system in the area. The site frontage along SE Clinton is improved with curb and sidewalk. The streets in the surrounding neighborhood are also improved with sidewalks, promoting pedestrian activity and allowing access to local transit.

Transit availability

The site is not currently directly served by any Tri-Met Bus lines. However, approximately 330-ft to the north of the site, the area is served by Tri-Met Bus line #4 (Division/Fessenden) along SE Division. To the east, along SE 21st and SE Clinton, Tri-Met offers transit service along its line #10 (Harold).

On-street parking/neighborhood impacts

PBOT staff expressed initial concerns about the school's expansion after the Pre-application Conference that was held prior to the submittal of the application for the subject Conditional Use request. The concerns stemmed from learning that there was no established program for parents dropping off and picking up their children from the school. Upon further discussion with school officials, PBOT staff became aware that there is a loading zone along the school's frontage where parents are parking, walking their children to the entrance of the school, and returning to their cars to leave. While this is a normal practice for schools throughout the city, this can lead to impacts to available on-street parking, and to impacts to neighborhoods in regard to congestion.

Accordingly, PBOT staff requested that the applicant's traffic consultant also provide a parking analysis to determine any potential for adverse impacts to the

area by the increased enrollment at the New Day School. If the entire site frontage was utilized as a loading zone, there would be enough area to accommodate approximately seven vehicles (eight total vehicles taking into account the school's additional property [TL 400] that is not contiguous to the main campus). The parking study identified a significant number of on-street parking supply throughout the area's street network. As the site is located within a predominantly (built-out) residential environment, including multi-dwelling development, the area is also well served by ample off-street parking. As observed, the majority of the on street parking demand was along SE Clinton, with the demand rapidly decreasing on the remaining surrounding roadways. The results of the parking study indicate that there is a sufficient supply for the area's demand, as well as for utilizing the school's frontage for student loading functions.

Aside from formalizing the school's drop-off/pick up procedure, the New Day School will be taking further educational responsibilities to alert the parents of the school's students about the fact that SE Clinton is a City classified City Bikeway. SE Clinton is a bike boulevard that is well utilized by bicyclists traveling east-west across the city. With a confined activity level at the school during a brief period of time in the morning, at the same time bicyclists are commuting to work, there are opportunities for conflicts, especially if parents are loading/unloading their children from the street side of the sidewalk. This activity was observed by PBOT staff during our own site visit and therefore, school officials were advised of the need to further educate parents of proper drop-off/pick-up procedures.

Access restrictions

The New Day School has two driveways along its contiguous properties at TL 800, TL 1000 and TL 1100. The driveway that serves as access to TL 800 will be closed off because the school will be converting the parking lot area behind the existing building on this lot to new landscaped area. The driveway leading to TL 1100 provides access to a parking pad that abuts the (current) main school building. The school has also indicated that it intends to close off the curb cut leading to driveway to prevent conflicts with staff utilizing this space and parents/students parking or walking towards the main building. PBOT supports the closure of both of these access points.

Impacts on pedestrian, bicycle, and transit circulation

All streets in the surrounding neighborhood are improved with sidewalks which help provide safe pedestrian access to the school site, and safer access to nearby transit facilities. As mentioned above, SE Clinton is a well utilized classified City Bikeway and in order to avoid conflicts between school parents, students and bicyclists, the New Day School will be continuously educating parents on appropriate drop-off/pick-up activities. There is no reason to believe that the proposed Conditional Use will result in negative impacts to pedestrian, bicycle or transit circulation in the adjacent neighborhood.

Safety for all modes

No negative safety impacts are expected with this proposal on any mode of the transportation system.

Adequate transportation demand management strategies

Transportation Demand Management (TDM) strategies are generally considered when mitigation measures are necessary to address impacts related to proposed developments. Although PBOT has not identified any impacts related to the proposed school expansion, in order to attempt to avoid any future conflicts as the New Day School reaches its maximum enrollment, measures should be taken by the school.

