Hearings Office
City of Portland
1900 SW 4th Avenue, Room 3100, Portland, OR 97201 phone: 503.823.7307
www.portlandoregon.gov/hearings fax: 503.823.4347

DECISION OF THE HEARINGS OFFICER

I. GENERAL INFORMATION

File Number: LU 19-199693 CU AD (Hearings Office 4190023)

Applicant(s): Oscar Leong
De La Salle North Catholic High School
7528 N Fenwick Avenue
Portland, Oregon 97217

Contact/Planner: Debbie Cleek
The Bookin Group
1140 SW 11th Avenue #500
Portland, Oregon 97205

Property Owner(s): St Charles Catholic Church Portland Oregon
Attention: Leif Kehrwald
5310 NE 42nd Avenue
Portland, Oregon 97218

De Paul Treatment Centers, Inc.
P. O. Box 3007
Portland, Oregon 97208

Project Manager: Francesca Gambetti,
Shields Obletz Johnsen, Inc.
1140 SW 11th Avenue #500
Portland, Oregon 97205

Hearings Officer: Fred Wilson

Bureau of Development Services (BDS) Staff Representative: Mark Moffett

Site Address: 4317 NE Emerson Street

Legal Description: BLOCK 2 LOT 14-16, JORBADE; BLOCK 2 LOT 3 EXC N 85', JORBADE; BLOCK 2 LOT 3 TL 3300, JORBADE; BLOCK 2 LOT 13, JORBADE

Tax Account Numbers:	R434104430, R434103600, R434103630, R434104420, R434104430
State ID Numbers:	1N2E19BB 04000, 1N2E19BB 03100, 1N2E19BB 03300, 1N2E19BB 04001, 1N2E19BB 04000
Quarter Section:	2535
Neighborhood:	Cully
Business District:	Our 42nd Avenue
District Neighborhood Coalition:	Central Northeast Neighbors
Zoning:	**R7h (R5), CEh (MU-N), CM2hm (MU-N)** – Single-Dwelling Residential or R7, Commercial Employment or CE, and Commercial/Mixed-Use 2 or CM2 base zones. The entire site includes the Aircraft Landing or 'h' overlay zone, and the CM2 zoning along NE 42nd Avenue also includes the Centers Main Street or 'm' overlay zone. The parenthetical Comprehensive Plan Map designation on the commercial-zoned land is Mixed-Use Neighborhood (MU-N).
Land Use Review:	Type III, CU AD (Conditional Use and Adjustment Reviews)

BDS Staff Recommendation to Hearings Officer: Approval with conditions.

Public Hearing: The hearing was opened at 9:01 a.m. on November 18, 2019 in the third floor hearing room, 1900 SW 4th Avenue, Portland, Oregon, and was closed at 10:37 a.m. The record was held open until 4:00 p.m. on November 25, 2019 for new evidence, and until 4:00 p.m. on December 2, 2019 for response to new evidence. The applicant waived their rights for rebuttal and final argument. The record closed at 4:00 p.m. on December 2, 2019.

Testified at the Hearing:
Mark Moffett
Leif Kehrwald
Oscar Leong
Debbie Cleek
David Sweet
Annabelle Lee
Benjamin Carhull
Fabio de Freitas

Michael Ard

II. ANALYSIS

The Staff Report provides an excellent summary of the proposed use and subject property:

> "De La Salle North Catholic (DLSNC) High School currently operates out of the former Kenton School Building at 7528 N. Fenwick Avenue in Portland, through a lease with Portland Public Schools which expires in the Summer of 2021. After their lease expires, DLSNC plans to relocate to the site of the current St. Charles Church at 4317 NE Emerson Street, sharing the site and facilities with the church.
>
> "Existing space in the church building and a former school wing directly east of the church would be renovated for administrative space and classrooms. A new 1-story building of approximately 21,780 square feet will also be constructed north of the former school wing, including a new gymnasium, locker room, student food service kitchen, as well as common and administrative spaces. The new building will create a courtyard area between the old and new school wings. An option is proposed that does not include the gymnasium portion of the new wing, showing this area of the site developed instead as an unimproved grassy field.
>
> "The current boundary of the St. Charles Church site includes the De Paul Treatment Center at 4310 NE Emerson Street, located in a former convent that was remodeled and expanded in 2003. The applicant claims that the De Paul Center qualifies as a Household Living use, because this 44-bed drug and alcohol treatment facility for low-income and indigent youth meets the definition of handicapped for the purposes of implementing the Federal Fair Housing Act, consistent with a prior request made to the City of Portland in 2002. At this time, the applicant seeks to establish the De Paul Center as an independent use not related to the St. Charles Church site, and to remove the 39,858 square-foot De Paul Center property from the conditional use boundary of the church and future DLSNC use. As a household living use, the facility would be regulated as a house in the future, instead of as a Community Service Use (drug treatment center).
>
> "Existing parking and vehicle circulation layouts will change as part of adding the new DLSNC use and building to the St. Charles property. A new school bus drop-off zone will be created on the north side of the new school wing, and the existing parking lot will be moved north to the location of an existing community garden. Existing driveways on NE 42nd Avenue and Killingsworth Street will continue to be used for site access, and a total of 56 parking spaces

will be provided for the church and high school. A new driveway is proposed on NE Emerson Street to access five existing parking spaces for the De Paul Treatment Center, to which an additional five spaces will be added, all of which are partly or fully located on the St. Charles Church site immediately west of the De Paul Treatment Center building. The ten parking spaces for the De Paul Treatment Center building are in addition to the 56 parking spaces for the church and high school.

"Regulations in the R7 zone require a conditional use review for a new high school use (33.110.100.A/Table 110-1). Although the site is split-zoned with commercial zoning where the school and church use would be allowed by-right, the residential zoning on part of the site triggers a conditional use requirement for the entire site (33.815.070). New school uses on a site are always a Type III conditional use review (33.281.030.A). Therefore, in order to locate the proposed DLSNC High School on the St. Charles Church campus, the applicant has requested this Type III Conditional Use Review." Staff Report pages 2-3.

The Staff Report thoroughly explains how all of the applicable approval criteria are satisfied. The overwhelming number of findings in the Staff Report are not challenged. It would be a waste of the City's money and resources to review and repeat all of the unchallenged findings in the Staff Report. I have reviewed the findings in the Staff Report, and I agree with those findings. Therefore, I adopt and incorporate the findings in the Staff Report in this decision, except as discussed further.

Among other approval criteria, as a proposed school, the proposed use must comply with the approval criteria for institutional and other uses in residential and campus industrial zones of Portland City Code (PCC) 33.815.105, which provides:

"These approval criteria apply to all conditional uses in R and campus institutional zones except those specifically listed in sections below. The approval criteria allow institutions and other non-Household Living uses in residential and campus institutional zones that maintain or do not significantly conflict with the appearance and function of residential or campus areas. Criteria A through E apply to institutions and other non-Household Living uses in residential zones. Criteria B through E apply to all other conditional uses in campus institutional zones. The approval criteria are:

A. Proportion of Household Living uses. The overall residential appearance and function of the area will not be significantly lessened due to the increased proportion of uses not in the Household Living category in the residential area. Consideration includes the proposal by itself and in

combination with other uses in the area not in the Household Living category and is specifically based on:

1. The number, size, and location of other uses not in the Household Living category in the residential area; and
2. The intensity and scale of the proposed use and of existing Household Living uses and other uses.

B. Physical compatibility.
   1. The proposal will preserve any City-designated scenic resources; and
   2. The proposal will be compatible with adjacent residential developments based on characteristics such as the site size, building scale and style, setbacks, tree preservation, and landscaping; or
   3. The proposal will mitigate differences in appearance or scale through such means as setbacks, screening, landscaping, tree preservation, and other design features.

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.

D. Public services.
   1. The proposal is supportive of the street designations of the Transportation Element of the Comprehensive Plan;
   2. Transportation system:
      a. The transportation system is capable of supporting the proposed use in addition to the existing uses in the area. Evaluation factors include safety, street capacity, level of service, connectivity, transit availability, availability of pedestrian and bicycle networks, on-street parking impacts, access restrictions, neighborhood impacts, impacts on pedestrian, bicycle, and transit circulation. Evaluation factors may be balanced; a finding of failure in one or more factors may be acceptable if the failure is not a result of the proposed development, and any additional impacts on the system from the proposed development are mitigated;
      b. Measures proportional to the impacts of the proposed use are proposed to mitigate on- and off-site transportation impacts. Measures may include transportation improvements to on-site circulation, public street dedication and improvement, private street improvements, intersection improvements, signal or other traffic management improvements, additional transportation and parking demand management actions, street crossing improvements, improvements to the local pedestrian and bicycle networks, and transit improvements;
      c. Transportation improvements adjacent to the development and in the vicinity needed to support the development are available or will

be made available when the development is complete or, if the development is phased, will be available as each phase of the development is completed;

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.

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."

There are two opponents to the application, Annabelle Lee (Lee) and Benjamin Carhull (Carhull). Lee argues that the proposed use does not satisfy PCC 33.815.105.A, which requires that 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." According to Lee:

> "Orienting the front entrance of Drug and Alcohol Treatment Facility to Emerson Street will detract from the overall residential appearance of the street enormously. Likewise, the increase in daytime traffic and parking associated with the school use will do the same."

PCC 33.815.105.A requires that the overall residential appearance and function not be significantly lessened based on the specific factors of PCC 33.815.105.A.1 and 2, which include the "number, size, and location of other uses not in the Household Living category in the residential area" and the "intensity and scale of the proposed use and of existing Household Living uses and other uses." Lee does not explain whether she is proceeding under PCC 33.815.105.A.1 or 2. The Staff Report explains that PCC 33.815.105.A.1 is satisfied because the only change is to restore a former school function; there are no changes to the location of the non-residential use, and the size of the non-residential use will actually decrease:

> "Therefore, the only change is to restore a former school function at the St. Charles Church campus site, although instead of an elementary school as existed in the past, a high school is now proposed. Because the institutional campus itself is actually shrinking with the removal of the De Paul Center from the site, the addition of a school use is balanced somewhat by the removal of the De Paul Center, as the De Paul Center is classified as an allowed Household Living use (Exhibit G.6). There are no changes to the location of non-residential uses in the area, and the number and size of the uses as proposed will not significantly reduce or lessen the overall residential character of the area, as the new use and activity occurs interior to an existing institutional campus in the neighborhood. Therefore, this criterion is met." Staff Report, page 7.

Under PCC 33.815.105.A.2, I do not see that the front entrance to the treatment facility will detract from the residential appearance or function of the area. Traffic impacts are discussed in greater detail later, but I also do not see that the small increase in traffic will in any way affect the residential appearance or function of the area. The Staff Report explains that PCC 33.815.105.A.2 is satisfied:

> "Restoring a school function to the St. Charles Church campus will not increase the intensity of use and activity at the site to a level that will detract from the surrounding residential area. The new smaller campus is located immediately adjacent to large strips of commercial zoning along both NE Killingsworth and NE 42nd Avenue, such that there are no directly abutting single-family homes. An apartment complex is located directly northeast of the site, and there are some homes directly to the south across NE Emerson Street, but otherwise the school and church activity occur in a location that mostly will impact the commercial and manufacturing uses that directly abut the site to the north and west, as well as the De Paul Center to the east. The intensity and scale of the new school use will be largely confined to the interior of the site, without significant impact on the overall residential character or appearance of the surrounding residential area. This criterion is met." Staff Report, pages 7-8.

I agree with the Staff Report.

PCC 33.815.105.A is satisfied.

Lee argues that the proposed use does not satisfy PCC 33.815.105.C, which requires that the "proposal will not have significant adverse impacts on the livability of nearby residential zoned lands." Lee does not explain whether she is proceeding under PCC 33.815.105.C.1 or 2. Presumably she is proceeding under PCC 33.815.105.C.2, which requires the consideration of "[p]rivacy and safety issues" in determining potential adverse impacts on livability. According to Lee, the increased traffic "will detract from the safety and privacy of the street." There are more specific traffic-related approval criteria discussed later, but I do not see that the small increase in traffic will adversely affect safety or privacy in the area. The Staff Report explains that PCC 33.815.105.C.2 is satisfied:

> "There are no anticipated privacy or safety issues associated with the new school use. Activity in outdoor areas at the site is clearly visible from inside the buildings or from adjacent streets. The Police Bureau has reviewed the proposal and found they are capable of continuing to serve the site. This criterion is met." Staff Report, page 10.

I agree with the Staff Report.

PCC 33.815.105.C is satisfied.

Lee and Carhull argue that the proposed use does not satisfy PCC 33.815.105.D, which involves public services. PCC 33.815.105.D.1 requires that the "proposed use is supportive of the street designations of the Transportation Element of the Comprehensive Plan." Lee argues that:

> "The proposal does not support the street designation of Emerson Street, which is designated a Local Service Traffic Street and is intended for local traffic and to provide access to nearby commercial uses. The commercial uses Emerson Street currently supports are small businesses along 42nd Street. Allowing the proposal with its inadequate parking, will stem existing business and future growth of this commercial district."

The Staff Report explains that Local Service Streets:

> "* * * are intended to distribute local traffic and provide access to local residences or commercial uses. Auto-oriented land uses are discouraged from using Local Service Traffic Streets as their primary access. Local Service Traffic Streets should connect neighborhoods, provide local circulation, and provide access to nearby centers, corridors, station areas and main streets." Staff Report, page 11.

As explained later, the proposed use does provide adequate parking. As Lee's arguments appear to be based solely on allegedly insufficient parking, because there is sufficient parking her argument does not provide a basis to deny the application. Furthermore, the Staff Report explains:

> "The proposed project will have no impacts on the stated functions or objectives of the roadway classifications noted above. The proposed project is supportive of the aforementioned street classification from the Transportation Element of the Comprehensive Plan (Transportation System Plan [TSP]). This criterion is met." Staff Report, page 11.

I agree with the Staff Report.

PCC 33.815.105.D.1 is satisfied.

