



# CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

## Hearings Office

1900 SW 4<sup>th</sup> Avenue, Room 3100

Portland, OR 97201

phone: (503) 823-7307 - fax: (503) 823-4347

web: [www.portlandoregon.gov/auditor/hearings](http://www.portlandoregon.gov/auditor/hearings)



### DECISION OF THE HEARINGS OFFICER IN UNCONTESTED CASE

**File No.:** LU 11-142587 CU (4110026)

**Applicant:** School District No 1  
PO Box 3107  
Portland, OR 97208-3107

**Representative:** Justin Dollard  
PPS  
PO Box 3107  
Portland, OR 97208-3107

**Hearings Officer:** Gregory J. Frank

**Bureau of Development Services (BDS) Representative:** Sylvia Cate

**Site Address:** 2231 N Flint Avenue

**Legal Description:** BLOCK 36 TL 2900, ALBINA; BLOCK 36 TL 3000, ALBINA; BLOCK 36 TL 3100, ALBINA; BLOCK 36&41 TL 3200, ALBINA; BLOCK 37 TL 3600, ALBINA; BLOCK 41, ALBINA

**Tax Account No.:** R009612820, R009612870, R009612880, R009612890, R009612910, R009613550

**State ID No.:** 1N1E27DB 02900, 1N1E27DB 03000, 1N1E27DB 03100, 1N1E27DB 03200, 1N1E27DB 03600, 1N1E27DB 03300

**Quarter Section:** 2830

**Neighborhood:** Eliot

**Business Districts:** North-Northeast Business Association  
North Portland Business Association

**District Coalition:** Northeast Coalition of Neighborhoods

**Plan District:** None

**Zoning:** RHd, OS: High Density Multi-Dwelling Residential with Design Overlay and Open Space

**Land Use Review:** Type III, Conditional Use

**BDS Staff Recommendation to Hearings Officer:** Approval

**Public Hearing:** The hearing was opened at 1:30 p.m. on October 10, 2011, in the 3<sup>rd</sup> floor hearing room, 1900 SW 4<sup>th</sup> Avenue, Portland, Oregon and was closed at 1:46 p.m. The record was closed at that time.

**Testified at Hearing:**

Sylvia Cate, 1900 SW Fourth Avenue, Suite 5000, Portland, OR 97201

Bob Haley, 1900 SW Fourth Avenue, Suite 5000, Portland, OR 97201

Justin Dollard, 501 N. Dixon Street, Portland, OR 97227

**Proposal:**

Portland Public Schools requests a Conditional Use to add grades 9-12 to an existing school facility to create the Harriet Tubman Academy for Young Women at the former Tubman Middle School site. The school will have 34 classrooms with an anticipated enrollment of approximately 300 students. On-site parking for 37 will remain. No new development is proposed.

**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:

- 33.815.100, Conditional Use in Open Space
- 33.815.105, Conditional Use in Residential zones

**Hearings Officer Decision:**

Attached is a copy of the Bureau of Development Services Staff Report and Recommendation to the Hearings Officer ("The Staff Report") (Exhibit H.2). Also attached is a Transportation Management Plan ("TDM") (Exhibit H.4).

During the Hearing the BDS staff representative noted two errors contained in The Staff Report. Page 2 indicates an open space area adjacent to the public school is owned by the school district. This is in error as the open space is, in fact, owned by the City of Portland Parks and Recreation. Ownership of the open space is correctly stated at the bottom of page 3 of The Staff Report.

Pages 7 and 8 of The Staff Report indicate that the Portland Bureau of Transportation (PBOT) requested a condition of approval requiring the Applicant to submit a TDM. BDS Staff and a PBOT representative testified at the hearing that the Applicant had, at the time of the drafting of The Staff Report, submitted an acceptable TDM to the City. BDS staff recommended that findings (bottom of

