



City of Portland, Oregon
Bureau of Development Services
Land Use Services
FROM CONCEPT TO CONSTRUCTION

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Date: October 30, 2019
To: Interested Person
From: David Besley, Land Use Services
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NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The mailed copy of this document is only a summary of the decision. The reasons for the decision are included in the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

CASE FILE NUMBER: LU 19-137676 AD

GENERAL INFORMATION

Applicant: Peter Kramer
4215 SE Oak Street
Portland, OR 97215

Owner Rep: Patrick Leboeuf
Portland Public Schools
501 N Dixon St
Portland, OR 97227

Owner: School District No 1
Po Box 3107
Portland, OR 97208-3107

Site Address: 840 NE 41ST AVE

Legal Description: BLOCK 57, LAURELHURST
Tax Account No.: R479111820
State ID No.: 1N2E31BC 16400
Quarter Section: 2934, 2935

Neighborhood: Laurelhurst, contact Peter Meijer at info@pmapdx.com
Business District: None
District Coalition: Southeast Uplift, contact Leah Fisher at 503-232-0010.

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

Case Type: AD (Adjustment Review)
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicant is proposing to construct a 55-foot by 96-foot steel canopy for a play area at Laurelhurst Elementary School. The Portland Zoning Code requires 20-foot minimum setbacks along the southern edge of this site (per Section 33.540.010 – Laurelhurst Plan District special setback). The canopy structure is proposed to be as close as 6.6 feet to the southern property line; therefore, an Adjustment is requested to reduce the minimum 20-foot setback along the southern property line to a range of 6.6 feet to 20 feet.

The Portland Zoning Code also requires 15-foot minimum landscaped setbacks (to the general landscaping “L1” standard, per 33.248.020.A) for institutional development across the street from residential zones (Section 33.110.245 and Table 110-5). As noted above, the canopy structure is proposed to be as close as 6.6 feet to the southern property line; therefore, a second Adjustment is requested to waive the minimum 15-foot landscaping requirement along the southern property line. The applicant is proposing a 7-foot by 40-foot landscaped area, which includes three small trees, three high-screen shrubs, and groundcover, to the south of the canopy structure.

Note: The applicant originally proposed a 6-foot by 30-foot landscaped area with high-screen shrubs to the south of the canopy structure, but it was determined that the addition of trees and ground cover would better meet the Adjustment approval criterion, so the applicant revised their proposal accordingly.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. of Section 33.805.040, Adjustment Approval Criteria, have been met.

ANALYSIS

Site and Vicinity: The subject 126,820 square foot full block site is bordered on the north by NE Laurelhurst Place, on the east by NE 43rd Avenue, on the south by NE Royal Court, and on the west by NE 41st Avenue. The site is developed with Laurelhurst School, a two-story building which provides education for kindergarten through eighth grade located on the western portion of the site. The school site includes accessory structures to the northeast of the school, and a playground, asphalt play area, sports field, and a surface parking/loading area to the east of the school. The adjacent blocks in all directions are also developed with single-dwelling residences.

Zoning: The R5 zoning designation is one of the City’s single-dwelling residential zones, which are intended to preserve land for housing and to promote housing opportunities for individual households. The development standards work together to promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities.

The regulations of the Laurelhurst Plan District enforce the special setback requirements of Ordinances 70343 and 70341. This plan district maintains the established character of the Laurelhurst and Eastmoreland areas, characterized by homes with larger than normal building setbacks from the street.

Land Use History: City records indicate the following land use reviews for this site:

- CU 036-68: Conditional Use approval for addition of two classroom buildings;
- CU 018-69: Conditional Use approval for installation of an incinerator; and
- LU 09-111684: Conditional Use approval to add a 1,792 square-foot modular building at Laurelhurst School.

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **August 2, 2019**. The following Bureaus have responded with the following information:

- The Life Safety section of the Bureau of Development Services (BDS) responded with no concerns regarding the requested Adjustments and provided Building Code information (Exhibit E-1);
- The Bureau of Environmental Services responded with no concerns regarding the requested Adjustments and provided information on stormwater management (Exhibit E-2); and
- The Portland Bureau of Transportation responded with no concerns regarding the requested Adjustments and included information related to the City’s Transportation System Plan and Title 17 requirements (Exhibit E-3).

The following Bureaus have responded with no concerns (Exhibit E-4):

- The Site Development Section of BDS;
- The Fire Bureau;
- The Water Bureau.

Neighborhood Review: Two written responses were received in support of the proposal (Exhibits F.1 and F.2) including one from the Laurelhurst Land Use Committee.