Lee and Carhull also argue that the proposed use does not satisfy PCC 33.815.105.D.2.a, which requires the "transportation system is capable of supporting the proposed use in addition to the existing uses in the area." Factors for consideration include "safety, street capacity, level of service, connectivity, transit availability, availability of pedestrian and bicycle networks, on-street parking impacts, access restrictions, neighborhood impacts, impacts on pedestrian, bicycle and transit circulation." Lee argues:

> "Emerson Street is not capable of handling any increase in traffic and parking. There are no sidewalks and the business parking near 42nd Street creates a bottleneck at the intersection."[1]

The crux of Lee and Carhull's arguments is that the proposed use would cause an increase in traffic and parking that the current transportation system is not capable of handling. Lee also challenged the assumptions about parking demand made by the applicant. The Staff Report explains that there is adequate street capacity and parking:

> "Street capacity/level of service:
>
> "Operational analyses, trip generation and trip distribution calculations and assumptions were performed to address this evaluation factor in the TIS. The area roadways and study intersections are currently operating within capacity and with acceptable levels of service. Under future conditions, the roadways and intersections are projected to continue to operate acceptably per City of Portland performance measures and well within capacity. No operational mitigations are necessary or recommended in conjunction with the proposed Conditional Use.
>
> "* * * * *
>
> "On-street parking impacts:
>
> "Existing parking and vehicle circulation layouts will change as part of adding the new DLSNC use and building to the subject site. A new school bus drop-off zone will be created on the north side of the new school wing, and the existing parking lot will be moved north to the location of an existing community garden. Existing driveways on NE 42nd Ave and Killingsworth St will continue to be used for site access, and a total of 56 parking spaces will be provided for the church and high school. A new driveway is proposed on NE Emerson St to access five existing parking spaces for the De Paul Treatment Center, to which an additional five spaces will be added, all of which are partly or fully located on the St. Charles Church site immediately west of the De Paul Treatment Center building. The ten parking spaces for the De Paul Treatment Center building are in addition to the 56 parking spaces for the church and high school.
>
> "The TIS included a parking analysis which identified the results of on-street parking observations of the study area around the site conducted at different times to capture the parking utilization of the variety of uses around the subject site. The parking analysis also included an expected parking generation calculation for the new high school to help identify the demand for parking

[1] Carhull reiterated Lee's concerns about the Emerson Street and 42nd Street intersection.

related to the school and to determine what impacts, if any, there would be to the on-street parking supply. The analysis also included information on whether or not the reduction of on-site parking spaces would adversely impact the on-street parking supply in relation to the existing church use on the site. The parking survey area (within 500-ft of the subject site) includes approximately 280 on-street parking spaces.

"It should be noted importantly, that the peak demand for parking related to the existing church use and the proposed high school on the subject site will not have a tendency to overlap. The applicant's submitted narrative includes detailed information on the operations of the church. As expected, the primary mass is scheduled for 10:00 am on Sundays. There is a small mass attended by few parishioners Wednesday-Friday mornings at 8:00 am that will marginally overlap the school use for a short period of time during these mornings. There are numerous programs that St Charles offers for children, youth, adults and multi-generational groups that occur primarily on Sundays after the 10:00 am mass. Other church programs and committee meetings occur in the evenings. There are a dozen events scheduled yearly (throughout the year) that also occur primarily during the weekends.

"The DLSNC will be operated primarily between 8:00 am – 3:30 pm, Monday – Friday (from early September to late June). Given the existing DLSNC use at its current location in north Portland, the applicant has provided extremely accurate and very useful information with respect to commuting practices of staff and students. The largest expected parking demand associated with the DLSNC use on the subject site will come from faculty and staff (55 total) who typically arrive in single occupancy vehicles. According to the applicant, less than 10% of DLSNC students drive to the current location – this number is not expected to increase with the move to the subject site. The DLSNC will hold approximately 18 non-athletic co-curricular events – with the construction of a new gymnasium associated with the new school use on the site, volleyball and basketball games (approximately 20/school year).

"In relation to the St Charles Church use on the site, as expected, the peak demand for parking occurred during the Sunday mass time-frame where observations made by the applicant's traffic consultant identified 63-spaces being occupied on-site. There was an observed weekday peak demand period identified for the current church use where 10 vehicles occupied on-site parking spaces between 11:00 am and 12:00 pm.

"With respect to the proposed high school use on the site and taking into considering the 10 vans that will need to be parked on the site (transport vans to be used daily in association with the school's Corporate Work Study

Program), there is an expected parking demand of 44 vehicles. In total, therefore, there is a projected weekday peak parking demand for 54 parking spaces (10/church use + 34/high school specific +10/vans = 54 spaces).

"The following information is critical to summarize the assessment of the on-street parking impacts evaluation factor. With regard to the observed on-street parking demand within the study area, the applicant's traffic consultant identified that there were 120 total vehicles parked within the study area (recall that there are approximately 280 on-street parking spaces within the study area). Accordingly, greater than 50% of the on-street parking supply remains available for use. Further, the peak period parking demand during the timeframe where residential (primary use within the study area) needs are the greatest during the late evening hours was observed to be 126 vehicles. Still, more than half of the available on-street parking supply was unoccupied.

"Given that the proposed project will result in 56 on-site parking spaces, it is anticipated that the typical peak parking demands associated with the site uses will be accommodated within the site and will not need to rely on the on-street parking supply. As noted above, greater that half of the study area's on-street parking supply remains available for any potential spill-over weekday parking needs of the church/school uses during the peak periods for these uses. Although there will not be a sufficient number of on-site parking spaces to accommodate the peak parking needs for the primary mass on Sundays for the St Charles Church, the seven or so vehicles that won't be parked on- site can easily be parked within the areas on-street parking supply.

"Lastly, although evening parking demands will typically be low in association with the church's current programs, the school will have some after-school events which could result in higher parking demands. Assuming that the available on-street parking is not permitted to become more than 85% full per city requirements, a maximum of 154 vehicles could be accommodated during an after-school event. This accounts for the existing observed evening on-street parking demand of 120 spaces (at 8:00 PM), the maximum allowable usage of 238 on-street spaces (280 spaces * 85% occupancy), and utilization of the available on-site parking.

"The TIS' thorough parking analysis clearly summarizes that on-street parking impacts from the proposed project in the surrounding neighborhood will be minimal. There is more than sufficient on-street parking supply to accommodate the existing and proposed uses." Staff Report, pages 12-15.

As the Staff Report explains, the applicant provided a traffic impact study (TIS) prepared by a traffic engineer. The TIS demonstrated that the area roadways and intersections are currently

operating within capacity and would continue to operate within capacity with the proposed development. The TIS also explains that there will be more than adequate parking for the proposed school and even if there were a need for additional on-street parking, there is sufficient on-street parking available.

During the open record period, the Portland Bureau of Transportation (PBOT) provided an additional response to Lee's arguments. PBOT explains that while there may be additional traffic and additional parking generated by the proposed development, that does not mean that PCC 33.815.105.D.2 is violated. PBOT further explains that based on the TIS prepared by the applicant's traffic engineer, even if the parking demand analysis provided by Lee were accurate, there is still sufficient traffic and parking capacity:

> "Admirably, the lee letter also includes efforts to support the statements made above including an accounting of observations that were made by the author with regard to current parking usage by the existing church and the De Paul Treatment Center on the site. Further, the Lee letter includes estimates with regard to the potential increase in vehicles associated with the new school on the site. As commendable as Ms. Lee's efforts are, PBOT's review of the credible evidence that is in the record (before the Lee letter was submitted), as indicated in the original recommendation made to the Hearings Officer, supports the findings and conclusions reached in the Transportation Impact Studies. Taking into consideration the calculations provided in the Lee letter, PBOT suggests that the project should still be approved. If the greater number of vehicles anticipated to travel to/from the site as identified by Ms. Lee were accurate, the measurable impacts associated with street capacity and study intersection performance/operational levels of service, will not result in a degradation of street and/or intersection capacity to a point that would be unacceptable to the City. In other words, if the numbers that were identified in the Lee letter were actually used to perform the capacity analysis, there would remain adequate capacity to satisfy the City's performance measures. The applicable transportation-related approval criteria do not limit development proposals to a net zero increase in vehicle trips (or parking demand) – the applicable evaluation factors require the applicant to demonstrate that 'the transportation system is capable of supporting the proposed use in addition to the existing uses in the area'. In the anticipated trip generation analysis scenario included in the applicant's Transportation Impact Studies, PBOT supports the conclusions reached therein, that this approval criterion is satisfied. Even if the City would factor in the greater number of vehicle trips related to the approval as suggested in the Lee letter, the impacts to the transportation system would not be to the extent that this approval criterion would fail to be satisfied."

I agree with PBOT.

PCC 33.815.105.D.2 is satisfied.

Finally, Lee argues that the proposed use does not satisfy PCC 33.815.105.E, which requires that 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." Lee argues that the proposed use is not consistent with the comprehensive plan:

> "To allow De Paul to separate from the greater site and to orient parking access and the front entrance off of Emerson Street is completely at odds with the Comprehensive Plan of the area that designates the site R5. The added density proposed by the school use is also at odds with this. No additional density should be allowed as a conditional use in the R5/R7 zone on this site."

Lee does not identify what provision of an area plan she alleges the proposed use is not consistent with. The applicable area plan is the Cully Neighborhood Plan. To the extent Lee argues the proposed use is inconsistent with R5 or R7 zoning, the proposed use is an allowed conditional use. As an allowed conditional use, the proposed school is certainly consistent with such zoning. The Staff Report explains that the proposed use is consistent with the only applicable provisions of the Cully Neighborhood Plan:

> "The site is within the boundaries of the Cully Neighborhood Plan (1992), which is the only area plan adopted by the City Council for this site as part of the Comprehensive Plan. The proposal is supportive of Policy 1A (Image) via the renovation and expansion of an existing neighborhood facility, including upgraded buildings and new landscaping. The proposal is also supportive of Policy 5A (Social and Cultural Center) by renovating and expanding a former community school building. The applicant addressed additional policies in this plan (Exhibit A.8, pp. VI-9 to VI-10), but staff finds that only the above two policies are relevant. This criterion is met." Staff Report, page 17.

I agree with the Staff Report.

PCC 33.815.105.E is satisfied.

All of the applicable approval criteria are satisfied.

III. CONCLUSIONS

The applicant has satisfied all of the applicable approval criteria. Therefore, the application is approved with the following conditions of approval.

IV. DECISION

Approval of a **Conditional Use Review** to establish the De La Salle North High School on the St. Charles Church campus, including a new one-story school wing building of approximately 21,780 square feet and associated site changes in substantial conformance with the approved plans, and including removal of the De Paul Treatment Center use from the conditional use approval and St. Charles/De La Salle institutional campus boundary, with the exception of shared use being allowed for the new sport court and expanded parking area along the shared lot line between these newly separated sites.

Approval of an **Adjustment** to reduce the buffering requirement for institutional uses in the R7 zone from 15'-0" of L3 landscaping to 0'-0" with zero landscaping for 25 lineal feet east of the new gymnasium building adjacent to the new sportcourt, and from 15'-0" to 10'-0" for 52 lineal feet east of the new gymnasium building adjacent to the new perimeter walkway, all along the new campus boundary lot line abutting the De Paul Treatment Center (33.110.245.C.1/Table 110-5).

Approval of an **Adjustment** to increase the maximum building coverage allowed for institutional uses in the R7 zone from 50 percent to 54 percent of the R7-zoned portion of the site (33.110.245.C.1/Table 110-5);

Approval of an **Adjustment** to increase the maximum floor area ratio (FAR) for institutional uses in the R7 zone from 0.5:1 to 0.54:1 (33.110.245.C.1/Table 110-5);

Approval of an **Adjustment** to reduce the minimum required landscaping for institutional uses in the R7 zone from 25 percent to 20 percent of the R7-zoned portion of the site (33.110.245.C.1/Table 110-5);

Approval of an **Adjustment** to reduce the minimum width of eight of the 10 proposed residential (house) parking spaces for the De Paul Treatment Center (a household living use) from 9'-0" to 8'-6" (33.266.120.D.1); and

Approval of an **Adjustment** to reduce the required perimeter parking lot landscaping from 5'-0" of L3 to 0'-0" with zero landscaping for 48 lineal feet east of the new De Paul Center parking spaces, aisle, and turning zone, from 5'-0" of L3 to 0'-0" with zero landscaping for 7 lineal feet east of the new De Paul Treatment Center driveway to NE Emerson Street, and from 5'-0 to 4'-0" of L3 landscaping where the main 90-degree curve of the primary circulation driveway comes closest to the southeast corner of the abutting property at 4262 NE Killingsworth/R194251 just north of the school and church buildings (33.266.130.G.2.c/Table 266-5).

The above approvals are granted based on substantial conformance with the approved plans and drawings, Exhibits C.1 through C.9, and subject to the following conditions:

A. As part of the building permit application submittal, the following development-related conditions (B through F) 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 19-199693 CU AD." All requirements must be graphically represented on the site plan, landscape, or other required plan.

B. Use of the outdoor sport court shown at the eastern edge of the new school wing, crossing the property line into the De Paul Treatment Center site, shall be prohibited during the hours from 10:00 PM to 7:00 AM, daily.

C. Exterior lighting details in the form of manufacturer specification sheets shall be provided with the permit drawings to verify that exterior lighting is hooded or otherwise designed in such a manner as to direct light downwards and limit light trespass onto neighboring properties.

D. The De Paul Center walkway near and potentially extending over the shared property line with the St. Charles/De La Salle site (shown on Exhibit C.1) must be reconfigured to maintain a minimum 5'-0"-wide concrete walkway connection, curbed and raised and with a distinct material versus the adjacent vehicle areas or separated by bollards, between the existing curvilinear north entry and NE Emerson Street to the south.

E. The east-west vehicle pathway utilized for student drop-off/pick-up through the site shall operate in a one-way condition by providing dual queuing lanes during school peak traffic hours to ensure vehicle queues do not extend into the public roadways. Appropriate devices on private property may be provided for positive guidance.

F. De La Salle North Catholic High School and St. Charles Catholic Church shall coordinate to provide a site circulation plan that is updated and provided to school and parish users annually.

Fred Wilson, Hearings Officer

December 19, 2019
Date

Application Determined Complete: September 13, 2019
Report to Hearings Officer: November 8, 2019
Decision Mailed: December 19, 2019

Last Date to Appeal: 4:30 p.m. on January 2, 2020
Effective Date (if no appeal): January 3, 2020

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. 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 $5,000.00 will be charged (one-half of the application fee for this case, up to a maximum of $5,000).** 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, City Council will hold an evidentiary hearing, one in which new evidence can be submitted to them. Upon submission of their application, the applicant for this land use review chose to waive the 120-day time frame in which the City must render a decision. This additional time allows for any appeal of this proposal to be held as an evidentiary hearing.

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.