**EXHIBITS**  
NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement:
  - 1. Project narrative, includes Traffic Impact Analysis and updated narrative
  - 2. Waiver of 120-day clock
- B. Zoning Map:
  - 1. Existing Zoning
- C. Plans & Drawings:
  - 1. Site Plan
- D. Notification information:
  - 1. Request for response
  - 2. Posting letter sent to applicant
  - 3. Notice to be posted
  - 4. Applicant's statement certifying posting
  - 5. Mailing list
  - 6. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Bureau of Transportation Engineering and Development Review
  - 3. Water Bureau
  - 4. Fire Bureau
  - 5. Police Bureau
  - 6. Site Development Review Section of Bureau of Development Services
  - 7. Bureau of Parks, Forestry Division
- F. Letters: [None received]
- G. Other:
  - 1. Original LUR Application
  - 2. Site History Research
  - 3. Pre Application conference Summary notes
  - 4. Incomplete letter to applicant: June 16, 2011
  - 5. Scenic Resource Information
- H. Received in the Hearings Office
  - 1. Notice of a Public Hearing – Sylvia Cate
  - 2. Staff Report – Sylvia Cate (**attached**)
  - 3. PowerPoint Presentation – Sylvia Cate
  - 4. Transportation Management Plan – Bob Haley (**attached**)

Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034  
For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

**Expiration of this approval.** An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun. Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

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

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

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

**Appeal of the decision.** ANY APPEAL OF THE HEARINGS OFFICER'S DECISION MUST BE FILED AT 1900 SW 4<sup>TH</sup> AVENUE, PORTLAND, OR 97201 (503-823-7526). Until 3:00 p.m., Tuesday through Friday, file the appeal at the Development Services Center on the first floor. Between 3:00 p.m. and 4:30 p.m., and on Mondays, the appeal must be submitted at the Reception Desk on the 5th Floor. **An appeal fee of \$3,974.50 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 must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- *Unless appealed,* The final decision may be recorded on or after the day following the last day to appeal. This date will be noted in the Hearings Officer's decision.
- A building or zoning permit will be issued only after the final decision is recorded.

The applicant, builder, or a representative may record the final decision as follows:

- **By Mail:** Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- **In Person:** Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County

page 7 and top of page 8), related to a condition of approval (Condition A) requiring the Applicant to submit a TDM, be omitted. BDS staff requested that Proposed Condition A found on page 11 of The Staff Report be deleted.

The Hearings Officer finds that the record contains no testimony or documents/letters in opposition to the application or The Staff Report. The Hearings Officer finds that it is appropriate to consider references in The Staff Report, related to the Applicant's ownership of the open space and the need for the Applicant to submit a new TDM, to be scrivener's errors. The Hearings Officer finds it reasonable and appropriate to adopt and incorporate into this decision the facts, findings, and conclusions of BDS in The Staff Report as modified by deleting findings referring to the Applicant owning the open space land and deleting reference to the Applicant's need to submit a new TDM. The Hearings Officer finds it reasonable and appropriate to delete Condition A as set forth in The Staff Report.

It is the decision of the Hearings Officer to adopt and incorporate into this decision the facts, findings, and conclusions of the Bureau of Development Services in their Staff Report and Recommendation to the Hearings Officer dated September 23, 2011, and to issue the following approval:

Approval of:

- Conditional Use to add grades 9-12 to the Harriet Tubman Academy for Young Women

**Basis for the Decision:** BDS Staff Report in LU-11-142587 CU (HO 4110026), Exhibit A.1 through H.4, as modified above.



\_\_\_\_\_  
Gregory J. Frank, Hearings Officer

10/11/11

\_\_\_\_\_  
Date

<b>Application Determined Complete:</b>	August 12, 2011
<b>Report to Hearings Officer:</b>	September 30, 2011
<b>Decision Mailed:</b>	October 12, 2011
<b>Last Date to Appeal:</b>	October 26, 2011
<b>Effective Date (if no appeal):</b>	October 27, 2011



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

**Land Use Services**

FROM CONCEPT TO CONSTRUCTION

Dan Saltzman, Commissioner  
 Paul L. Scarlett, 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**

**CASE FILE:** LU 11-142587 CU  
 PC #10-176048  
**REVIEW BY:** Hearings Officer  
**WHEN:** October 10, 2011 at 1:30 PM  
**WHERE:** 1900 SW Fourth Ave., Suite 3000  
 Portland, OR 97201