ZONING CODE APPROVAL CRITERIA

33.805.040 Approval Criteria

Adjustment requests will be approved if the applicant has demonstrated 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 to reduce the minimum 20-foot setback along the southern property line to a range of 6.6 feet to 20 feet. The relevant purpose statement and associated findings are found below:

33.540.010 Laurelhurst Plan District

The regulations of the Laurelhurst Plan District enforce the special setback requirements of Ordinances 70343 and 70341. This plan district maintains the established character of the Laurelhurst and Eastmoreland areas, characterized by homes with larger than normal building setbacks from the street.

This standard is directed at household living uses, not institutional uses. Institutional uses are distinct and have different development characteristics and standards found in Section 33.110.245 of the Portland Zoning Code (see purpose statement below). As a result, the intent of the Standard is not directed to the school and thus not applicable.

The applicant is requesting a second Adjustment to reduce the 15-foot minimum landscaped setback requirement for institutional development across the street from residential zones. As noted above, the canopy structure is proposed to be as close as 6.6 feet to the southern property line; therefore, a second Adjustment is requested to waive the minimum 15-foot landscaping requirement along the southern property line. The relevant purpose statement and associated findings are found below:

33.110.245 Institutional Development Standards

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 notes that an Adjustment is requested for the full required landscaping in part because of the school and playground configuration, which includes a 4 foot wide emergency egress through existing fencing near the southwest corner of the proposed canopy, and the need to provide a direct route for emergency evacuation and fire drills (Exhibit A). This area is also used for students to line up for PE activities and a clear route between the egress and the playground is important for safety and monitoring.

The applicant is proposing a 7-foot by 40-foot landscaped area, which includes three small trees, three high-screen shrubs, and groundcover, to the south of the canopy structure to create a buffer between the structure and the street (NE Royal Court). This exceeds the general landscaping "L1" standard required and will provide adequate screening to offset the impacts from the canopy structure. A condition of approval will require that this landscaped area be constructed prior to final permit inspection.

The canopy structure consists of a 55-foot by 96-foot roof held up by 10 beams and is 16 feet in height from the ground to the lowest point of the roof (Exhibit C.2). Because the structure is not enclosed by walls and the tall height allows pedestrians at the street level to effectively look through the structure, and because a new 280 square foot landscape screening area is proposed, the development will be compatible with the Laurelhurst neighborhood character and visual impacts will be minimal.

With the conditions related to the landscape screening, this criterion is met.

- B.** If in a residential, CI1, or IR zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, I, or CI2 zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

Findings: Because the site is in a single-dwelling residential zone, the applicant must demonstrate that the proposal will not detract from the livability or appearance of the surrounding residential area. As described above, because of the structure's open appearance and a new 7-foot by 40-foot landscaped area which includes trees and high-screen shrubs, this development will not detract from the appearance of the area. Furthermore, other structures in area – including two residential garages opposite Laurelhurst School on NE Royal Court – are closer to the street than the required Laurelhurst Plan District minimum setbacks allow. The development will therefore be consistent with the Laurelhurst neighborhood character.

As conditioned, 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: Two Adjustments are requested; therefore, this Criterion is applicable. The overall purpose of the R5 zone is to preserve land for housing, and to provide housing opportunities for individual households. Development standards in single-dwelling zones work together to promote desirable residential areas by addressing aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities. Based on the findings included in response to approval criteria A and B above, the project is consistent with the overall purpose of the zone.

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

Findings: City-designated scenic resources are identified on the official zoning maps with a lower case "s," and historic resources are identified either with a dot or as being within the boundaries of a Historic or Conservation district. As there are no scenic or historic resources mapped on the subject site, this criterion is not applicable.

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

Findings: As noted above, the applicant is proposing a 7-foot by 40-foot landscaped area, which includes three small trees, three high-screen shrubs, and groundcover, to the south of the canopy structure. While a full 15-feet of landscape is not provided, this proposed landscaping exceeds the general landscaping “L1” standard required and will provide adequate screening.

As conditioned, 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: Environmental overlay zones are designated on the official zoning maps with either a lowercase “p” (Environmental Protection overlay zone) or a “c” (Environmental Conservation overlay zone). As there are no environmental overlay zones mapped on the site, 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 requirements of Title 11 can be met, and that all development standards of Title 33 can be met or have received an Adjustment or Modification via a land use review, prior to the approval of a building or zoning permit.