Recording the final decision.
If this Land Use Review is approved the final decision will be recorded with the Multnomah County Recorder. 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 Statements
   1. Original narrative, appendices and exhibits
   2. Original plan set – NOT APPROVED, REFERENCE ONLY
   3. Original stormwater management report, Mazzetti/BHE Group, dated 7.26.19
   4. Original geotechnical report, GeoDesign Inc., dated 7.12.19
   5. 120-day waiver, rec'd. 8.8.19
   6. Transportation Demand Management memo, Ard Engineering, dated 8.1.19, rec'd. 8.6.19
   7. Revised stormwater report and cover memo addressing completeness comments, rec'd. 9.11.19
   8. Cover letter and revised narrative, rec'd. 9.11.19 (large plans not received until 9.13.19, when case was deemed complete, despite listing on cover letter here – see date-stamped post-it attached to cover letter)
   9. E-mail discussion between PBOT staff and applicant's traffic engineer regarding transportation issues, final date on string at first page of 9.20.19
   10. Plan sheets from revised 9.11.19 drawing sets not used as C Exhibits – NOT APPROVED, REFERENCE ONLY
B. Zoning Map
C. Plans and Drawings {*NOTE – per BDS Management policy, both the large/scalable and reduced size copies of the drawings are given the same exhibit number. Only reduced size copies were provided for the site and planting plans (C.1, C.8, and C.9). This means there are 15 physical exhibits for the nine numbered exhibits listed below. Staff identification notes on the smaller version of plans were not included on the larger sets of plans.*}
   1. Site Plan
   2. First floor and roof plans
   3. North and East elevations
   4. West and South elevations
   5. Aerial or 3-dimensional representations of phasing with and without gym (**attached**)
   6. Materials plan – north and west campus
   7. Materials plan – central campus
   8. Planting plan – north and west campus
   9. Planting plan – central campus
D. Notification information
   1. Request for response
   2. Posting information and sign as sent to applicant
   3. Applicant's statement certifying posting
   4. Mailing list copy of public hearing notice
   5. Postmarked copy of public hearing notice

E. Agency Responses
   1. Bureau of Environmental Services
   2. Development Review Section of Portland Transportation
   3. Water Bureau
   4. Fire Bureau
   5. Police Bureau
   6. Site Development Section of the Bureau of Development Services
   7. Urban Forestry Division of Portland Parks and Recreation

F. Letters (none received at time of Staff Report publication)

G. Other
   1. Original LU application form and receipt
   2. Request for Completeness document, dated 8.1.19
   3. Routing slip for supplemental TDM document, dated 8.8.19
   4. Incomplete letter to applicant from staff, sent 8.23.19
   5. Routing slip for completeness items, dated 9.17.19
   6. Letter from planning staff to De Paul Center verifying Household Living use status, also included as Exhibit G.3 in LU 02-139275 AD

H. Received in the Hearings Office
   1. Hearing Notice - Moffett, Mark
   2. Hearing Notice with notation - Still, Patrick C.
   3. Staff Report - Moffett, Mark **(attached)**
   4. 11/11/19 letter - Lee, Annabelle
   5. Memo from Debbie Cleek - Additional testimony for De La Salle North Catholic
   6. Memo from Debbie Cleek - Additional testimony - Conditions of approval
   7. Letter from David Sweet (2 copies)
   8. Technical Memorandum in response to public comments (6 pages) - Ard, Michael
   9. Staff Presentation - Moffett, Mark
   10. 11/20/19 Memo - de Freitas, Fabio
   11. Final Arguments for De La Salle North Catholic - Cleek, Debbie

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

Ted Wheeler, Mayor
Rebecca Esau, Director
Phone: (503) 823-7300
Fax: (503) 823-5630
TTY: (503) 823-6868
www.portlandoregon.gov/bds

STAFF REPORT AND RECOMMENDATION TO THE HEARINGS OFFICER

REC'D HEARINGS OFFIC
FR,NOV8'19AM9:50

CASE FILE: **LU 19-199693 CU AD**
H.O. Case #: 4190023
Pre-App.: EA 19-127188 PC
REVIEW BY: Hearings Officer
WHEN: Monday November 18, 2019 @ 9:00 AM
WHERE: 1900 SW Fourth Ave., Suite 3000
Portland, OR 97201

BUREAU OF DEVELOPMENT SERVICES STAFF: MARK MOFFETT / MARK.MOFFETT@PORTLANDOREGON.GOV

GENERAL INFORMATION

Applicant: Oscar Leong, De La Salle North Catholic High School
7528 N Fenwick Ave.
Portland, OR 97217
oleong@dlsnc.org, (503) 285-9385

Contact/Planner: Debbie Cleek, The Bookin Group
1140 SW 11th Ave., #500
Portland, OR 97205
cleek@bookingroup.com, (503) 241-2423

Property Owners: St Charles Catholic Church Portland Oregon, Attn.: Leif Kehrwald
5310 NE 42nd Ave.
Portland, OR 97218

De Paul Treatment Centers, Inc.
P. O. Box 3007
Portland, OR 97208

Project Manager: Francesca Gambetti, Shields Obletz Johnsen, Inc.
1140 SW 11th Ave., #500
Portland, OR 97205

Site Address: 4317 NE EMERSON ST

Legal Description: BLOCK 2 LOT 14-16, JORBADE; BLOCK 2 LOT 3 EXC N 85', JORBADE; BLOCK 2 LOT 3 TL 3300, JORBADE; BLOCK 2 LOT 13, JORBADE
Tax Account No.: R434104430, R434103600, R434103630, R434104420, R434104430
State ID No.: 1N2E19BB 04000, 1N2E19BB 03100, 1N2E19BB 03300, 1N2E19BB 04001, 1N2E19BB 04000
Quarter Section: 2535

Neighborhood: Cully, contact David Sweet at 503-493-9434.

Business District: Forty-Second Avenue, contact Clarence Larkins at 503-736-8111.
District Coalition: Central Northeast Neighbors, contact Sandra Lefrancois at 503-823-2780.

Zoning: **R7h (R5), CEh (MU-N), CM2hm (MU-N)** – Single-Dwelling Residential or R7, Commercial Employment or CE, and Commercial/Mixed-Use 2 or CM2 base zones. The entire site includes the Aircraft Landing or 'h' overlay zone, and the CM2 zoning along NE 42nd Avenue also includes the Centers Main Street or 'm' overlay zone. The parenthetical Comprehensive Plan Map designation on the commercial-zoned land is Mixed-Use Neighborhood (MU-N).

Case Type: **CU AD** (Conditional Use and Adjustment Reviews)
Procedure: **Type III**, with a public hearing before the Hearings Officer. The decision of the Hearings Officer can be appealed to City Council.

Proposal: De La Salle North Catholic (DLSNC) High School currently operates out of the former Kenton School Building at 7528 N. Fenwick Avenue in Portland, through a lease with Portland Public Schools which expires in the Summer of 2021. After their lease expires, DLSNC plans to relocate to the site of the current St. Charles Church at 4317 NE Emerson Street, sharing the site and facilities with the church.

Existing space in the church building and a former school wing directly east of the church would be renovated for administrative space and classrooms. A new 1-story building of approximately 21,780 square feet will also be constructed north of the former school wing, including a new gymnasium, locker room, student food service kitchen, as well as common and administrative spaces. The new building will create a courtyard area between the old and new school wings. An option is proposed that does not include the gymnasium portion of the new wing, showing this area of the site developed instead as an unimproved grassy field.

The current boundary of the St. Charles Church site includes the De Paul Treatment Center at 4310 NE Emerson Street, located in a former convent that was remodeled and expanded in 2003. The applicant claims that the De Paul Center qualifies as a Household Living use, because this 44-bed drug and alcohol treatment facility for low-income and indigent youth meets the definition of handicapped for the purposes of implementing the Federal Fair Housing Act, consistent with a prior request made to the City of Portland in 2002. At this time, the applicant seeks to establish the De Paul Center as an independent use not related to the St. Charles Church site, and to remove the 39,858 square-foot De Paul Center property from the conditional use boundary of the church and future DLSNC use. As a household living use, the facility would be regulated as a house in the future, instead of as a Community Service Use (drug treatment center).

Existing parking and vehicle circulation layouts will change as part of adding the new DLSNC use and building to the St. Charles property. A new school bus drop-off zone will be created on the north side of the new school wing, and the existing parking lot will be moved north to the location of an existing community garden. Existing driveways on NE 42nd Avenue and Killingsworth Street will continue to be used for site access, and a total of 56 parking spaces will be provided for the church and high school. A new driveway is proposed on NE Emerson Street to access five existing parking spaces for the De Paul Treatment Center, to which an additional five spaces will be added, all of which are partly or fully located on the St. Charles Church site immediately west of the De Paul Treatment Center building. The ten parking spaces for the De Paul Treatment Center building are in addition to the 56 parking spaces for the church and high school.

Regulations in the R7 zone require a conditional use review for a new high school use (33.110.100.A/Table 110-1). Although the site is split-zoned with commercial zoning where the school and church use would be allowed by-right, the residential zoning on part of the site triggers a conditional use requirement for the entire site (33.815.070). New school uses on a site are always a Type III conditional use review (33.281.030.A). Therefore, in order to locate the proposed

DLSNC High School on the St. Charles Church campus, the applicant has requested this Type III Conditional Use Review.

NEW ADJUSTMENT: Staff noticed during preparation of the staff report an Adjustment which had been missed earlier. Along the perimeter of parking areas on an institutional campus, only the parking lot landscaping standards apply, whereas the institutional landscape buffer standard does not (parking landscape standard supersedes the other). In this case, areas along the new easterly campus boundary were described as not meeting the institutional landscape buffer standard, but adjacent to the parking area it was the parking lot landscape standard which is not met. Also, in the area where six parking spaces are mostly on the De Paul Center site but encroach slightly onto the St. Charles Church/De La Salle campus, no Adjustment of any kind is required. Finally, a small area at the inside of the curving internal driveway has slightly less than the required landscape depth, so the perimeter vehicle area standard is not met in two places. These changes have been encapsulated in the modified and new Adjustment descriptions below, using ~~strikethrough~~ (old) and <u>underlined</u> (new) text to identify changes.

The applicant has requested the following six Adjustments:

- (**MODIFIED**) Reduce the buffering requirement for institutional uses in the R7 zone from 15'-0" of L3 landscaping to 0'-0" with zero landscaping for ~~74~~ <u>25</u> lineal feet east of the new gymnasium building <u>adjacent to the new sportcourt</u>, and from 15'-0" to 10'-0" for 52 lineal feet east of the new gymnasium building <u>adjacent to the new perimeter walkway</u>, all along the new campus boundary lot line abutting the De Paul Treatment Center (33.110.245.C.1/Table 110-5);
- Increase the maximum building coverage allowed for institutional uses in the R7 zone from 50% to 54% of the R7-zoned portion of the site (33.110.245.C.1/Table 110-5);
- Increase the maximum floor area ratio (FAR) for institutional uses in the R7 zone from 0.5:1 to 0.54:1 (33.110.245.C.1/Table 110-5);
- Reduce the minimum required landscaping for institutional uses in the R7 zone from 25% to 20% of the R7-zoned portion of the site (33.110.245.C.1/Table 110-5);
- Reduce the minimum width of 8 of the 10 proposed residential (house) parking spaces for the De Paul Treatment Center (a household living use) from 9'-0" to 8'-6" (33.266.120.D.1); and
- (**NEW**) <u>Reduce the required perimeter parking lot landscaping from 5'-0" of L3 to 0'-0" with zero landscaping for 48 lineal feet east of the new De Paul Center parking spaces, aisle and turning zone, from 5'-0" of L3 to 0'-0" with zero landscaping for 7 ~~13~~ lineal feet east of the new De Paul Treatment Center driveway to NE Emerson Street, and from 5'-0 to 4'-0" of L3 landscaping where the main 90-degree curve of the primary circulation driveway abuts the southeast corner of the abutting property at 4262 NE Killingsworth/R194251 just north of the school and church (33.266.130.G.2.c/Table 266-5)</u>.

Approval Criteria: In order to be approved, this proposal must comply with the approval criteria of Title 33, Portland Zoning Code. The applicable approval criteria are:

- **33.815.105.A-E**, Conditional Use Approval Criteria for Institutional and Other Uses in Residential and Campus Institutional Zones;
- **33.805.040.A-F**, Adjustment Approval Criteria; and
- Because the conditional use criteria listed above are an unacknowledged land use regulation, this proposal will also have to comply with applicable **Statewide Planning Goals**. The Statewide Planning Goals may be viewed at <u>https://www.oregon.gov/lcd/OP/Pages/Goals.aspx</u>.

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. This application was submitted on July 26, 2019 and determined to be complete on September 13, 2019. Should the conditional

use approval criteria become acknowledged during the course of the review, the proposal may no longer be required to demonstrate compliance with the Statewide Planning Goals.

ANALYSIS

Site and Vicinity: The site presently developed as an institutional campus that has been in the Cully neighborhood for decades. Including the De Paul Treatment Center and the original church and (former) elementary school properties, the site includes approximately 4.15 acres of land, or approximately 3.2 acres after removal of the De Paul Treatment Center from the conditional use boundary. Generally L-shaped in form, the site has frontage on NE Emerson Street to the south, NE 42nd Avenue to the west, and NE Killingsworth Street to the north.

The existing church building is a landmark and visually prominent in the neighborhood as a result of the large two-story brick wall of the church facing NE 42nd Avenue, whose mass rises well above the nearby single-story commercial structures nearby and across the street. The urban character of the church structure, placed relatively close to the street frontages in both NE 42nd Avenue and NE Emerson Street, continues along the south edge of the site along NE Emerson Street with the single-story red brick (former) elementary school building, directly against a curb-tight sidewalk. An entry driveway from NE 42nd Avenue is located mid-block north of the church building, and the interior of the existing site is developed with a surface parking lot with limited interior trees in small curbed tree wells. A community garden was recently located on a large vacant, grassy area on the northern portion of the site, abutting a driveway connection to NE Killingsworth Street.

The surrounding area has a mixed character, dominated by single-story automobile-oriented commercial and light industrial uses along both NE Killingsworth Street and NE 42nd Avenue in all directions. Immediately abutting the site to the north include a vacant lot, a small market and doggie daycare, as well as a metal fabrication business. Across the street to the north is a workforce training facility for Portland Community College, and Fernhill Park is located one block to the north. Small-scale multi-dwelling development is also found nearby along both NE Killingsworth and NE 42nd Avenue. Off the arterial streets, including to the east of the site and across NE Emerson Street to the south, the neighborhood is dominated by single-family homes on lots of varying size and with homes of various ages and styles.

The abutting rights-of-way are developed with paved roadways and pedestrian facilities, but are not fully improved to City of Portland standards. Northeast Killingsworth Street is improved with a paved two-way roadway, center turning aisle, bike lanes, on-street parking, and curb-tight sidewalks on both sides of the street. Northeast 42nd Avenue has a paved two-way roadway, on-street parking on both sides, a curb-tight sidewalk on the east frontage abutting the subject site, and a planting strip and sidewalk on the west frontage. Northeast Emerson Street is improved with a paved two-way roadway and on-street parking, with a curb-tight sidewalk abutting the subject site, and curbing but no sidewalk on the south side of the street (except for the one commercial property immediately abutting NE 42nd Avenue, which has a sidewalk).