**RECEIVED**  
 SEP 30 2011  
**HEARINGS OFFICE**

**BUREAU OF DEVELOPMENT SERVICES STAFF: SYLVIA CATE / SYLVIA.CATE@PORTLANDOREGON.GOV**

**GENERAL INFORMATION**

**Applicant:** School District No 1, property owner  
 PO Box 3107  
 Portland, OR 97208-3107

**Representative:** Justin Dollard, Main Contact  
 PPS  
 501 N Dixon, Po Box 3107  
 Portland, OR 97208

**Site Address:** 2231 N FLINT AVE

**Legal Description:** BLOCK 36 TL 2900, ALBINA; BLOCK 36 TL 3000, ALBINA; BLOCK 36 TL 3100, ALBINA; BLOCK 36&41 TL 3200, ALBINA; BLOCK 37 TL 3600, ALBINA; BLOCK 41, ALBINA

**Tax Account No.:** R009612820, R009612870, R009612880, R009612890, R009612910, R009613550

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**Quarter Section:** 2830

**Neighborhood:** Eliot, contact Mike Warwick at 503-284-7010.

**Business Districts:** North-Northeast Business Assoc, contact Joice Taylor at 503-445-1321.  
 North Portland Business Assoc, contact Jim Schaller at 503-517-9915.

**District Coalition:** Northeast Coalition of Neighborhoods, contact Shoshana Cohen at 503-823-4575.

**Plan District:** None

**Zoning:** RHd, OS: High Density Multi-Dwelling Residential with Design Overlay and Open Space

**Case Type:** CU; Conditional Use

**Procedure:** Type III, with a public hearing before the Hearings Officer. The decision of the Hearings Officer can be appealed to City Council.

**Proposal:**

Portland Public Schools requests a Conditional Use to add grades 9-12 to an existing school facility to create the Harriet Tubman Academy for Young Women at the former Tubman Middle School site. The school will have 34 classrooms with an anticipated enrollment of approximately 300 students. On-site parking for 37 will remain. No new development is proposed.

**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:

- 33.815.100, Conditional Use in Open Space
- 33.815.105, Conditional Use in Residential zones

**ANALYSIS**

**Site and Vicinity:** The site is developed with the former Tubman Middle School, the only public all-girls school in the state. The original building was constructed in 1954, a northern addition added in 1986. To the north of this building cluster is a formal playing field, also owned by the school district, and zoned OS, Open Space. The school campus is bounded on the southwest/west by I-5 Interstate Hwy, to the north by a city owned park and to the east by Flint Avenue. Due east, across Flint Ave is the western boundary of the Albina Community Plan District. The near vicinity includes lands zoned IG1 to the west of I-5, which creates a strong diagonal west and south border to the site. The main school building parcel is zoned RHd as are properties directly east of the school site, across N Flint. The north east area of the OS zoned playing field abuts parcels zoned CS, Storefront Commercial. Directly north is the southern boundary of the Emanuel Hospital Campus, zoned IRd.

**Zoning:** The site is split zoned with RHd, OS: High Density Multi-Dwelling Residential with Design Overlay and Open Space.

The RH zone is a high density multi-dwelling zone. Density is not regulated by a maximum number of units per acre. Rather, the maximum size of buildings and intensity of use is regulated by floor area ratio (FAR) limits and other site development standards. Generally the density will range from 80 to 125 units per acre. Allowed housing is characterized by medium to high height and a relatively high percentage of building coverage. The major types of new housing development will be low, medium, and high-rise apartments and condominiums. Generally, RH zones will be well served by transit facilities or be near areas with supportive commercial services.

The Design Overlay Zone promotes the conservation, enhancement, and continued vitality of areas of the City with special scenic, architectural, or cultural value. The Design Overlay Zone also promotes quality high-density development adjacent to transit facilities.

The OS, Open Space zone is intended to preserve and enhance public and private open, natural, and improved park and recreational areas identified in the Comprehensive Plan. These areas serve many functions including: providing opportunities for outdoor recreation and contrasts to the built environment; preserving scenic qualities; protecting sensitive or fragile environmental areas; enhancing and protecting the values and functions of trees and the urban forest; preserving the capacity and water quality of the stormwater drainage system; and providing pedestrian and bicycle transportation connections.

**Land Use History:** City records indicate no prior land use reviews associated with this site.



**Agency Review:** A "Request for Response" was mailed **August 16, 2011**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services
- Water Bureau
- Fire Bureau
- Police Bureau
- Site Development Section of BDS

The Bureau of Transportation Engineering responded with the comments which are included, below under the relevant criteria.