CONCLUSIONS

The applicant is requesting two Adjustments to construct a 55-foot by 96-foot steel canopy at Laurelhurst Elementary School. The first Adjustment is requested to reduce the minimum 20-foot special Laurelhurst setback along the southern property line to a range of 6.6 feet to 20 feet and the second Adjustment is requested to waive the minimum 15-foot landscaping requirement along the southern property line, along the canopy structure. The applicant is proposing a 7-foot by 40-foot landscaped area, which includes three small trees, three high-screen shrubs, and groundcover, to the south of the canopy structure to create a buffer between the structure and the street. This exceeds the general landscaping “L1” standard required and will provide adequate screening to offset the impacts from the canopy structure. A condition of approval will require that this landscaped area be constructed prior to final permit inspection.

Because the structure is not enclosed by walls and the tall height allows pedestrians at the street level to effectively look through the structure, and because a new 280 square foot landscape screening area is proposed, the development will be compatible with the Laurelhurst neighborhood character and visual impacts will be minimal. Furthermore, other structures in area – including two residential garages opposite Laurelhurst School – are within the Laurelhurst Plan District minimum setback. The development will therefore be consistent with the Laurelhurst neighborhood character. As conditioned, the proposal meets the applicable approval criteria and should be approved.

ADMINISTRATIVE DECISION

Approval of two Adjustments to:

1. Reduce the minimum 20-foot setback along the southern property line to a range of 6.6 feet to 20 feet (Section 33.540.010 – Laurelhurst Plan District special setback). The canopy structure is proposed to be as close as 6.6 feet to the southern property line; therefore, an Adjustment is requested; and

2. Waive the minimum 15-foot landscaping requirement (Section 33.110.245 and Table 110-5) along the portion of the southern property line where the canopy structure is proposed, and construct a 7-foot by 40-foot landscaped area, which includes three small trees, three high-screen shrubs, and groundcover along the south side of the canopy structure

for the construction of a 55-foot by 96-foot steel canopy structure per the approved site plans, Exhibits C.1, signed and dated October 21, 2019 subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related condition (B) must be noted on each of the 4 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 19-137676 AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. A 7-foot by 40-foot landscaped area, which includes three small trees, three high-screen shrubs, and groundcover, as shown in Exhibit C.1 must be constructed prior to final permit inspection.

Staff Planner: David Besley



Decision rendered by: _____ **on October 21, 2019.**
By authority of the Director of the Bureau of Development Services

Decision mailed: **October 30, 2019**

About this Decision. This land use decision is **not a permit** for development. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

Procedural Information. The application for this land use review was submitted on March 25, 2019, and was determined to be complete on July 29, 2019.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on March 25, 2019.

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: November 26, 2019.**

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 November 13, 2019** at 1900 SW Fourth Ave. Appeals can be filed at the 5th floor reception desk of 1900 SW 4th Avenue Monday through Friday between 8:00 am and 4:30 pm. **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. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. 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 call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.portlandonline.com.

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Adjustment Committee is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 775 Summer St NE, Suite 330, Salem, Oregon 97301-1283, 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 will be recorded with the Multnomah County Recorder.

- *Unless appealed*, the final decision will be recorded after **November 13, 2019** by the Bureau of Development Services.

The applicant, builder, or a representative does not need to record the final decision with the Multnomah County Recorder.

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.

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:

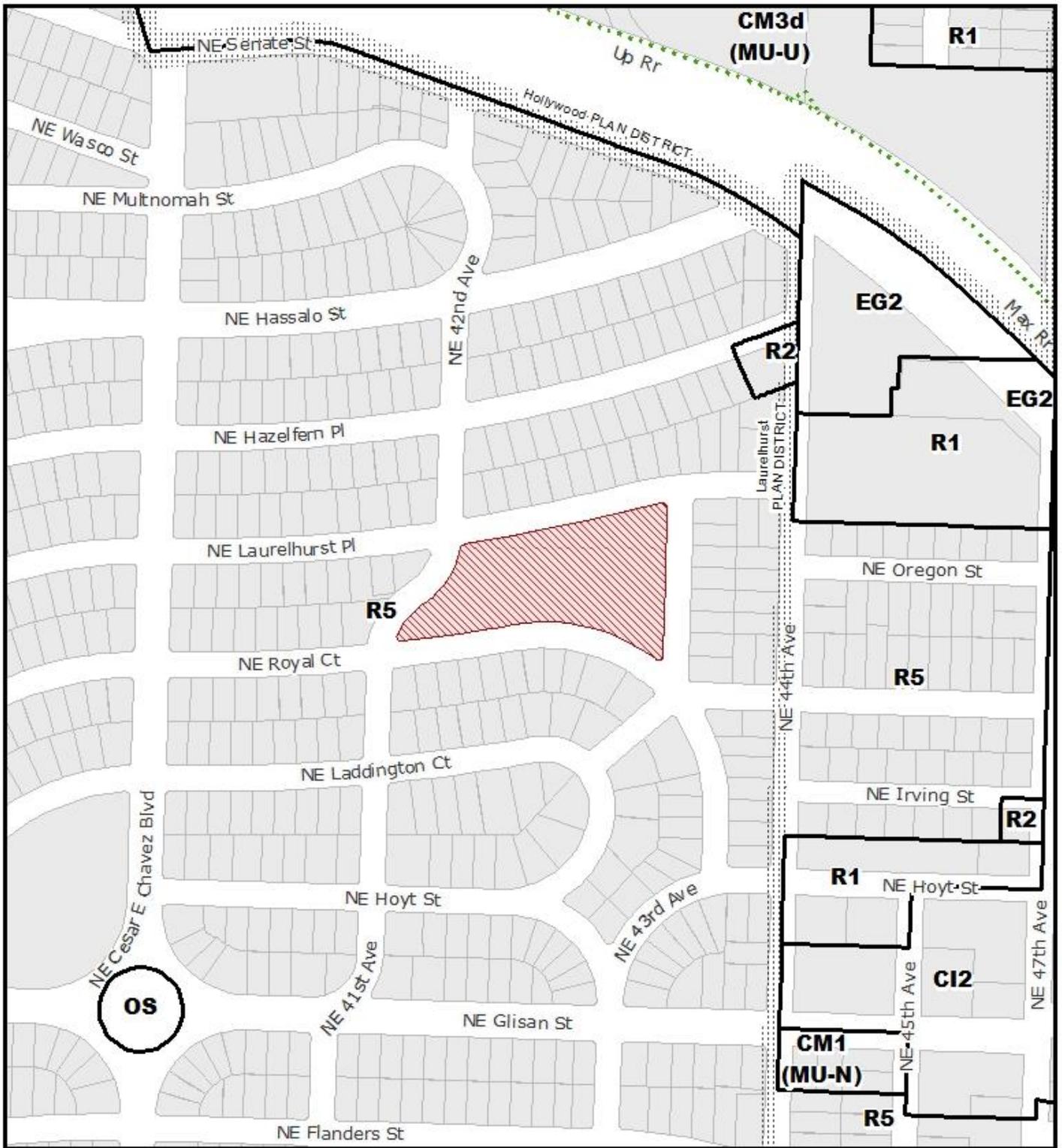
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Isometric Drawing
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Life Safety Section of BDS
 - 2. Bureau of Environmental Services
 - 3. Bureau of Transportation Engineering and Development Review
 - 4. Agencies responding with no concerns
- F. Correspondence:
 - 1. Peter Meijer of Laurelhurst Land Use Committee, August 9, 2019, letter in support of proposal
 - 2. Beeman Strong, August 22, 2019, letter in support of proposal
- G. Other:
 - 1. Original LU Application and Receipt
 - 2. Incomplete letter from staff to applicant, sent April 8, 2019

The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



ZONING



THIS SITE LIES WITHIN THE:
LAURELHURST PLAN DISTRICT



Site



Recreational Trails

File No.	LU 19-137676 AD
1/4 Section	2934, 2935
Scale	1 inch = 300 feet
State ID	1N2E31BC 16400
Exhibit	B Mar 28, 2019

PRELIMINARY

NO.	REVISION	BY	DATE
01	ISSUE FOR PERMIT	DB	08/20/19
02	REVISED PER CITY COMMENTS	DB	09/10/19
03	REVISED PER CITY COMMENTS	DB	09/10/19
04	REVISED PER CITY COMMENTS	DB	09/10/19
05	REVISED PER CITY COMMENTS	DB	09/10/19
06	REVISED PER CITY COMMENTS	DB	09/10/19
07	REVISED PER CITY COMMENTS	DB	09/10/19
08	REVISED PER CITY COMMENTS	DB	09/10/19
09	REVISED PER CITY COMMENTS	DB	09/10/19
10	REVISED PER CITY COMMENTS	DB	09/10/19

COVERED STRUCTURE
LAURELHURST
ELEMENTARY

PROJECT NO. 1417B
DATE: 7/2019
wallas engineering

IMPROVEMENT
PLAN 1

DRAWING NO. C4
4 OF 4