The City of Portland Transportation System Plan (TSP) classifies both NE Killingsworth and NE 42nd Avenues as Major Transit Priority Streets, City Bikeways, and City Walkways. Northeast Emerson Street is classified as a local service street for all modes in the TSP.

Zoning: The site is covered by three different base zones, as well as two distinct overlay zones. The portions of the site immediately abutting the arterial streets of NE Killingsworth and NE 42nd Avenue are both under commercial zoning (CM2 and CE). The CM2 or Commercial/Mixed-Use 2 base zone is a medium-density zone that is intended for areas with good transit service, and which allows four-story buildings with regulations that ensure a pedestrian-oriented environment. The CE or Commercial Employment zone is very similar to the CM2 zone in terms of allowed building size and scale, but the CE zone has more provisions for automobile-oriented development and

drive-through facilities, as well as light industrial uses. Both commercial zones seek to enhance the economic vitality of the neighborhood and City as a whole. Religious institutions are allowed in commercial zones by-right, but in this case the residential zoning on part of the site means the entire campus is regulated as a conditional use (33.815.070).

The central portion of the site, where the new school-related construction is proposed, is zoned R7 or single-dwelling Residential 7,000. The R7 zone is intended to preserve land for housing, and to provide housing opportunities for individual households. Institutional uses like churches and schools are allowed in the R7 zone provided they receive approval through a conditional use review process, and by demonstrating that the use will not significantly detract from the overall residential character of the specific area.

The site is also located within the Aircraft Landing or "h" overlay zone. This overlay zone provides height limits to ensure safe operating conditions for aircraft at Portland International Airport. Because no height Adjustments have been requested, this overlay zone is not relevant to the current application. The portion of the commercially-zoned land abutting NE 42nd Avenue is located in the Centers Main Street or "m" overlay zone. This overlay zone provides regulations that seek to enhance the pedestrian-oriented, urban, mixed-use character of the zone via several use and development regulations. The portion of the site with m overlay zoning is developed with the church building that is not changing, so these regulations do not impact the project.

Land Use History: City records indicate that several prior land use reviews at the site, including the following:

PC 5042 – Legislative re-zoning from 1967 for a large area extending several blocks to the south, east and north of the site, no relevant conditions of approval apply.

CU 74-80 – Conditional Use approval for an alcohol treatment facility, subject to several conditions of approval (1980 decision).

CU 52-86 – Conditional Use approval for a church remodeling and expansion project in 1986.

CU 89-87 – Conditional Use approval for the De Paul Center, a residential care facility, day treatment and outpatient center at the former St. Charles Convent site, subject to several conditions of approval (1987 decision).

LUR 02-139275 AD – Adjustment approval to increase building coverage for a remodeling and expansion project at the De Paul Center portion of the site. This case file includes a letter from planning staff responding to an applicant to request that the use be considered a Household Living Use (Exhibit G.3 in the 2002 case, Exhibit G.6 in the current application).

LU 03-155012 AD – Adjustment approval to increase fence height in the front setback at the De Paul Center portion of the site.

Agency Review: A "Request for Response" was mailed **September 25, 2019**. The following Bureaus have responded:

The *Bureau of Environmental Services* (BES) has reviewed the proposal and responded without concern or objection regarding the requested land use reviews. Stormwater management and sanitary sewer service regulations must be met during the permitting process, but a review of the preliminary stormwater report from the applicant indicates their intended methods of showing compliance with the regulations are likely to be successful. No concerns were raised with regards to reducing landscaping, given the effective management of stormwater on the site identified in the preliminary stormwater report. Exhibit E.1 contains staff contact and additional information.

The *Development Review Section of Portland Transportation* (PBOT) has reviewed the proposal and responded with findings and analysis regarding the transportation-related issues and approval criteria. Staff from PBOT recommend approval of the requested land use reviews with conditions of approval regarding one-way use of the on-site circulation driveway, and regarding providing a site circulation plan to school and parish users annually. Exhibit E.2 contains staff contact and additional information.

The *Water Bureau* has reviewed the proposal and offered information about water services and connections, but no objections or concerns regarding the requested land use reviews. Water services will be evaluated fully during the building permit review process. Exhibit E.3 contains staff contact and additional information.

The *Fire Bureau* has reviewed the proposal and responded with standard comments, noting no objections or concerns regarding the requested land use reviews. Fire Code applies to the site, and will be evaluated during the building permit review process. Exhibit E.4 contains staff contact and additional information.

The *Police Bureau* has reviewed the proposal and determined that police services are adequate to serve the proposed school use. Police services are provided to the site today, and will continue to be provided at the site if this application is approved. No conditions of approval have been requested, and the full response memo including staff contact details is included in this case file record as Exhibit E.5.

The *Site Development Section of the Bureau of Development Services* has reviewed the proposal and responded with comments, but no objections or concerns related to the requested land use reviews. Existing on-site septic systems may require de-commissioning, a separate building permit is required, and a geotechnical report will be required during the permit review process. Information on seismic upgrades, erosion control and staff contact information are included in this case file record as Exhibit E.6.

The *Urban Forestry Division of Portland Parks and Recreation* has reviewed the proposal and responded with comments regarding street trees. Street tree preservation and planting will be required on both NE Emerson and NE 42nd Avenue, but not on NE Killingsworth unless the driveway width is reduced (to allow room for a tree). Exemptions to the requirement for street trees may be requested when existing above- or below-grade utilities prevent planting street trees, or when an existing planting strip is nonexistent or less than 3-feet wide. No objections to land use approval have been made in the response. Exhibit E.7 contains staff contact and additional information.

Neighborhood Review: No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

33.815.010 Purpose of Conditional Use Regulations

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 Residential and Campus Institutional Zones
These approval criteria apply to all conditional uses in R and Campus Institutional zones except those specifically listed in sections below. The approval criteria allow institutions and other non-Household Living uses in residential and campus institutional zones that maintain or do not significantly conflict with the appearance and function of residential or campus areas. Criteria A through E apply to institutions and other non-Household Living uses in residential zones. Criteria B through E apply to all other conditional uses in campus institutional zones. The approval criteria are:

A. Proportion of Household Living uses. The overall residential appearance and function of the area will not be significantly lessened due to the increased proportion of uses not in the Household Living category in the residential area. Consideration includes the proposal by itself and in combination with other uses in the area not in the Household Living category and is specifically based on:

1. The number, size, and location of other uses not in the Household Living category in the residential area; and

Findings: For purposes of the approval criteria in this application, we need to geographically define "residential area" and "nearby residential zoned lands". Typically this is matched up to the notification boundary for a Type III review, which is 400 feet out from the site in all directions, or about 2-3 standard Portland city blocks. In this case, the applicant evaluated an area slightly beyond this distance, between NE Cesar Chavez/39th to the west, NE Jarrett Street to the north, NE 47th Avenue to the east, and NE Sumner Street to the south (Exhibit A.8, p. VI-2).

The applicant has identified several nearby non-residential uses in the commercially-zoned areas along nearby arterial streets, but did not specifically identify non-residential uses on residentially-zoned sites, as called for by this criterion. Staff did conduct an evaluation of the area noted above, and it appears that the only non-residential use in the area is the southernmost portion of Fernhill Park one block to the north on the west side of NE 42nd Avenue, which is a Parks and Open Areas use. All the other non-residential uses in the nearby area are on sites with commercial zoning.

Therefore, the only change is to restore a former school function at the St. Charles Church campus site, although instead of an elementary school as existed in the past, a high school is now proposed. Because the institutional campus itself is actually shrinking with the removal of the De Paul Center from the site, the addition of a school use is balanced somewhat by the removal of the De Paul Center, as the De Paul Center is classified as an allowed Household Living use (Exhibit G.6). There are no changes to the location of non-residential uses in the area, and the number and size of the uses as proposed will not significantly reduce or lessen the overall residential character of the area, as the new use and activity occurs interior to an existing institutional campus in the neighborhood. Therefore, this criterion is met.

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

Findings: Restoring a school function to the St. Charles Church campus will not increase the intensity of use and activity at the site to a level that will detract from the surrounding residential area. The new smaller campus is located immediately adjacent to large strips of commercial zoning along both NE Killingsworth and NE 42nd Avenue, such that there are no directly abutting single-family homes. An apartment complex is located directly northeast of the site, and there are some homes

directly to the south across NE Emerson Street, but otherwise the school and church activity occur in a location that mostly will impact the commercial and manufacturing uses that directly abut the site to the north and west, as well as the De Paul Center to the east. The intensity and scale of the new school use will be largely confined to the interior of the site, without significant impact on the overall residential character or appearance of the surrounding residential area. This criterion is met.

B. Physical compatibility.

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

Findings: There are no City-designated scenic resources on the subject site, as indicated by the absence of any "s" or Scenic Resource Protection overlay zoning on the official zoning map for the property. This criterion does not apply.

2. The proposal will be compatible with adjacent residential developments based on characteristics such as the site size, building scale and style, setbacks, tree preservation and landscaping; or

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

Findings: Adjacent residential developments include an apartment complex located east and northeast of the site, directly adjacent to the new parking lot north of the school building, as well as a row of single-family homes across NE Emerson Street south of the site. Although the site size is slightly shrinking with the removal of the De Paul Center from the conditional use boundary, this use will remain in place, providing a buffer along the east edge of the campus from other nearby housing. Although final planting plans have not been shown in this application, new perimeter landscaping will be provided along most of the exterior edges of the site along abutting properties, providing for visual screening. The new one-story school building is located interior to the site, and will not be directly visible from most nearby housing, except when viewed directly down the long driveway from the north in NE Killingsworth Street, a busy arterial.

The building scale and style is compatible with an urban school campus, and is well-integrated with the existing site layout and development. The new school structure ranges from approximately 22'-0" to 42'-0" in height and has a footprint of approximately 21,780 square feet. The simple, modernist design integrates well with the straightforward brick midcentury design of the original church and school buildings on the site. Some existing mature trees on the site are being retained, and extensive new landscaping will provide new trees, shrubs and groundcover plantings at the perimeter of the site, helping to integrate the new school in an attractive and compatible way with the surrounding residential neighborhood. With approval granted based on substantial conformance with the submitted plans and elevations, this criterion is met.

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

1. Noise, glare from lights, late-night operations, odors, and litter; and

Findings: Churches are not typically associated with noise issues or complaints, and no operational changes are proposed for the church in this application. Generally

speaking, school uses operate primarily indoors, with recreational and sports activities occurring outside in season. At this site, the primary outdoor recreation area is located in a courtyard space between the old and new school buildings, where much of the noise generated is likely to stay confined to the interior of the site, as the play area is buffered by the buildings themselves. The only formal sports areas on the site are located inside the new gymnasium, and unlike many school campuses there will be no exterior sports field for soccer, football or baseball, further limiting potential noise impacts. The applicant has submitted a schedule of anticipated special events that may cause noise beyond the normal school operating hours of 8:00 AM to 3:30 PM weekdays (Exhibit A.1, appendix C). These activities are limited in scope and occur mostly during the daytime on weekends, and the larger intramural sports events that may occur at the site will all happen inside the enclosed gymnasium.

Another outdoor play area or sport court is shown on the plans but not identified by the applicant in their narrative. This new sport court would be located partially on the St. Charles/De La Salle site, but extending also eastwards onto the De Paul Center site. The layout suggests a basketball court, and presumably this area would be available for use both by the school and by the residents of the De Paul Center. Because this area is not buffered from the nearby apartment complex to the northeast of the site, with a direct line of sight to the nearby housing with no proposed landscape screening, late-night use of this area could create noise impacts and issues for nearby residential-zoned lands. Consistent with past limitations imposed at other school sites in residential areas, noisy outdoor activity should be restricted between the hours of 10:00 PM and 7:00 AM. In order to limit potential noise impacts associated with the sport court shown on the shared property line with the De Paul Center, a condition of approval will prohibit use of this outdoor sport court between the hours of 10:00 PM and 7:00 AM daily.

With this condition of approval, this criterion can be met with regards to noise and late-night operations.

There are no anticipated light glare issues, as the exterior building lighting is modest and the new parking area will be screened with shrubs and landscaping materials at the perimeter. The applicant has indicated that exterior lighting will be hooded to prevent spill-over of light off-site, but no specific lighting standards or details have been provided. To ensure the applicant's intention of providing hooded and directional lighting that directs light downwards only is achieved, a condition of approval will require manufacturer's cut sheets during the permit review process to show that the lighting includes hooding or other design features that direct light downwards, and away from nearby properties. With this condition of approval, this criterion can be met with regards to glare from lights.

Odors are not typically associated with a school or church use, and no such impacts to the surrounding residential area are expected with this proposal. The kitchen area at the school will meet all ventilation and sanitation requirements of Multnomah County, and screened, code-compliant trash and recycling areas will be provided. No impacts are expected with regards to odor.

Litter can be a problem when a high school is located in a residential neighborhood. The school and church are committed to maintaining a clean and attractive campus environment, and the student handbook for the school prohibits littering with consequences when the policy is violated (Exhibit A.1, appendix G). The existing De La Salle campus in North Portland is very well-maintained, and both students and

janitorial/maintenance staff are expected to continue avoiding litter impacts at the new location.

For the reasons noted above, and with the conditions of approval regarding late-night use of the sport court and ensuring appropriate lighting fixtures, this criterion is met.

2. Privacy and safety issues.

Findings: There are no anticipated privacy or safety issues associated with the new school use. Activity in outdoor areas at the site is clearly visible from inside the buildings or from adjacent streets. The Police Bureau has reviewed the proposal and found they are capable of continuing to serve the site. This criterion is met.