New Day School representatives have proffered a number of measures which PBOT staff can support. The school's proposed TDM Plan includes the following:

- Provide long-term, interior bike parking spaces for staff.
- Establish a "Bicycle Standard of Safety" educational document and designate a staff member to advise parents on how to appropriately and safely load and unload their children from their vehicles.
- Provide continual educational and informational opportunities to parents for proper etiquette and behavior towards bicyclists.
- Implement a preferred access route for parents to follow to arrive at the school to minimize the potential for conflict with motorists and bicyclists during peak travel times.
- Institute a ride sharing program for parents and staff.
- Prioritize families on the school's enrollment waiting list who reside within ½ mile radius of the school.
- Expand the loading/unloading zone along the site's frontage.
- Potentially modify the school's schedule to help reduce the number of vehicles coming to the school during conventional peak hours.

The applicant should formally develop and submit the TDM Plan prior to the commencement of the 09-10 school year. Copies of the plan should be provided to BDS and PBOT staff.

In summary, and as evaluated above in consideration of this approval criterion's evaluation factors, PBOT staff has accepted and concurred with the methods, analysis and conclusions reached by applicant's traffic consultant. Accordingly, the transportation system is capable of supporting the proposed uses in addition to the existing uses in the area.

A letter was submitted, at the hearing, from Ms. Bannister (Exhibit H.5). Ms. Bannister questioned the safety of the student drop-off and pick-up if this application is approved.

Ms. Bannister stated that when visibility is poor (rainy and/or winter days) student drop-off and pick-up is particularly risky/unsafe. Mr. Fabio De Frietas, Portland Bureau of Transportation staff representative, appeared and testified, based upon review of the its review of the application, the applicant's parking study, that there is sufficient area to conduct safe student drop-off and pick-up. The Hearings Officer is sensitive to Ms. Bannister's concerns but finds that the credible and authoritative testimony/evidence (primarily Mr. De Frietas' testimony and the above-quoted PBOT response) in the record is that the student drop-off and pick-up area and program is adequate.

Based on the above response from PBOT, BDS the Hearings Officer concludes that the transportation system is capable of supporting the proposed use in addition to the existing uses in the area, with imposition of a condition of approval requiring the applicant to formalize their TDM Plan and submit it to BDS and PBOT prior to the commencement of the 09-10 school year.

With compliance with the recommended condition of approval, the Hearings Officer finds that this approval 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: Responding service agencies expressed no objections to the proposal. Therefore, the Hearings Officer finds that it can be concluded that 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.

The Hearings Officer finds that this approval 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 Site and the proposed expansion building are located within the boundaries of the Hosford-Abernethy Neighborhood Plan (Plan). The Plan policies that are applicable to this proposal are limited to Policy 3 (Transportation), which states: "*Encourage safe and efficient use of the transportation network which minimizes negative traffic impact on neighborhood livability and business operations.*"

To implement the above reference policy, the plan states the following objectives:

3.5 *Limit the traffic and parking impacts of major new developments on both industrial and residential areas.*

3.7 *Encourage businesses to provide transit incentives for its employees.*

Because the above policy and objectives are transportation-related, the PBOT response (Exhibit E-2) includes information to address Conditional Use Approval Criterion E. The PBOT response states,

“PBOT staff does not consider the expansion of the existing New Day School as a major new development. Nonetheless, based on statistics from school administrators, current enrollment includes 31 families that reside within one mile of the school site. During a survey period, the school found that greater than fifty-percent of the families either walk or ride bicycles to the school at least one day a week, with many of these families doing so every day. Furthermore, several of the school’s staff members walk or ride their bikes to the school throughout the week. With a formalized loading/unloading plan to be implemented as well as the other measures identified in the school’s TDM Plan, traffic and parking impacts generated by the school will be minimal. The school is proposing to create a ride-share program for its staff. Coupled with the continued encouragement of the school administrators to promote to staff and families to arrive at the school by means other than single-occupancy vehicles, this qualifies as a transit incentive.”

Based on the above PBOT response, the Hearings Officer concludes that the proposal is consistent with the applicable provisions of the Hosford Abernethy Neighborhood Plan.

The Hearings Officer finds this approval criterion is met.

33.805.010 Purpose of 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 Adjustment 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 applicant is requesting an Adjustment Review to allow the proposed expansion building (former *Woodsmen of the World* assembly building) to remain in its present location, at zero feet from the east and south property lines, and without the required L3 and L1 landscape buffering between the building and the east and south property lines. The regulations to be modified are the setbacks for Institutional Development Standards, found in Section 33.110.245.

The purpose of those regulations, as stated in Section 33.110.245.A, is as follows:

The general base zone development standards are designed for residential buildings. Different development standards are needed for institutional uses which may be allowed in single-dwelling zones. The intent is to maintain compatibility with and limit the negative impacts on surrounding residential areas.