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on September 16, 2011. 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 for Conditional Uses**

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.

#### **33.815.100 Uses in the Open Space Zone**

These approval criteria apply to all conditional uses in the OS zone except those specifically listed in other sections below. The approval criteria allow for a range of uses and development that are not contrary to the purpose of the Open Space zone. The approval criteria are:

##### **A. Character and impacts.**

1. The proposed use is consistent with the intended character of the specific OS zoned area and with the purpose of the OS zone;

**Findings:** The purpose of the OS zone is found at 33.100.010, which states:

**33.100.010 Purpose.** *The Open Space zone is intended to preserve and enhance public and private open, natural, and improved park and recreational areas identified in the Comprehensive Plan. These areas serve many functions including:*

- *Providing opportunities for outdoor recreation;*
- *Providing contrasts to the built environment;*
- *Preserving scenic qualities;*
- *Protecting sensitive or fragile environmental areas; and*
- *Preserving the capacity and water quality of the stormwater drainage system.*

In this instance, the OS zoned land is a formal playing field adjacent to the Harriet Tubman Academy for Young Women, owned by the City as the Lillis Albina Park. The

proposal is to add grades 9 -12 to the existing program, with an anticipated maximum enrollment of 300 students. The OS zoned parcel will continue to provide an important amenity to the community as well as the Academy. The expanded grades will provide a full age range of young women attending a school with such an adjacent amenity, but with no changes will occur at the Park in conjunction with the increase in enrollment. This criterion is met.

2. Adequate open space is being maintained so that the purpose of the OS zone in that area and the open or natural character of the area is retained; and

**Findings:** No changes to the open space zoned playing field are proposed. The request is to add additional school grades and increase enrollment. The park area in open space uses will be retained, with no decrease in area. This criterion is met.

3. City-designated environmental resources, such as views, landmarks, or habitat areas, are protected or enhanced.

**Findings:** There is a designated Scenic Viewpoint, VC 17-04, designated by City Ordinance No. 163957 in 1991. The origin point of VC 17-04 is located in Lillis Albina Park, adjacent to the Tubman School site. No new development is proposed, so there will be no impacts to the view corridor, which projects over property owned by the City of Portland and the State of Oregon. A 50 feet height limit within this view corridor protects a significant view of the Broadway Bridge, Willamette River, Downtown and the West Hills. Therefore, the view corridor remains protected. This criterion is met.

#### **B. Public services.**

1. The proposed use is in conformance with the street designations of the Transportation Element of the Comprehensive Plan;
2. The transportation system is capable of supporting the proposed use in addition to the existing uses in the area. Evaluation factors include street capacity, level of service, and other performance measures; access to arterials; connectivity; transit availability; on-street parking impacts; access restrictions; neighborhood impacts; impacts on pedestrian, bicycle, and transit circulation; safety for all modes; and adequate transportation demand management strategies;

**Findings:** Portland Transportation/Development Review has reviewed the application for its potential impacts regarding the public right-of-way, traffic impacts and conformance with adopted policies, street designations, Title 33, Title 17, and for potential impacts upon transportation services. PBOT has also evaluated a Transportation Impact Study submitted by Lancaster Engineering. Exhibit A-1 includes this TIS information. Portland Transportation notes the following in their response [Exhibit E-2 contains additional details beyond these findings]:

- Harriet Tubman Leadership Academy is proposing to expand its curricula to include grades 6 through 12. Currently, the school enrolls 186 students, although enrollment is expected to increase to about 235 students next year and could reach a maximum of 300 students in the future. No new access is proposed with the expansion.
- At maximum enrollment, the site is expected to generate an increase of 51 morning peak hour trips, 35 afternoon peak hour trips, and 194 weekday trips over existing conditions.