D. Public services.

1. The proposed use is supportive of the street designations of the Transportation Element of the Comprehensive Plan;

Findings: *Findings in this criterion below are taken from the PBOT agency response (Exhibit E.2).*

The church site is surrounded by three streets, NE Killingsworth, NE 42nd Ave and NE Emerson. At this location, the City's Transportation System Plan (TSP) classifies these streets as follows:

Northeast Killingsworth Street: District Collector (traffic), Major Transit Priority, City Bikeway, City Walkway, Local Service Freight, Major Emergency Response, Neighborhood Main Street

Northeast 42nd Avenue: Neighborhood Collector (traffic), Major Transit Priority, City Bikeway, City Walkway, Truck Access Freight, Major Emergency Response, Neighborhood Main Street

Northeast Emerson Street: Minor Emergency Response, local service for all other modes.
"*District Collector* streets are intended to serve as distributors of traffic from Major City Traffic Streets or District Collectors to Local Service Streets and to serve trips that both start and end within areas bounded by Major City Traffic Streets and District Collectors"; and,

"*Neighborhood Collector* streets are intended to serve as distributors of traffic from Major City Traffic Streets or District Collectors to Local Service Streets or to serve trips that both start and end within areas bounded by Major City Traffic Streets and District Collectors. Neighborhood Collectors should connect neighborhoods to nearby centers, corridors, station communities, main streets, and other nearby destinations"; and,

"*Major Transit Priority* streets facilitate the frequent and reliable movement of transit vehicles that connect Central City, Regional Centers, and town centers with each other and to other major destinations. Major Transit Priority Streets are provided frequent service or are expected to receive that level of service in the future to support envisioned growth"; and,

"*City Bikeways* are intended to serve the Central City, regional and town centers, station communities, and other employment, commercial, institutional, and

recreational destinations. Auto-oriented land uses should be discouraged from locating on City Bikeways that are not also classified as Major City Traffic Streets. Destinations along City Bikeways should have long-term and/or short-term bicycle parking to meet the needs of bicyclists"; and,

"*City Walkways* are intended to provide safe, convenient, and attractive pedestrian access to activities along major streets and to recreation and institutions; provide connections between neighborhoods; and provide access to transit"; and,

"*Truck Access* streets are intended to serve as access and circulation routes for delivery of goods and services to neighborhood-serving commercial and employment uses"; and,

"*Major Emergency Response* streets are intended to serve primarily the longer, most direct legs of emergency response trips"; and,

"*Minor Emergency Response* streets are intended to serve primarily the shorter legs of emergency response trips"; and,

"*Neighborhood Main* streets primarily serve surrounding neighborhoods and are designed to emphasize multimodal access to activity centers"; and,

"*Local Service* streets are intended to distribute local traffic and provide access to local residences or commercial uses. Auto-oriented land uses are discouraged from using Local Service Traffic Streets as their primary access. Local Service Traffic Streets should connect neighborhoods, provide local circulation, and provide access to nearby centers, corridors, station areas and main streets".

The proposed project will have no impacts on the stated functions or objectives of the roadway classifications noted above. The proposed project is supportive of the aforementioned street classification from the Transportation Element of the Comprehensive Plan (Transportation System Plan [TSP]). This criterion is met.

2. Transportation system:

   a. The transportation system is capable of supporting the proposed use in addition to the existing uses in the area. Evaluation factors include safety, street capacity, level of service, connectivity, transit availability, availability of pedestrian and bicycle networks, on-street parking impacts, access restrictions, neighborhood impacts, impacts on pedestrian, bicycle and transit circulation. Evaluation factors may be balanced; a finding of failure in one or more factors may be acceptable if the failure is not a result of the proposed development, and any additional impacts on the system from the proposed development are mitigated;

   b. Measures proportional to the impacts of the proposed use are proposed to mitigate on- and off-site transportation impacts. Measures may include transportation improvements to on-site circulation, public street dedication and improvement, private street improvements, intersection improvements, signal or other traffic management improvements, additional transportation and parking demand management actions, street crossing improvements, improvements to the local pedestrian and bicycle networks, and transit improvements;

c. Transportation improvements adjacent to the development and in the vicinity needed to support the development are available or will be made available when the development is complete or, if the development is phased, will be available as each phase of the development is completed.

Findings: *Findings in this criterion below are taken from the PBOT agency response (Exhibit E.2).*

As is typically identified in relation to Conditional Use requests, a professionally prepared Transportation Impact Study (TIS) was required to address the above referenced evaluation factors. The applicant's traffic consultant prepared an extensive TIS using industry-accepted analyses, references, assumptions and conclusions, which PBOT is supportive of. The following is PBOT's assessment of the TIS relative to each evaluation factor.

Safety: Using data obtained from the Oregon Department of Transportation, a review of the five most recent years of available crash history (from January 2013 through December 2017) was performed for the study intersections. The crash data was evaluated based on the number, type, and severity of collisions, as well as the intersection crash rate. Crash rates allow comparison of relative safety risks at intersections with different lane configurations, volumes, and traffic control devices by accounting for both the number of crashes that occur during the study period and the number of vehicles that traveled through the intersection during that period. Crash rates are calculated using the standard assumption that evening peak hour volumes are approximately 10 percent of the average daily traffic volume at an intersection. The crash rates were compared to statewide crash rates for similar intersection types in order to identify any locations with crash rates in excess of the 90th percentile.

Based on the evaluation of the detailed crash data and associated crash rates (including no reported crashes at two of the study intersections), no significant safety hazards were identified, and no specific safety mitigations are recommended. As described further below, safe routes and connections for motor vehicles, pedestrians, bicyclists and transit users are also available in the site vicinity.

Street capacity/level of service:
Operational analyses, trip generation and trip distribution calculations and assumptions were performed to address this evaluation factor in the TIS. The area roadways and study intersections are currently operating within capacity and with acceptable levels of service. Under future conditions, the roadways and intersections are projected to continue to operate acceptably per City of Portland performance measures and well within capacity. No operational mitigations are necessary or recommended in conjunction with the proposed Conditional Use.

Connectivity:
The City's spacing goals of 530-ft (maximum) for public streets and 330-ft (maximum) for public pedestrian connections is not satisfied in the area. The subject site is slightly greater in overall width (along NE Emerson) than the 530-ft goal for another north-south public street in the area, so, arguably, a public street should be constructed further to the east. The majority of the site where the structures are (and will be) located is only 225-ft long (north-south dimension), therefore, neither a public street or pedestrian connection is warranted in an east-west direction.

It should be noted that there are Zoning Code standards requiring pedestrian connections from the building(s) to the public streets that the project will be

providing. It should also be noted, that for a number of reasons, primarily related to the safety of school-age children, that PBOT is not in the practice of requiring public access through school (or church) properties. PBOT has no objections to the proposed site plan which includes no new public access via a new street or public pedestrian connection.

Transit Availability:
Tri-Met Routes 72 (Killingsworth/82nd Ave) and 75 (Cesar Chavez/Lombard) operate with frequent service and nearby stops in the vicinity of the site along NE Killingsworth and NE 42nd Ave, respectively.

Availability of pedestrian and bicycle networks:
The site frontages are currently improved with sidewalks that accommodate pedestrian passage and will facilitate walking for students at the proposed school. The sidewalks will be further improved (where possible) to current City standards (Public Works Permit plans currently under review). Streets west of NE 42nd Ave are currently constructed with better connected sidewalks than those found east of NE 42nd Ave. Where there are no sidewalks, the Local Service (TSP classified) streets can be shared by all modes given the low speeds and low volumes.
There are multiple bicycle facilities in proximity to the subject site as identified in the Portland Bike/Walk Map that may encourage bike ridership at the new school. These facilities include a "Bike Lane" (painted) along NE Killingsworth, "Shared Roadways" along NE 41st Ave, NE 47th Ave and NE Emerson (west of NE 42nd Ave).

On-street parking impacts:
Existing parking and vehicle circulation layouts will change as part of adding the new DLSNC use and building to the subject site. A new school bus drop-off zone will be created on the north side of the new school wing, and the existing parking lot will be moved north to the location of an existing community garden. Existing driveways on NE 42nd Ave and Killingsworth St will continue to be used for site access, and a total of 56 parking spaces will be provided for the church and high school. A new driveway is proposed on NE Emerson St to access five existing parking spaces for the De Paul Treatment Center, to which an additional five spaces will be added, all of which are partly or fully located on the St. Charles Church site immediately west of the De Paul Treatment Center building. The ten parking spaces for the De Paul Treatment Center building are in addition to the 56 parking spaces for the church and high school.

The TIS included a parking analysis which identified the results of on-street parking observations of the study area around the site conducted at different times to capture the parking utilization of the variety of uses around the subject site. The parking analysis also included an expected parking generation calculation for the new high school to help identify the demand for parking related to the school and to determine what impacts, if any, there would be to the on-street parking supply. The analysis also included information on whether or not the reduction of on-site parking spaces would adversely impact the on-street parking supply in relation to the existing church use on the site. The parking survey area (within 500-ft of the subject site) includes approximately 280 on-street parking spaces.

It should be noted importantly, that the peak demand for parking related to the existing church use and the proposed high school on the subject site will not have a tendency to overlap. The applicant's submitted narrative includes detailed information on the operations of the church. As expected, the primary mass is scheduled for 10:00 am on Sundays. There is a small mass attended by few parishioners Wednesday-Friday mornings at 8:00 am that will marginally overlap the

school use for a short period of time during these mornings. There are numerous programs that St Charles offers for children, youth, adults and multi-generational groups that occur primarily on Sundays after the 10:00 am mass. Other church programs and committee meetings occur in the evenings. There are a dozen events scheduled yearly (throughout the year) that also occur primarily during the weekends.

The DLSNC will be operated primarily between 8:00 am – 3:30 pm, Monday – Friday (from early September to late June). Given the existing DLSNC use at its current location in north Portland, the applicant has provided extremely accurate and very useful information with respect to commuting practices of staff and students. The largest expected parking demand associated with the DLSNC use on the subject site will come from faculty and staff (55 total) who typically arrive in single occupancy vehicles. According to the applicant, less than 10% of DLSNC students drive to the current location – this number is not expected to increase with the move to the subject site. The DLSNC will hold approximately 18 non-athletic co-curricular events – with the construction of a new gymnasium associated with the new school use on the site, volleyball and basketball games (approximately 20/school year).

In relation to the St Charles Church use on the site, as expected, the peak demand for parking occurred during the Sunday mass time-frame where observations made by the applicant's traffic consultant identified 63-spaces being occupied on-site. There was an observed weekday peak demand period identified for the current church use where 10 vehicles occupied on-site parking spaces between 11:00 am and 12:00 pm.

With respect to the proposed high school use on the site and taking into considering the 10 vans that will need to be parked on the site (transport vans to be used daily in association with the school's Corporate Work Study Program), there is an expected parking demand of 44 vehicles. In total, therefore, there is a projected weekday peak parking demand for 54 parking spaces (10/church use + 34/high school specific +10/vans = 54 spaces).

The following information is critical to summarize the assessment of the on-street parking impacts evaluation factor. With regard to the observed on-street parking demand within the study area, the applicant's traffic consultant identified that there were 120 total vehicles parked within the study area (recall that there are approximately 280 on-street parking spaces within the study area). Accordingly, greater than 50% of the on-street parking supply remains available for use. Further, the peak period parking demand during the timeframe where residential (primary use within the study area) needs are the greatest during the late evening hours was observed to be 126 vehicles. Still, more than half of the available on-street parking supply was unoccupied.

Given that the proposed project will result in 56 on-site parking spaces, it is anticipated that the typical peak parking demands associated with the site uses will be accommodated within the site and will not need to rely on the on-street parking supply. As noted above, greater that half of the study area's on-street parking supply remains available for any potential spill-over weekday parking needs of the church/school uses during the peak periods for these uses. Although there will not be a sufficient number of on-site parking spaces to accommodate the peak parking needs for the primary mass on Sundays for the St Charles Church, the seven or so vehicles that won't be parked on- site can easily be parked within the areas on-street parking supply.

Lastly, although evening parking demands will typically be low in association with the church's current programs, the school will have some after-school events which could result in higher parking demands. Assuming that the available on-street parking is not permitted to become more than 85% full per city requirements, a maximum of 154 vehicles could be accommodated during an after-school event. This accounts for the existing observed evening on-street parking demand of 120 spaces (at 8:00 PM), the maximum allowable usage of 238 on-street spaces (280 spaces * 85% occupancy), and utilization of the available on-site parking.

The TIS' thorough parking analysis clearly summarizes that on-street parking impacts from the proposed project in the surrounding neighborhood will be minimal. There is more than sufficient on-street parking supply to accommodate the existing and proposed uses.

Access restrictions:
There are currently no access restrictions in the site vicinity. Under the proposed plan, the only limitation on access would be the restriction of traffic flow within the loading area (student drop-off/pick-up) to one-way only during the periods immediately preceding the start of school and immediately following school release. Operation of the area intersections and site access driveways was assessed based on the proposed restrictions and the study intersections are all projected to operate acceptably per City of Portland standards with implementation of this access restriction. A specific condition of approval related to the student drop-off/pick-up will be recommended (see below). No other mitigations are recommended in conjunction with the one-way access restriction within the loading area.

Neighborhood impacts:
Impacts related to intersection operations and to on-street parking can be construed to be impacts to the surrounding neighborhood. As noted previously in this response, study intersections in the area currently perform to acceptable City of Portland performance measures and will continue to do so after the proposed project is constructed. Also noted above, there is an abundance of on-street parking supply in the study area that currently serves the existing uses in the neighborhood. Given the proposed 56-space parking lot that will be included with this project, the parking demand for the combined church and school functions on the site can be, in most instances, accommodated on-site. If there is any spill-over need for parking from either use, this can be accommodated within the abundant on-street parking supply.

Impacts on pedestrian, bicycle, and transit circulation:
As described previously, the existing transportation network in the site vicinity provides safe connections for transit users, pedestrians, and people riding bicycles. The proposed Conditional Use on the subject property will not impact circulation for these travel modes.

As evidenced above, the transportation system is capable of supporting the proposed use in addition to the existing uses in the area – criterion 33.815.105.D.2.a is satisfied.

The following is provided in response to approval criteria 33.815.105.D.2.b and c. As identified in the Pre-application Conference that was held for this project (PC 19-127188), the proposed project will trigger right-of-way improvements and property dedications along the site's frontages. The applicant has submitted the requisite Public Works Permit (TH0918) for the required improvements which is currently under City review.

As noted previously in this response, in order to ensure that there won't be any conflicts with the abutting roadways, PBOT has worked with the applicant and applicant's traffic consultant to develop a school-related drop-off/pick-up circulation pattern. The east-west vehicle pathway utilized for student drop-off/pick-up through the site shall operate in a one-way condition by providing dual queuing lanes during school am and pm peak traffic hours to ensure vehicle queues do not extend into the public roadways. Appropriate devices on private property may be provided for positive guidance. Additionally, DLSNC may utilize parent/teacher/staff volunteers to help guide vehicles in the student drop-off/pick-up zone. DSLNC and St. Charles Catholic Church shall coordinate to provide a site circulation plan that is updated and provided to school and parish users annually.

With the aforementioned conditions, the approval criteria at 33.815.105.D.2.b and c. can be satisfied.

ADDITIONAL INFORMATION

Transportation Demand Management Plans (TDMP) are typically required in associated with projects that result in impacts to the transportation system, including area neighborhoods. As evidenced in this response, PBOT identified no project generated significant impacts – therefore, a TDMP was not required.

However, the applicant's traffic consultant has proffered a TDMP (August 1, 2019 Technical Memorandum from Ard Engineering) with standard strategies and measures to ensure that any transportation or parking impacts are minimized. PBOT supports the consultant's TDMP and recommends that DSLNC implements it on a voluntary basis. PBOT also recommends that the TDMP be amended to include that DSLNC and St Charles Church will coordinate to provide a site circulation plan (which includes the student drop-off/pick-up requirements) that is updated and provided to school and parish users annually.