The applicant states that the Adjustment request equally meets the purpose of maintaining compatibility with the surrounding residential area, for the following reasons:

- The former *Woodsmen of the World* building is existing, and has been in its present location since 1955.
- The scale of former *Woodsmen of the World* building is not out of proportion with surrounding residences. It is similar in width and height to the adjacent residential structure to the east.
- The former *Woodsmen of the World* building's compatibility with nearby residences and the neighborhood will be enhanced by the addition of a garden area on the north side of the building, which include have the required L3 landscape buffer along the east property line adjacent to the residential properties to the east; a five-foot wide landscaped area along the west side of the expansion building; a two-foot wide landscape strip along the front (south) side of the building, within the right-of-way; and the provision of new street trees in the right-of-way between the sidewalk and curb.

The proposed landscaping improvements will equally meet the purpose of the regulation, and will maintain an image and character that is compatible with the residential neighborhood.

The Hearings Officer finds that this approval 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; and

Findings: The proposed school expansion (former *Woodsmen of the World* building) is within a residential zone. The applicant states that the requested setback Adjustment will not significantly detract from the residential area for the following reasons:

- The former *Woodsmen of the World* building will be cleaned and painted in several paint colors, which will revitalize the appearance of the building and visually reduce its scale, thereby improving the appearance of the building and the neighborhood.
- If allowed by PBOT, the addition of a new landscape strip along the southern edge of the building (within the right-of-way) will soften that building edge, and visually reduce the scale of the building.
- The addition of a new landscape strip along the western side of the building will soften the building edges, and visually reduce the scale of the building.
- The replacement of the northern asphalt parking area with gardens and lawn will create a healthier, and more visually pleasing, appearance for that area.

For these reasons, the Hearings Officer finds that the livability of the neighborhood will not be negatively impacted by granting the setback Adjustment for the expansion building, which is an existing building that has been present at this location for more than 50 years.

The Hearings Officer finds that this approval 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: A setback Adjustment for both the east and south property lines is requested. However, the request is for an existing building that has had a zero-foot setback from the east and south property lines for more than 50 years. Therefore, the Hearings Officer finds that the request will simply allow the building to remain in its present location, and will not result in a cumulative effect that is inconsistent with the overall purpose of the zone.

The Hearings Officer finds that this approval criterion is met.

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

Findings: Neither "The Site", nor the lot on which the proposed expansion (former *Woodsmen of the World* building) is located, contain any City-designated scenic or historic resources. Therefore, this criterion is not applicable.

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

Findings: The former *Woodsmen of the World* building is already located at zero feet from the east and south property lines, and has had these setbacks for more than 50 years. The applicant has proposed to mitigate the setback Adjustment to the extent practical, by painting the building in several colors and by installing landscaping along the building's west side and along the building's south side (within the right-of-way), all of which will visually reduce the building's mass and make it appear more compatible with the scale of the neighborhood.

The Hearings Officer finds that this approval 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: Neither the overall school site, nor the lot on which he proposed expansion building is located, contain any Environmental zones. 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.

III. CONCLUSIONS

All of the approval criteria for the requested Conditional Use Review can be met, with conditions of approval.

The expansion of The School onto the former *Woodsmen of the World* site will not alter the proportion of Household Living uses in the area, because the school's expansion onto this site simply replaces one non-Household Living use on the site with another. No new development is proposed. The building on the expansion site (former *Woodsmen of the World* building) that will be used by the school has been present for more than 50 years. A multi-color paint scheme is planned for the building's west and south sides, and landscape enhancements are planned for the building's west side, which will visually reduce the building's mass and enhance the building's compatibility with the residential area. The School expansion will not have significant adverse impacts on the livability of nearby residential lands due to glare from lights, late-night operations, odors, and litter, or privacy and safety issues. Because an increase in student enrollment is proposed, there could be additional noise from children at play in the school's outdoor play area, and from parents' conversations during student pick-up and drop-off. However, The School's outdoor play activities are expected to be limited to the hours that classes or after-school care are in session, which correspond to weekdays during normal work hours. The highest concentration of student drop-offs and pick-ups also occur on weekdays during normal work hours. Therefore, significant adverse impacts on the residential area due to noise are not anticipated.