PBOT has no objections to the request to separate the existing De Paul Treatment Center which abuts the current church to the east. PBOT will be supportive of issuing a new curb-cut/driveway permit for the new access for this use along NE Emerson.

The requested Adjustments are not transportation-related – PBOT has no objections to any of these requests.

RECOMMENDATION AND SUMMARY

PBOT has no objections to the proposed Conditional Use request subject to the following conditions:

1. The east-west vehicle pathway utilized for student drop-off/pick-up through the site shall operate in a one-way condition by providing dual queuing lanes during school peak traffic hours to ensure vehicle queues do not extend into the public roadways. Appropriate devices on private property may be provided for positive guidance.

2. DSLNC and St. Charles Catholic Church shall coordinate to provide a site circulation plan that is updated and provided to school and parish users annually.

3. Public services for water supply, police and fire protection are capable of serving the proposed use, and proposed sanitary waste disposal and stormwater disposal systems are acceptable to the Bureau of Environmental Services.

Findings: The Water Bureau has reviewed the proposal and found services available and adequate to serve the proposed use (Exhibit E.3). The Police Bureau has reviewed the proposal and found they are capable of serving the proposed use (Exhibit E.5). The Fire Bureau already services the site and has responded to the land use review with no concerns or objections (Exhibit E.4). Finally, the preliminary plans for proposed sanitary waste disposal and stormwater disposal are acceptable to the Bureau of Environmental Services (Exhibit E.1). Therefore, this criterion is met.

E. Area plans. The proposal is consistent with any area plans adopted by the City Council as part of the Comprehensive Plan, such as neighborhood or community plans.

Findings: The site is within the boundaries of the *Cully Neighborhood Plan* (1992), which is the only area plan adopted by the City Council for this site as part of the Comprehensive Plan. The proposal is supportive of Policy 1A (Image) via the renovation and expansion of an existing neighborhood facility, including upgraded buildings and new landscaping. The proposal is also supportive of Policy 5A (Social and Cultural Center) by renovating and expanding a former community school building. The applicant addressed additional policies in this plan (Exhibit A.8, pp. VI-9 to VI-10), but staff finds that only the above two policies are relevant. This criterion is met.

Oregon Statewide Planning Goals

Goal 1: Citizen Involvement
Goal 1 calls for "the opportunity for citizens to be involved in all phases of the planning process." It requires each city and county to have a citizen involvement program containing six components specified in the goal. It also requires local governments to have a Committee for Citizen Involvement (CCI) to monitor and encourage public participation in planning.

Findings: The City of Portland maintains an extensive citizen involvement program which complies with all relevant aspects of Goal 1, including specific requirements in Zoning Code Chapter 33.730 for public notice of land use review applications that seek public comment on proposals. There are opportunities for the public to testify at a local hearing on land use proposals for Type III land use review applications, and for Type II and Type IIx land use decisions if appealed. For this application, a written notice seeking comments on the proposal and notifying of the public hearing was mailed to property-owners and tenants within 400 feet of the site, and to recognized organizations in which the site is located and recognized organizations within 1,000 of the site. Additionally, the site was posted with a notice describing the proposal and announcing the public hearing.

The public notice requirements for this application have been and will continue to be met, and nothing about this proposal affects the City's ongoing compliance with Goal 1. Therefore, the proposal is consistent with this goal.

Goal 2: Land Use Planning
Goal 2 outlines the basic procedures of Oregon's statewide planning program. It states that land use decisions are to be made in accordance with a comprehensive plan, and that suitable "implementation ordinances" to put the plan's policies into effect must be adopted. It requires that plans be based on "factual information"; that local plans and ordinances be coordinated with those of other jurisdictions and agencies; and that plans be reviewed periodically and amended as needed. Goal 2 also contains standards for taking exceptions to statewide goals. An exception may be taken when a statewide goal cannot or should not be applied to a particular area or situation.

Findings: Compliance with Goal 2 is achieved, in part, through the City's comprehensive

planning process and land use regulations. For quasi-judicial proposals, Goal 2 requires that the decision be supported by an adequate factual base, which means it must be supported by substantial evidence in the record. As discussed earlier in the findings that respond to the relevant approval criteria contained in the Portland Zoning Code, the proposal complies with the applicable regulations, as supported by substantial evidence in the record. As a result, the proposal meets Goal 2.

Goal 3: Agricultural Lands
Goal 3 defines "agricultural lands," and requires counties to inventory such lands and to "preserve and maintain" them through farm zoning. Details on the uses allowed in farm zones are found in ORS Chapter 215 and in Oregon Administrative Rules, Chapter 660, Division 33.

Goal 4: Forest Lands
This goal defines forest lands and requires counties to inventory them and adopt policies and ordinances that will "conserve forest lands for forest uses."

Findings for Goals 3 and 4: In 1991, as part of Ordinance No. 164517, the City of Portland took an exception to the agriculture and forestry goals in the manner authorized by state law and Goal 2. Since this review does not change any of the facts or analyses upon which the exception was based, the exception is still valid and Goal 3 and Goal 4 do not apply.

Goal 5: Open Spaces, Scenic and Historic Areas and Natural Resources
Goal 5 relates to the protection of natural and cultural resources. It establishes a process for inventorying the quality, quantity, and location of 12 categories of natural resources. Additionally, Goal 5 encourages but does not require local governments to maintain inventories of historic resources, open spaces, and scenic views and sites.

Findings: The City complies with Goal 5 by identifying and protecting natural, scenic, and historic resources in the City's Zoning Map and Zoning Code. Natural and scenic resources are identified by the Environmental Protection ("p"), Environmental Conservation ("c"), and Scenic ("s") overlay zones on the Zoning Map. The Zoning Code imposes special restrictions on development activities within these overlay zones. Historic resources are identified on the Zoning Map either with landmark designations for individual sites or as Historic Districts or Conservation Districts. This site is not within any environmental or scenic overlay zones and is not part of any designated historic resource. Therefore, Goal 5 is not applicable.

Goal 6: Air, Water and Land Resources Quality
Goal 6 requires local comprehensive plans and implementing measures to be consistent with state and federal regulations on matters such as groundwater pollution.

Findings: Compliance with Goal 6 is achieved through the implementation of development regulations such as the City's Stormwater Management Manual at the time of building permit review, and through the City's continued compliance with Oregon Department of Environmental Quality (DEQ) requirements for cities. The Bureau of Environmental Services reviewed the proposal for conformance with sanitary sewer and stormwater management requirements and expressed no objections to approval of the application, as mentioned earlier in this report. Staff finds the proposal is consistent with Goal 6.

Goal 7: Areas Subject to Natural Disasters and Hazards
Goal 7 requires that jurisdictions adopt development restrictions or safeguards to protect people and property from natural hazards. Under Goal 7, natural hazards include floods, landslides, earthquakes, tsunamis, coastal erosion, and wildfires. Goal 7 requires that local governments adopt inventories, policies, and implementing measures to reduce risks from natural hazards to people and property.

Findings: The City complies with Goal 7 by mapping natural hazard areas such as floodplains and potential landslide areas, which can be found in the City's MapWorks geographic information system. The City imposes additional requirements for development in those areas through a variety of regulations in the Zoning Code, such as through special plan districts or land division regulations. The subject site is not within any mapped floodplain or landslide hazard area, so Goal 7 does not apply.

Goal 8: Recreation Needs

Goal 8 calls for each community to evaluate its areas and facilities for recreation and develop plans to deal with the projected demand for them. It also sets forth detailed standards for expediting siting of destination resorts.

Findings: The City maintains compliance with Goal 8 through its comprehensive planning process, which includes long-range planning for parks and recreational facilities. Staff finds the current proposal will not affect existing or proposed parks or recreation facilities in any way that is not anticipated by the zoning for the site, or by the parks and recreation system development charges that are assessed at time of building permit. Furthermore, nothing about the proposal will undermine planning for future facilities. Therefore, the proposal is consistent with Goal 8.

Goal 9: Economy of the State

Goal 9 calls for diversification and improvement of the economy. Goal 9 requires communities to inventory commercial and industrial lands, project future needs for such lands, and plan and zone enough land to meet those needs.

Findings: Land needs for a variety of industrial and commercial uses are identified in the adopted and acknowledged Economic Opportunity Analysis (EOA) (Ordinance 187831). The EOA analyzed adequate growth capacity for a diverse range of employment uses by distinguishing several geographies and conducting a buildable land inventory and capacity analysis in each. In response to the EOA, the City adopted policies and regulations to ensure an adequate supply of sites of suitable size, type, location and service levels in compliance with Goal 9. The City must consider the EOA and Buildable Lands Inventory when updating the City's Zoning Map and Zoning Code. Because this proposal does not change the supply of industrial or commercial land in the City, the proposal is consistent with Goal 9.

Goal 10: Housing

Goal 10 requires local governments to plan for and accommodate needed housing types. The Goal also requires cities to inventory its buildable residential lands, project future needs for such lands, and plan and zone enough buildable land to meet those needs. It also prohibits local plans from discriminating against needed housing types.

Findings: The City complies with Goal 10 through its adopted and acknowledged inventory of buildable residential land (Ordinance 187831), which demonstrates that the City has zoned and designated an adequate supply of housing. For needed housing, the Zoning Code includes clear and objective standards. Since this proposal is not related to housing, because the residentially-zoned land on the site has been developed as an institutional campus for decades with no on-site housing, and with more than adequate residentially-zoned land in the City to provide for needed housing types independent of the subject site, Goal 10 is not applicable.

Goal 11: Public Facilities and Services

Goal 11 calls for efficient planning of public services such as sewers, water, law enforcement, and fire protection. The goal's central concept is that public services should be planned in accordance with a community's needs and capacities rather than be forced to respond to development as it occurs.

Findings: The City of Portland maintains an adopted and acknowledged public facilities plan to comply with Goal 11. See Citywide Systems Plan adopted by Ordinance 187831. The public facilities plan is implemented by the City's public services bureaus, and these bureaus review development applications for adequacy of public services. Where existing public services are not adequate for a proposed development, the applicant is required to extend public services at their own expense in a way that conforms to the public facilities plan. In this case, the City's public services bureaus found that existing public services are adequate to serve the proposal, in one case with conditions that will be imposed on the applicant, as discussed earlier in this report. Therefore, the proposal is consistent with Goal 11.

Goal 12: Transportation
Goal 12 seeks to provide and encourage "safe, convenient and economic transportation system." Among other things, Goal 12 requires that transportation plans consider all modes of transportation and be based on inventory of transportation needs.

Findings: The City of Portland maintains a Transportation System Plan (TSP) to comply with Goal 12, adopted by Ordinances 187832, 188177 and 188957. The City's TSP aims to "make it more convenient for people to walk, bicycle, use transit, use automobile travel more efficiently, and drive less to meet their daily needs." The extent to which a proposal affects the City's transportation system and the goals of the TSP is evaluated by the Portland Bureau of Transportation (PBOT). As discussed earlier in this report, PBOT evaluated this proposal and found that conditions of approval can be imposed which allow the request to be approved. Therefore, the proposal is consistent with Goal 12.

Goal 13: Energy
Goal 13 seeks to conserve energy and declares that "land and uses developed on the land shall be managed and controlled so as to maximize the conservation of all forms of energy, based upon sound economic principles."

Findings: With respect to energy use from transportation, as identified above in response to Goal 12, the City maintains a TSP that aims to "make it more convenient for people to walk, bicycle, use transit, use automobile travel more efficiently, and drive less to meet their daily needs." This is intended to promote energy conservation related to transportation. Additionally, at the time of building permit review and inspection, the City will also implement energy efficiency requirements for the building itself, as required by the current building code. For these reasons, staff finds the proposal is consistent with Goal 13.

Goal 14: Urbanization
This goal requires cities to estimate future growth and needs for land and then plan and zone enough land to meet those needs. It calls for each city to establish an "urban growth boundary" (UGB) to "identify and separate urbanizable land from rural land." It specifies seven factors that must be considered in drawing up a UGB. It also lists four criteria to be applied when undeveloped land within a UGB is to be converted to urban uses.

Findings: In the Portland region, most of the functions required by Goal 14 are administered by the Metro regional government rather than by individual cities. The desired development pattern for the region is articulated in Metro's Regional 2040 Growth Concept, which emphasizes denser development in designated centers and corridors. The Regional 2040 Growth Concept is carried out by Metro's Urban Growth Management Functional Plan, and the City of Portland is required to conform its zoning regulations to this functional plan. This land use review proposal does not change the UGB surrounding the Portland region and does not affect the Portland Zoning Code's compliance with Metro's Urban Growth Management Functional Plan. Therefore, Goal 14 is not applicable.

Goal 15: Willamette Greenway

Goal 15 sets forth procedures for administering the 300 miles of greenway that protects the Willamette River.

Findings: The City of Portland complies with Goal 15 by applying Greenway overlay zones which impose special requirements on development activities near the Willamette River. The subject site for this review is not within a Greenway overlay zone near the Willamette River, so Goal 15 does not apply.

Goal 16: Estuarine Resources
This goal requires local governments to classify Oregon's 22 major estuaries in four categories: natural, conservation, shallow-draft development, and deep-draft development. It then describes types of land uses and activities that are permissible in those "management units."

Goal 17: Coastal Shorelands
This goal defines a planning area bounded by the ocean beaches on the west and the coast highway (State Route 101) on the east. It specifies how certain types of land and resources there are to be managed: major marshes, for example, are to be protected. Sites best suited for unique coastal land uses (port facilities, for example) are reserved for "water-dependent" or "water-related" uses.

Goal 18: Beaches and Dunes
Goal 18 sets planning standards for development on various types of dunes. It prohibits residential development on beaches and active foredunes, but allows some other types of development if they meet key criteria. The goal also deals with dune grading, groundwater drawdown in dunal aquifers, and the breaching of foredunes.

Goal 19: Ocean Resources
Goal 19 aims "to conserve the long-term values, benefits, and natural resources of the nearshore ocean and the continental shelf." It deals with matters such as dumping of dredge spoils and discharging of waste products into the open sea. Goal 19's main requirements are for state agencies rather than cities and counties.

Findings: Since Portland is not within Oregon's coastal zone, Goals 16-19 do not apply.

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 providing 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 has requested the following six Adjustments:

1. Reduce the buffering requirement for institutional uses in the R7 zone from 15'-0" of L3 landscaping to 0'-0" with zero landscaping for 25 lineal feet east of the new gymnasium building adjacent to the new sportcourt, and from 15'-0" to 10'-0" for 52 lineal feet east of the new gymnasium building adjacent to the new perimeter walkway, all along the new campus boundary lot line abutting the De Paul Treatment Center (33.110.245.C.1/Table 110-5);

2. Increase the maximum building coverage allowed for institutional uses in the R7 zone from 50% to 54% of the R7-zoned portion of the site (33.110.245.C.1/Table 110-5);

3. Increase the maximum floor area ratio (FAR) for institutional uses in the R7 zone from 0.5:1 to 0.54:1 (33.110.245.C.1/Table 110-5);

4. Reduce the minimum required landscaping for institutional uses in the R7 zone from 25% to 20% of the R7-zoned portion of the site (33.110.245.C.1/Table 110-5);

5. Reduce the minimum width of 8 of the 10 proposed residential (house) parking spaces for the De Paul Treatment Center (a household living use) from 9'-0" to 8'-6" (33.266.120.D.1); and

6. Reduce the required perimeter parking lot landscaping from 5'-0" of L3 to 0'-0" with zero landscaping for 48 lineal feet east of the new De Paul Center parking spaces, aisle and turning zone, from 5'-0" of L3 to 0'-0" with zero landscaping for 7 lineal feet east of the new De Paul Treatment Center driveway to NE Emerson Street, and from 5'-0 to 4'-0" of L3 landscaping where the main 90-degree curve of the primary circulation driveway comes closest to the southeast corner of the abutting property at 4262 NE Killingsworth/R194251 just north of the church and school (33.266.130.G.2.c/Table 266-5).

With regards to Adjustments #1 through #4, the relevant purpose statement is the one for all the institutional development standards in the single-dwelling zones (33.110.245.A):

> **"Purpose.** 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."

Reducing the landscape buffer along the easterly lot line with the newly-separated De Paul Treatment Center will not significantly impact the larger surrounding use. Although classified as a Household Living use per an earlier request from the applicant in 2002, it functions and appears more like an institutional use than a house. There is a "soft" edge or boundary between these two uses, and a new sportcourt is shown on some of the site plans extending over an area that crosses onto both properties, directly east of the new gym. As a result of the shared history as an institutional campus, and even though the applicant has requested to remove the De Paul Center use from the conditional use boundary and exclude the use from the St. Charles/De La Salle campus, there is no major need to apply a perimeter landscape buffer between the De Paul site and the St. Charles/De La Salle site with regards to impacts on the surrounding residential neighborhood.

The requested building coverage increase is minimal in scope, and new building activity occurs interior to the site. The site already has a built-up, urban character along both NE Emerson and NE 42nd, with 1950's-era brick structures placed very close to the street in

sharp contrast to the low-density residential and commercial structures nearby. Given the limited changes being made at the perimeter of the property as viewed from the adjacent streets and neighborhood, there is no significant impact on the nearby residences with regards to bulk or massing of the new school wing.

Floor area increases are typically discouraged by staff, as the standard is viewed as a density limitation inherent to the specific base zone, and because Adjustments to increase density (defined as number of people, dwelling units or SRO housing units in 33.910, Definitions) in the RF through R1 and RMP zones is prohibited (33.805.030.B.7). However, in this case the increase in FAR from 0.5:1 to 0.54:1 is relatively modest in scope, and the site already has a relatively built-up, urban character in the neighborhood that has been in place since the St. Charles Catholic Church and accessory elementary school were first constructed in the 1950's. The new construction occurs interior to the site on a campus with a strong street presence and minimal setbacks, will be visible mostly to adjacent commercial and light industrial neighbors as opposed to single-family homes, and in the scale and size of the development is in keeping with the character of public and institutional buildings in the neighborhood.

The minimum institutional landscaping standard adjustment is also relatively minor in scope, and merits approval. Significant existing landscaping will be retained, including a row of large evergreen trees along the north edge of the driveway abutting the church. Significant new interior parking lot landscaping is being proposed, in excess of the minimum requirement for the 66 on-site parking spaces (approximately 3,200 sq. ft. is provided, whereas only 2,970 sq. ft. is required). Although specific plant densities and species have not been identified, including the required continuous row of evergreen shrubs and other issues (see "Development Standards" section prior to Conclusion, below), when installed per code standards there will be significant new landscape screening, trees and visual improvement to the campus as a whole over the current situation.

Therefore, with regards to the four Adjustments to institutional development standards, this criterion is met.

For the Adjustment to the width of the De Paul Center (Household Living use in a house structure type) parking stalls, the relevant purpose statement is as follows (33.266.120.A):

> "**Purpose.** The size and placement of vehicle parking areas are regulated in order to enhance the appearance of neighborhoods."

Because the width reduction for the De Paul Center parking stalls would not be required if the use was still classified as a drug treatment center instead of a house, there are few if any impacts associated with this Adjustment. The minimum width for house parking spaces is 9'-0", whereas all other uses can have stalls perpendicular to a parking aisle at only 8'-6" wide. The new driveway to NE Emerson Street will open up visual access to the parking area that was previously buffered by solid wood fencing and landscaping along the street, but the parking area does include some new landscaping along the edges, and the width of the stalls is unrelated to the overall requirement for interior parking lot landscaping on the St. Charles/De La Salle site (approximately 3,200 sq. ft. provided, but only 2,970 sq. ft. is required). Therefore, with regards to the width of the De Paul Center parking stalls, this criterion is met.

For the Adjustment to perimeter parking lot landscaping, the relevant purpose statement is as follows (relevant excerpts from 33.266.130.A):

"**Purpose**. The parking area layout standards are intended to promote safe circulation within the parking area, provide for the effective management of stormwater runoff from vehicle areas, and provide for convenient entry and exit of vehicles."

"The setback and landscaping standards:

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

Waiving parking lot perimeter landscaping along the east edge of the expanded parking area for the De Paul Center does not have significant visual impacts on the property or surrounding residential zones. The east edge of the driveway where plants would be required abuts the existing De Paul structure, and would not screen headlights or the parking area from public view. Interior parking lot landscaping is provided mostly in the new main parking area for the school, but there are some limited areas of non-required landscaping along the edges of the new De Paul Center parking area that help soften the appearance of this portion of the site. Traffic will be clearly directed into the available parking stalls, and the Bureau of Environmental Services has reviewed the proposal for stormwater and pollution impact issues with regards to reducing landscaping and has voiced no objections.

The waiver of parking lot landscaping along the eastern shared lot line with the De Paul Center, abutting the backing aisle and turnaround behind three of the new De Paul Center parking spaces east of the school gym, occurs in an area where it is unclear how the existing development in this area will be modified. Specifically, a 5'-wide concrete pedestrian walkway system is currently located in the area where a new parking back-up aisle is shown, and it's unclear how the boundary between the parking aisle and the existing walkway connecting the De Paul Center north entry to NE Emerson Street will be resolved. Without consideration and with approval based on the submitted plans, it would be unclear what is proposed for this area.

The main site plan (Exhibit C.1) shows a curvilinear pedestrian walkway for the De Paul Center continuing to encroach onto the St. Charles/De La Salle behind these new parking stalls, but this encroachment is not shown on the materials and planting plans (Exhibits C.6 through C.9). There is 27'-0" of backing depth behind the three new parking spaces in this area, which is 7'-0" more than necessary for safe vehicle maneuvering. If the existing walkway on the De Paul site was required to be fully contained inside the De Paul property, it would be less than 3'-0" wide immediately adjacent to a vehicle backing area, which is an unsafe condition. To provide a safe continuation of the De Paul Center concrete pedestrian walkway system in keeping with the existing development pattern, and acknowledging that there will be encroachment between uses in this area anyway (for the parking and sport court uses), a condition of approval is necessary. A condition of approval will require that the De Paul Center walkway near and potentially extending over the shared property line with the St. Charles/De La Salle site (shown on Exhibit C.1) must be reconfigured to maintain a minimum 5'-0"-wide concrete walkway connection,

curbed and raised and with a distinct material versus the adjacent vehicle areas, between the existing curvilinear north entry and NE Emerson Street to the south.

With the noted condition of approval ensuring a reconfigured and safe, distinct De Paul Center walkway behind the new De Paul parking spaces in the area where perimeter landscaping is being waived, these criteria can be 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: The Adjustments are all limited to the residentially-zoned portion of the campus, and do not impact the residential zones. As noted in prior findings for the conditional use approval criteria in this document, the proposal will not significantly detract from the livability or appearance of the residential area. This criterion is met.

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

Findings: The overall purpose of the R7 zone portion of the site where Adjustments are requested is to provide housing opportunities, and to allow institutional uses where their impacts are limited and the use and development are compatible with the surrounding residential area. St. Charles Church has been a part of the Cully Neighborhood since the 1950's, and the requested Adjustments are confined primarily to the interior of the site, without significant visual or functional impacts upon the surrounding area. This criterion is met.

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

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

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

Findings: There are no discernible impacts that would result from granting the requested adjustment, beyond the issues addressed via the condition of approval requiring safe reconstruction of the De Paul Center walkway that abuts the backing aisle for three new parking spaces. With the noted condition of approval, this criterion can be 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 the site is not within an environmental zone, 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.

Specific examples of standards which have not been able to be verified in this land use review, and which must be documented in full prior to issuance of a building permit, include *but are not necessarily limited to* the following:

- Perimeter parking lot landscaping (show all plant species and placement, irrigation system, etc.);
- Interior parking lot landscaping (show all plant species and placement, irrigation system, etc.);
- Screening (identify and screen rooftop and trash areas, etc. as required); and
- Pedestrian standards (walkways from school building to both NE Killingsworth and NE 42nd Avenue must meet the Pedestrian Standards of 33.120.255 per 33.110.245.C.10, including different materials and curbing at parking areas, direct connections, minimum width, etc. At present the system is disconnected, walkways are not done in a distinct material when in vehicle aisles or driveways, and the width of the overall walkway to NE 42nd may need to increase, etc.).

CONCLUSIONS

The applicant has proposed re-establishment of a school use on the St. Charles Church campus, and removal of the De Paul Treatment Center from the conditional use approval and site boundary. The connection between the De Paul Center site and activities on the St. Charles Church/De La Salle North High School campus will now be limited to use of a small new sport court area east of the new gym, and the 10 De Paul Center parking spaces which either partially or fully encroach onto the St. Charles/De La Salle property. Based on the findings included in this report, and with the conditions of approval as noted, the relevant approval criteria are met and the request should be approved.

TENTATIVE STAFF RECOMMENDATION

(May be revised upon receipt of new information at any time prior to the Hearings Officer decision)

Approval of a **Conditional Use Review** to establish the De La Salle North High School on the St. Charles Church campus, including a new one-story school wing building of approximately 21,780 square feet and associated site changes in substantial conformance with the approved plans, and including removal of the De Paul Treatment Center use from the conditional use approval and St. Charles/De La Salle institutional campus boundary, with the exception of shared use being allowed for the new sport court and expanded parking area along the shared lot line between these newly separated sites.

Approval of an **Adjustment** to reduce the buffering requirement for institutional uses in the R7 zone from 15'-0" of L3 landscaping to 0'-0" with zero landscaping for 25 lineal feet east of the new gymnasium building adjacent to the new sportcourt, and from 15'-0" to 10'-0" for 52 lineal feet east of the new gymnasium building adjacent to the new perimeter walkway, all along the new campus boundary lot line abutting the De Paul Treatment Center (33.110.245.C.1/Table 110-5).

Approval of an **Adjustment** to increase the maximum building coverage allowed for institutional uses in the R7 zone from 50% to 54% of the R7-zoned portion of the site (33.110.245.C.1/Table 110-5);

Approval of an **Adjustment** to increase the maximum floor area ratio (FAR) for institutional uses in the R7 zone from 0.5:1 to 0.54:1 (33.110.245.C.1/Table 110-5);

Approval of an **Adjustment** to reduce the minimum required landscaping for institutional uses in the R7 zone from 25% to 20% of the R7-zoned portion of the site (33.110.245.C.1/Table 110-5);

Approval of an **Adjustment** to reduce the minimum width of 8 of the 10 proposed residential (house) parking spaces for the De Paul Treatment Center (a household living use) from 9'-0" to 8'-6" (33.266.120.D.1); and

Approval of an **Adjustment** to reduce the required perimeter parking lot landscaping from 5'-0" of L3 to 0'-0" with zero landscaping for 48 lineal feet east of the new De Paul Center parking spaces, aisle and turning zone, from 5'-0" of L3 to 0'-0" with zero landscaping for 7 lineal feet east of the new De Paul Treatment Center driveway to NE Emerson Street, and from 5'-0 to 4'-0" of L3 landscaping where the main 90-degree curve of the primary circulation driveway comes closest to the southeast corner of the abutting property at 4262 NE Killingsworth/R194251 just north of the school and church buildings (33.266.130.G.2.c/Table 266-5).

The above approvals are granted based on substantial conformance with the approved plans and drawings, Exhibits C.1 through C.9, and subject to the following conditions:

A. As part of the building permit application submittal, the following development-related conditions (B through F) 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 19-199693 CU AD." All requirements must be graphically represented on the site plan, landscape, or other required plan.

B. Use of the outdoor sport court shown at the eastern edge of the new school wing, crossing the property line into the De Paul Treatment Center site, shall be prohibited during the hours from 10:00 PM to 7:00 AM, daily.

C. Exterior lighting details in the form of manufacturer specification sheets shall be provided with the permit drawings to verify that exterior lighting is hooded or otherwise designed in such a manner as to direct light downwards and limit light trespass onto neighboring properties.

D. The De Paul Center walkway near and potentially extending over the shared property line with the St. Charles/De La Salle site (shown on Exhibit C.1) must be reconfigured to maintain a minimum 5'-0"-wide concrete walkway connection, curbed and raised and with a distinct material versus the adjacent vehicle areas, between the existing curvilinear north entry and NE Emerson Street to the south.

E. The east-west vehicle pathway utilized for student drop-off/pick-up through the site shall operate in a one-way condition by providing dual queuing lanes during school peak traffic hours to ensure vehicle queues do not extend into the public roadways. Appropriate devices on private property may be provided for positive guidance.

F. De La Salle North Catholic High School and St. Charles Catholic Church shall coordinate to provide a site circulation plan that is updated and provided to school and parish users annually.

Procedural Information. The application for this land use review was submitted on July 26, 2019, and was determined to be complete on September 13, 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 July 26, 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 requested that the 120-day review period be fully extended to the 245-day limit within the first 21 days after submittal of the application, allowing for an evidentiary appeal (Exhibit A.5). Unless further extended by the applicant, **the 120 days will expire on September 12, 2020.**

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 recommendation 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.

This report is not a decision. The review body for this proposal is the Hearings Officer who will make the decision on this case. This report is a recommendation to the Hearings Officer by the Bureau of Development Services. The review body may adopt, modify, or reject this recommendation. The Hearings Officer will make a decision about this proposal within 17 days of the close of the record. Your comments to the Hearings Officer can be mailed c/o the Hearings Officer, 1900 SW Fourth Ave., Suite 3100, Portland, OR 97201 or faxed to 503-823-4347.