Public services for water supply, police and fire protection are capable of serving the use, and the proposed sanitary waste disposal and stormwater disposal systems are acceptable to the Bureau of Environmental Services and Site Development. The Bureau of Transportation has reviewed the applicant's Traffic Impact Study and proposed transportation demand management strategies, and concluded that the transportation system is capable of supporting the proposed use in addition to the

existing uses in the area, with a recommended condition that the applicant formalize the transportation demand strategies into a Transportation Demand Management Plan. The proposal is consistent with the applicable provisions of the Hosford Abernethy Neighborhood Plan, related to transportation.

All of the approval criteria for the requested Adjustment Review can be met. The applicant has provided information to demonstrate that the requested Adjustment to the setback and buffering standards for the existing building on the expansion site equally meets the purpose of the regulation. Therefore, the Adjustment request can be approved, in accordance with the proposed site plan.

IV. DECISION

Approval of:

A Conditional Use Review to allow the following for the New Day School:

- Expansion of the school site to include the property at 1847 SE Clinton Street (Tax Account R327936);
- Utilization of the approximately 4,500 square foot, former *Woodsmen of the World* assembly building on the property by the school;
- Addition of first, second, and third grades to the school's existing preschool and kindergarten program;
- Increase in the total number of school students to a maximum of 110 students;
- Increase in the total number of full-time equivalent staff to a maximum of 20.5 staff;

and,

An Adjustment to Zoning Code Section 33.110.245 and Table 110-5, to allow the approximately 4,500 square foot building at 1847 SE Clinton to remain in its present location, at zero feet from the east and south property lines, to waive the L3 landscaping required between the building and the east property line, and to waive the L1 landscaping required between the building and the south property line,

subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related conditions (B through D) must be noted on each of the four required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 09-134675 CU AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. The allowed number of students and staff on the "Site 3" portion of the school site (1917 SE Clinton Street, Tax Account R205364) remains limited to a maximum of 15 students and one

full-time equivalent staff person, as per the conditions of approval of Conditional Use Review CU 049-88.

- C. The school shall formalize the transportation demand management (TDM) strategies discussed in the Applicant's Narrative (page 11) and the Bureau of Transportation response (Exhibit E-2) into a TDM Plan. Prior to the commencement of the 2009/2010 school year, two copies of the TDM Plan shall be submitted to the Bureau of Development Services for review (one copy will be routed to the Bureau of Transportation).
- D. The school shall implement the TDM Plan at the commencement of the 2009/2010 school year.

Gregory J. Frank, Hearings Officer

Date

Application Determined Complete:	June 29, 2009
Report to Hearings Officer:	August 7, 2009
Decision Mailed:	August 19, 2009
Last Date to Appeal:	4:30 p.m., September 2, 2009
Effective Date (if no appeal):	September 3, 2009 Decision may be recorded on this date.

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

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

Appeal of the decision. ANY APPEAL OF THE HEARINGS OFFICER'S DECISION MUST BE FILED AT 1900 SW 4TH AVENUE, PORTLAND, OR 97201 (823-7526. Until 3:00 p.m., Monday through Friday, file the appeal at the Development Services Center on the first floor. Between 3:00 p.m. and 4:30 p.m., file the appeal at the Reception Desk on the 4th Floor. **An**

appeal fee of \$3, 927.00 will be charged (one-half of the application fee for this case).

Information and assistance in filing an appeal can be obtained from the Bureau of Development Services at the Development Services Center.

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

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

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

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

Recording the final decision.

If this Land Use Review is approved the final decision must be recorded with the Multnomah County Recorder. A few days 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.

- 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.

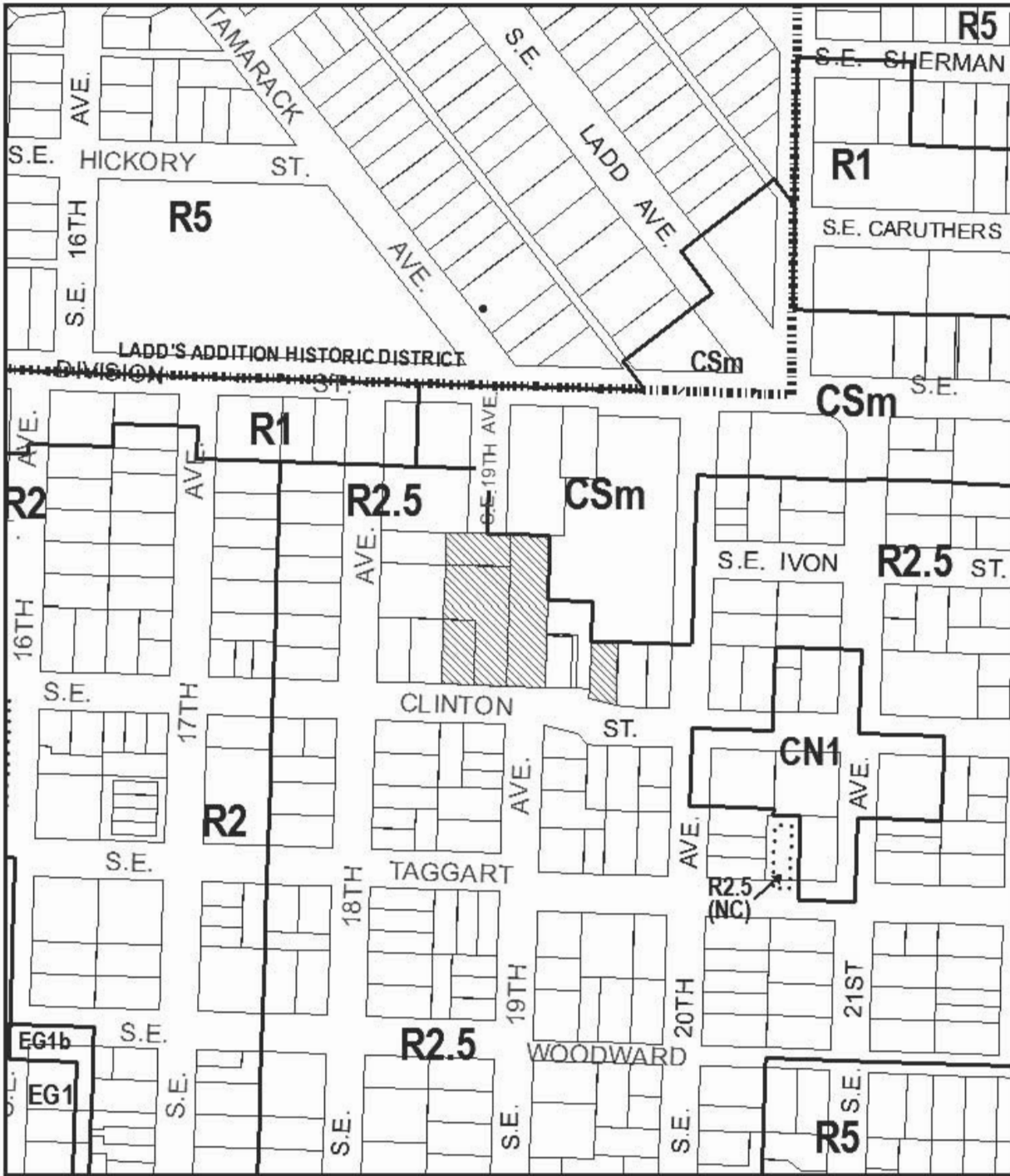
Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

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 Submittal
 - 1. Applicant's Narrative
 - 2. Traffic Impact Study prepared by Lancaster Engineering, dated May 19, 2009
- B. Zoning Map (**attached**)
- C. Plans and Drawings
 - 1. Site Plan (**attached**)
 - 2. Site Plan Detail for Sites 1 and 2 (**attached**)
 - 3. Elevations of Building on Site 2 (**attached**)
- D. Notification information
 - 1. Request for response
 - 2. Posting letter sent to applicant
 - 3. Notice to be posted
 - 4. Applicant's statement certifying posting
 - 5. Mailing list
 - 6. Mailed notice
- E. Agency Responses
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Site Development Review Section of Bureau of Development Services
 - 4. Water Bureau
 - 5. Fire Bureau
 - 6. Life/Safety Plan Review Section of Bureau of Development Services
 - 7. "No concerns" response, Bureau of Parks - Forestry Division
- F. Letters
 - 1. No letters received
- G. Other
 - 1. Original LUR Application
 - 2. Site History Research
- H. Received in the Hearings Office
 - 1. Hearing Notice - Savin, Suzanne
 - 2. Staff report - Savin, Suzanne
 - 3. PowerPoint presentation - Savin, Suzanne
 - 4. 8/15/09 letter, HAND to Savin - Savin, Suzanne
 - 5. 8/7/00 e-mail Barbara Bannister to Savin - Savin, Suzanne
 - 6. 8/15/09 letter, HAND to Savin - Timm, Ethan