You will receive mailed notice of the decision if you write a letter received before the hearing or testify at the hearing, or if you are the property owner or applicant. This Staff Report will be posted on the Bureau of Development Services website. Look at www.portlandonline.com. On the left side of the page use the search box to find Development Services, then click on the Zoning/Land Use section, select Notices and Hearings. Land use review notices are listed by the District Coalition shown at the beginning of this document. You may review the file on this case at the Development Services Building at 1900 SW Fourth Ave., Suite 5000, Portland, OR 97201.

Appeal of the decision: The decision of the Hearings Officer may be appealed to City Council, who will hold a public hearing. If you or anyone else appeals the decision of the Hearings Officer, City Council will hold an evidentiary hearing, one in which new evidence can be submitted to them. Upon submission of their application, the applicant for this land use review chose to waive the 120-day time frame in which the City must render a decision. This additional time allows for any appeal of this proposal to be held as an evidentiary hearing.

Who can appeal: You may appeal the decision only if you write a letter which is received before the close of the record on hearing or if you testify at the hearing, or if you are the property owner or applicant. Appeals must be filed within 14 days of the decision. **An appeal fee of $5,000.00 will be charged (one-half of the BDS LUS application fee, up to a maximum of $5,000.00).**

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.

Recording the final decision.
If this Land Use Review is approved the final decision will be recorded with the Multnomah County Recorder. 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.

Planner's Name: Mark Moffett
Date: November 8, 2019

EXHIBITS
NOT ATTACHED UNLESS INDICATED

A. Applicant's Statements:
   1. Original narrative, appendices and exhibits
   2. Original plan set – NOT APPROVED, REFERENCE ONLY
   3. Original stormwater management report, Mazzetti/BHE Group, dated 7.26.19
   4. Original geotechnical report, GeoDesign Inc., dated 7.12.19
   5. 120-day waiver, rec'd. 8.8.19
   6. Transportation Demand Management memo, Ard Engineering, dated 8.1.19, rec'd. 8.6.19

7. Revised stormwater report and cover memo addressing completeness comments, rec'd. 9.11.19
8. Cover letter and revised narrative, rec'd. 9.11.19 (large plans not received until 9.13.19, when case was deemed complete, despite listing on cover letter here – see date-stamped post-it attached to cover letter)
9. E-mail discussion between PBOT staff and applicant's traffic engineer regarding transportation issues, final date on string at first page of 9.20.19
10. Plan sheets from revised 9.11.19 drawing sets not used as C Exhibits – NOT APPROVED, REFERENCE ONLY

B. Zoning Map (attached)

C. Plans & Drawings {*NOTE – per BDS Management policy, both the large/scalable and reduced size copies of the drawings are given the same exhibit number. Only reduced size copies were provided for the site and planting plans (C.1, C.8, C.9). This means there are 15 physical exhibits for the 9 numbered exhibits listed below. Staff identification notes on the smaller version of plans were not included on the larger sets of plans.*}:
1. Site Plan (**attached**)
2. First floor and roof plans
3. North and East elevations (**attached**)
4. West and South elevations (**attached**)
5. Aerial or 3-dimensional representations of phasing with and without gym (**attached**)
6. Materials plan – north and west campus
7. Materials plan – central campus
8. Planting plan – north and west campus
9. Planting plan – central campus

D. Notification information:
1. Request for response
2. Posting information and sign as sent to applicant
3. Applicant's statement certifying posting
4. Mailing list copy of public hearing notice
5. Postmarked copy of public hearing notice

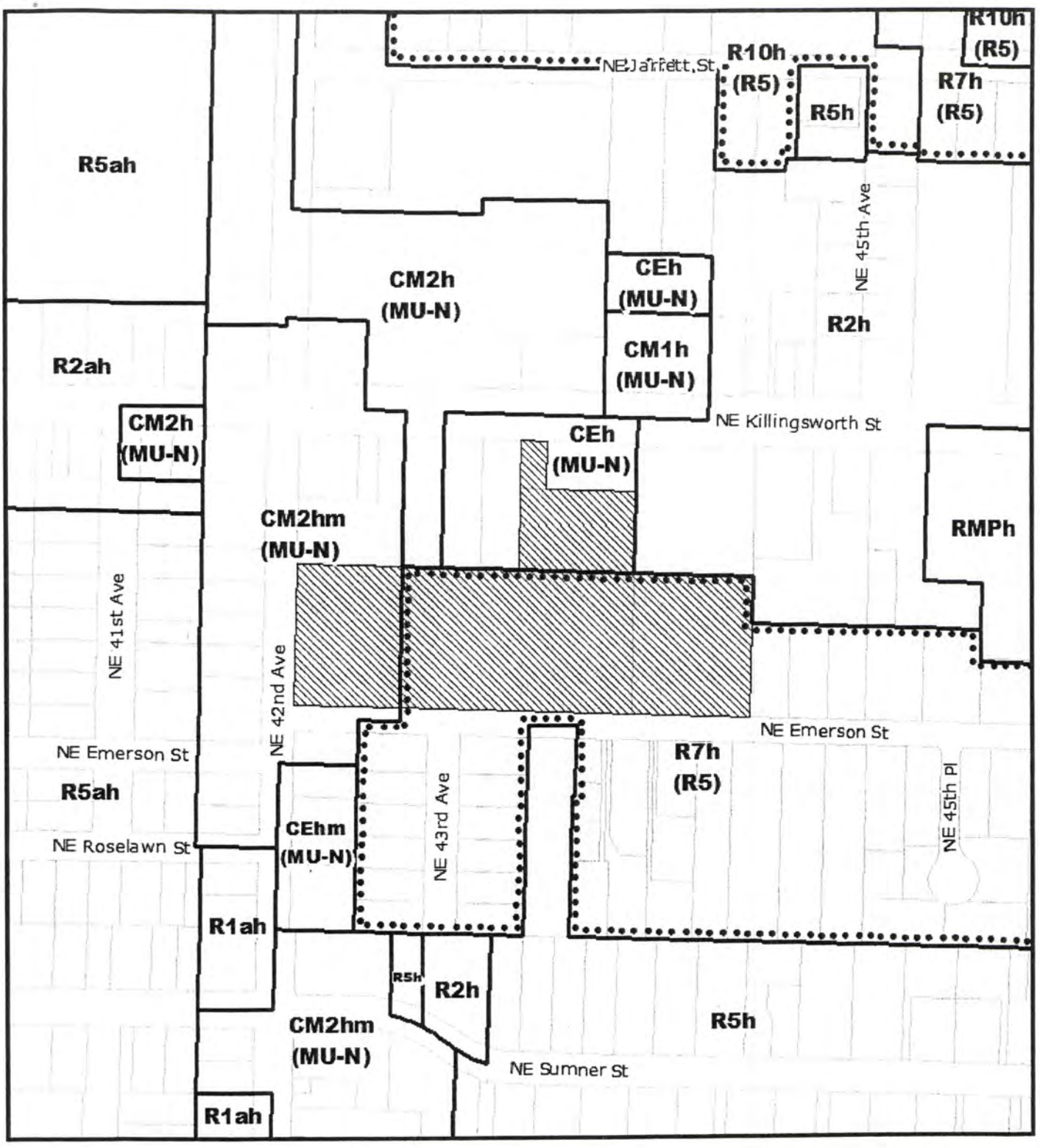
E. Agency Responses:
1. Bureau of Environmental Services
2. Development Review Section of Portland Transportation
3. Water Bureau
4. Fire Bureau
5. Police Bureau
6. Site Development Section of the Bureau of Development Services
7. Urban Forestry Division of Portland Parks and Recreation

F. Letters (none received at time of staff report publication)

G. Other:
1. Original LU application form and receipt
2. Request for Completeness document, dated 8.1.19
3. Routing slip for supplemental TDM document, dated 8.8.19
4. Incomplete letter to applicant from staff, sent 8.23.19
5. Routing slip for completeness items, dated 9.17.19
6. Letter from planning staff to De Paul Center verifying Household Living use status, also included as Exhibit G.3 in LU 02-139275 AD

H. Hearings Officer Exhibits
1. Staff Report and Recommendation, dated 11.8.19

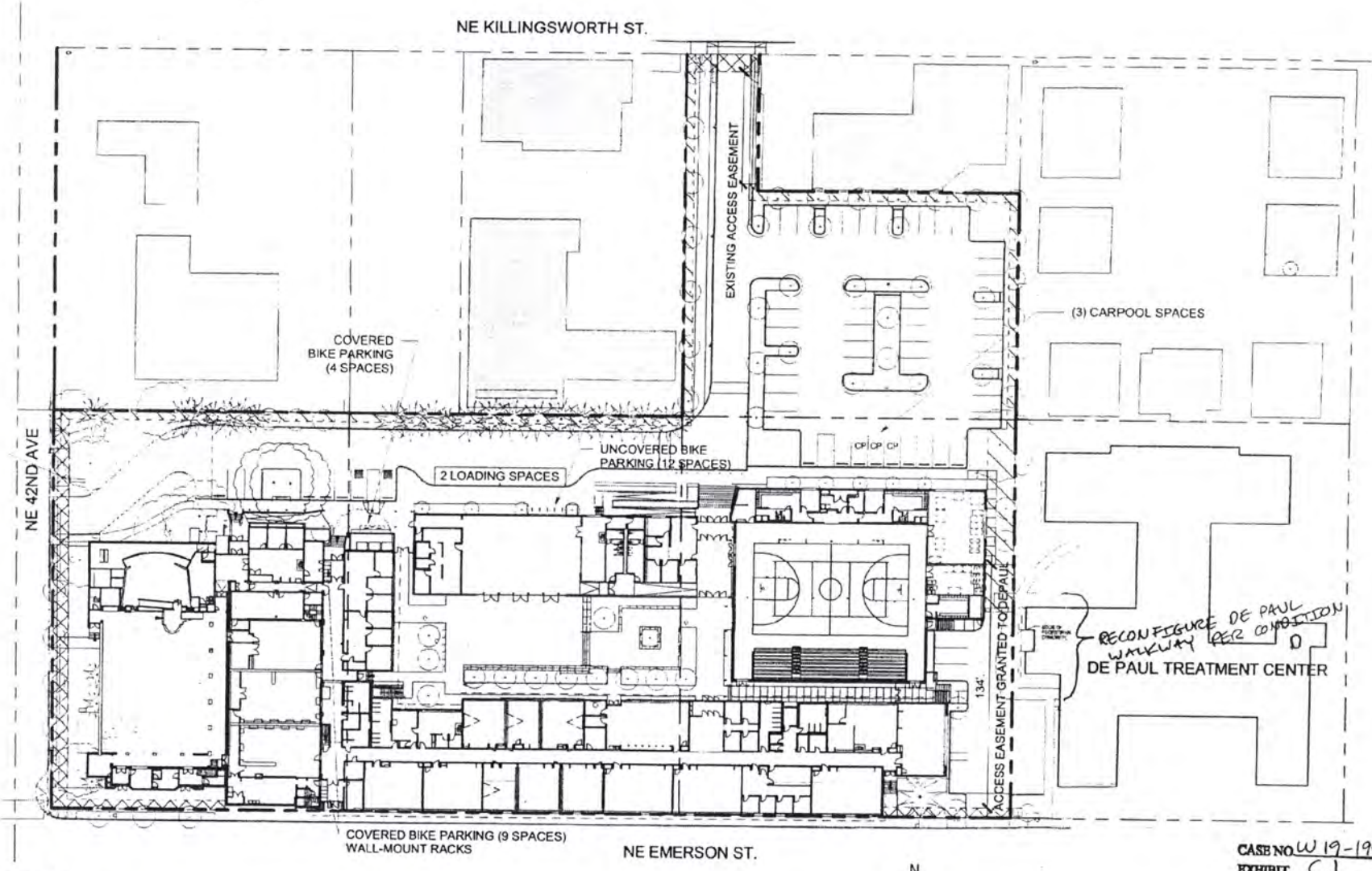
The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



ZONING ↑ NORTH

Site

File No.	LU 19-199693 CU AD
1/4 Section	2535
Scale	1 inch = 200 feet
State ID	1N2E19BB 4000
Exhibit	B Jul 30, 2019



BORA

De La Salle North Catholic High School

ARCHITECTURAL SITE PLAN **A.CU.1**

CASE NO W 19-199693 CU AD
EXHIBIT C.1

EXH. C.1
CU 19-199693 CU AD

CU 19-199613
CU AD
EXH. C.3

BORA

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De La Salle North Catholic High School

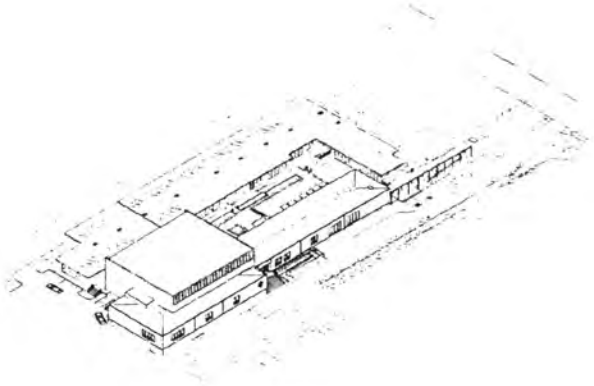
5210 NE 82ND AVENUE
PORTLAND, OR 97213

ARCHDIOCESE BUILDING COMMISSION

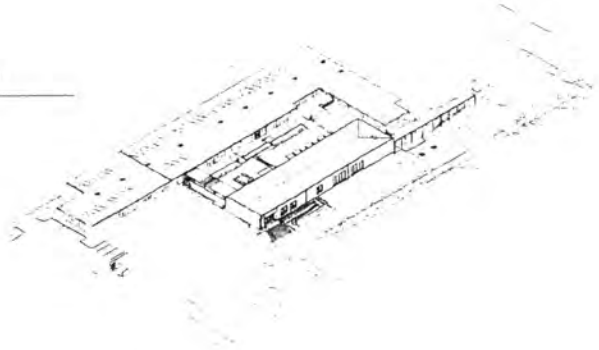
EXTERIOR ELEVATIONS

A202

LU 19-199693
CU AD
Exh. C.4



OPTION W/ GYM



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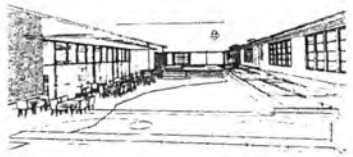

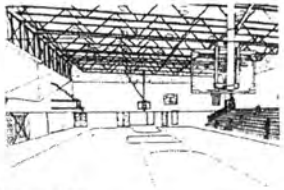

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ARCHDIOCESE BUILDING COMMISSION

3D REPRESENTATIONS

A901

EXH. C.5
CU AD
19-199613