ZONING

 Site



NORTH

File No. LU 09-134675 CU,AD
 1/4 Section 3332
 Scale 1 inch = 200 feet
 State_Id 1S1E11AB 1000
 Exhibit B (Jun 25, 2009)

3D BY

E SITE

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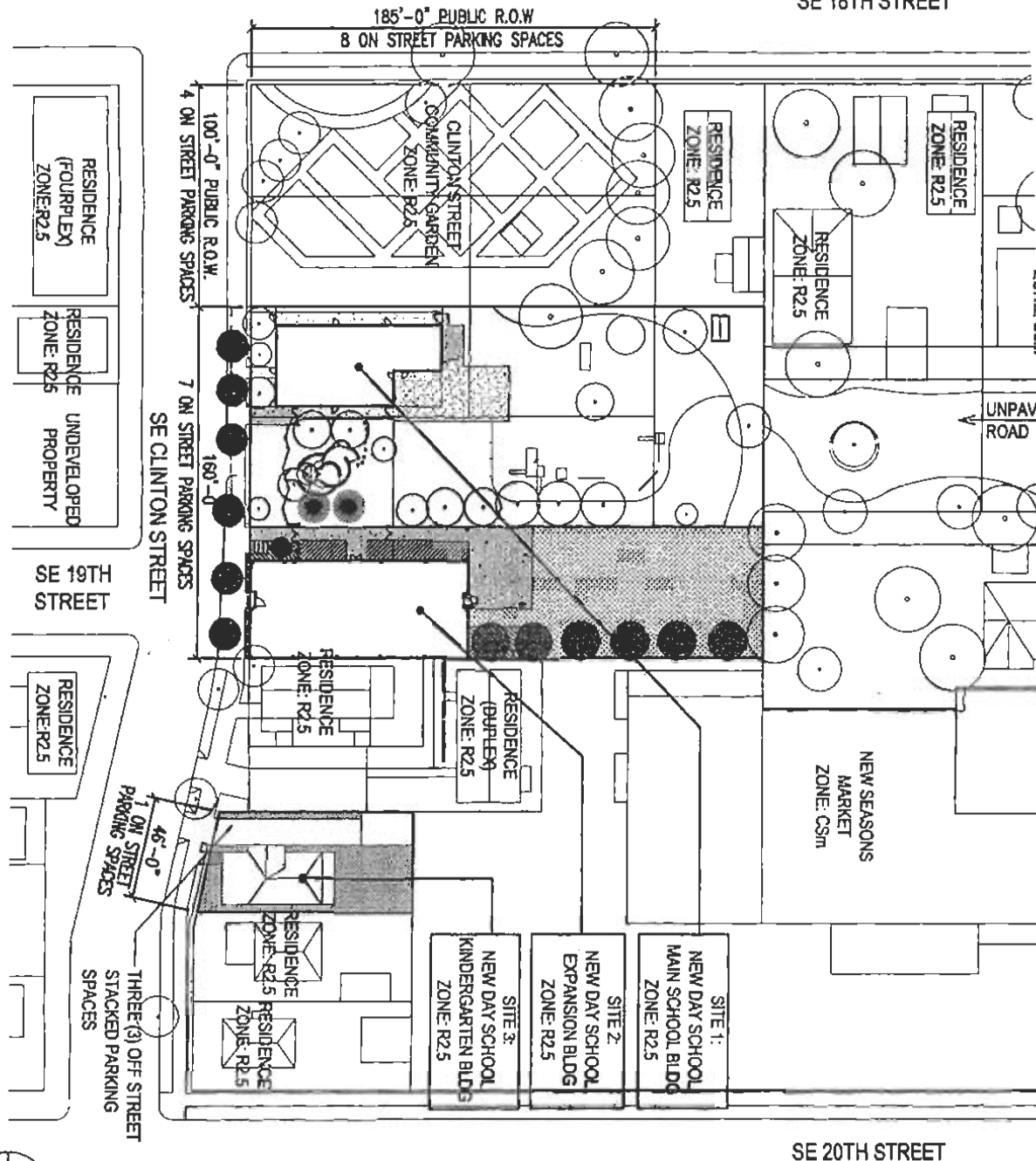
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SF:

LU 09-134675 CU AD

LU 09-134675 CU A

SE 18TH STREET

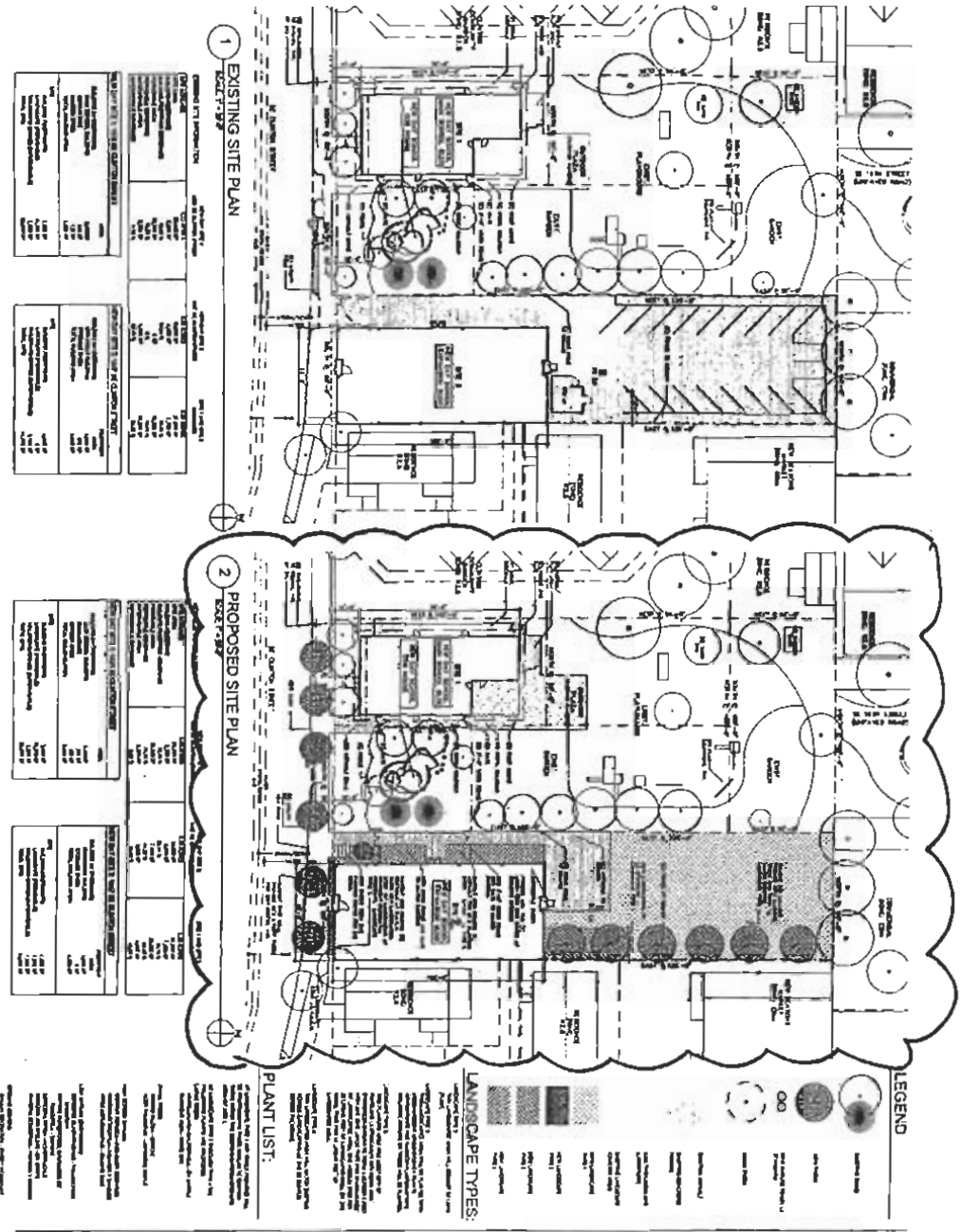


SE 20TH STREET

Exhibit C-1

SITE PLAN

LU 09-134675 CU AD



Plant Name	Quantity	Notes
...

Plant Name	Quantity	Notes
...

Plant Name	Quantity	Notes
...

Plant Name	Quantity	Notes
...

NEW DAY SCHOOL
 ANANDA MARGA
 CONDITIONAL USE REVIEW

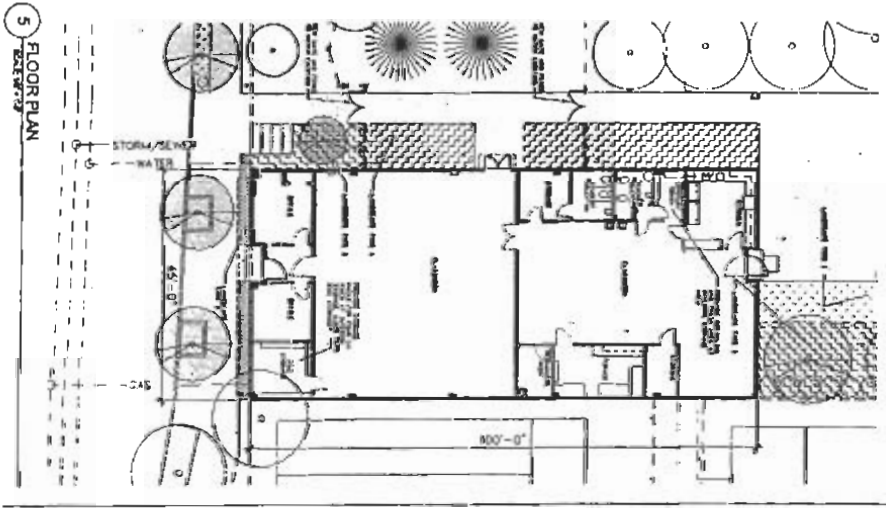
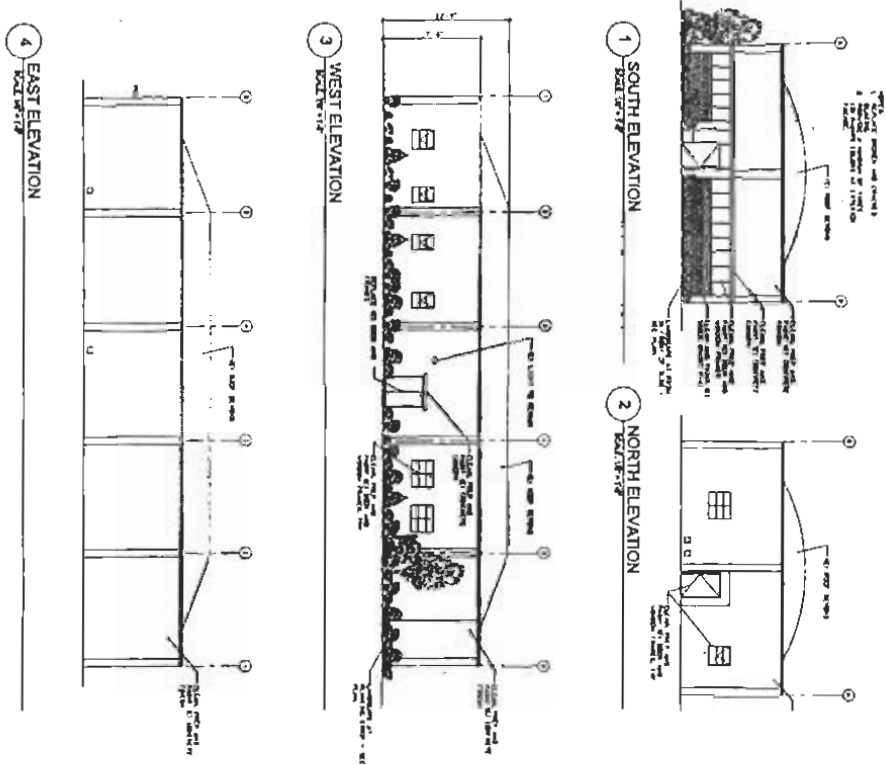
Exhibit C-2

SITE PLAN DETAIL - SITES 1 & 2

LU09 - 134675

Existing Site Plan
 Proposed Site Plan
 CU1.1

LU 09-134675 CU AD



CU2.1
Architect
Floor Plan

NEW DAY SCHOOL
ANANDA MARGA
CONDITIONAL USE REVIEW

Exhibit C-3

ELEVATIONS/FLOOR PLAN: BUILDING ON SITE 2

LU09-134675