- Pick ups and drop offs are typically made along the school frontage in the 15-minute restricted parking areas. Observations of the morning and afternoon periods showed that traffic and parking remain uncongested during these periods. No mitigation is recommended.
- Crash rates are low and would be considered adequate in most jurisdictions, No mitigations for safety are recommended.
- There are sidewalks in place on both sides of N Flint Avenue. In addition, there are marked crosswalks on N Flint Avenue, N Vancouver Avenue and N Williams Avenue, so there is a safe pedestrian path to and from the bus stops. The facilities are adequate for pedestrian and no mitigation is recommended.
- There is a striped southbound bike lane on N Vancouver Avenue and a striped northbound bike lane on N Williams Avenue. There are no striped bike lanes on N Flint Avenue. The street has a posted 20-mph school zone in effect from 7:00 a.m. to 5:00 p.m. and is 25 mph outside of these times. Traffic speeds are low and bicyclists can safely share the travel lane with traffic. The existing facilities are adequate for bicycles and no mitigation is recommended.
- Transit service is readily available in the site vicinity on N Vancouver Avenue and N Williams Avenue. Many students utilize public transit and free bus passes are provided to the high-school age students. Providing students with bus passes reduces the number of vehicular trips to and from the school. Transit service is adequate and no mitigation is recommended.
- The study intersections of N Flint Avenue at N Russell Street and N Broadway Street at N Flint Avenue are functioning well within the City of Portland's operational standards and will continue to function adequately with the projected increase in student enrollment. No mitigation is recommended.

While on-street parking on N Flint Avenue is heavily used during the afternoon, the parking areas are underutilized. The restricted-parking segments of N Flint Avenue and the school parking lots have additional capacity that could accommodate an increase in the number of students attending the school. In addition, on-street parking is typically limited to a short period of time as parents drop off or pick up the students from the school.

No new access is proposed to the site. Access to the main parking area opposite the school is on the east side of N Flint Avenue between N Page Street and N Tillamook Street. There is additional parking within the campus, which can be accessed via a driveway on the west side of N Flint Avenue just south of the school building. This driveway continues behind the school and joins with the parking area for the park, accessed via N Commercial Avenue.

In order to verify the adequacy of the system, the intersections of N Flint Avenue at N Russell Street and N Flint Avenue at N Broadway Street were studied in the report submitted from Lancaster Engineering dated May 18, 2011.

N Flint Avenue is classified by the City as a Local Service Traffic Street. It is further classified as a Bikeway and is within the Eliot Pedestrian District. It is a two-lane

facility with curbs and sidewalks on both sides, but no striped bike lanes. There is on-street parking along the northern park frontage and south of the school, but on-street parking is restricted along the school frontage and southern park frontage to 15-minute parking. There is a no-parking zone in a short segment between the school and park. The posted speed is 25 mph with a 20-mph school zone posted along the school frontage.

N Russell Street is classified by the City as a Neighborhood Collector in the vicinity of the site. It is further classified by the City as a Major Transit Priority Street, a City Walkway, a City Bikeway, and a Truck Access Street. It also lies within the Eliot Pedestrian District. It is generally a two-lane facility, widening to three lanes at most intersections. There are curbs, sidewalks, and bike lanes on both sides of the roadway in the vicinity of the site. The statutory speed is 25 mph.

N Broadway Street is classified by the City as a Major City Traffic Street, a Major Transit Priority Street, a City Walkway, a City Bikeway, and a Truck Access Street. It is part of an east-west couplet with N Weidler Street and carries the westbound traffic. It is a three-lane facility in the vicinity of the site with curbs, sidewalks, and bike lanes on the north side of the roadway. The leftmost lane is a light rail line, although the transit service is not operational yet.

The intersection of N Flint Avenue and N Russell Street is a standard three-legged configuration with a STOP sign on the northbound approach to control traffic. The westbound approach has a left-turn lane and through lane. The northbound and eastbound approaches are single-lane.

The intersection of N Flint Avenue and N Broadway Street is a three-legged configuration and is stop-controlled on the southbound approach. The southbound approach is right-turn only and there are two through lanes and a shared through/right-turn lane on the westbound approach.

There is transit service near the site. Tri-Met Route 4, *Division/Fessenden*, and Route 44, *Capitol Highway/Mocks Crest*, have stops on N Vancouver Avenue and N Weidler Avenue near N Page Street. Weekday and Saturday service is from about 5:30 a.m. to about 1:30 a.m. with buses travelling at 15-minute headways during the peak periods and about every 20 minutes during the non-peak periods.

Manual turning movement counts were made at the study intersections during May 2011 from 7:00 to 9:00 a.m. and from 3:00 to 6:00 p.m. The peak hours typically occur from about 7:30 to 8:30 a.m. and from 4:15 to 5:15 p.m. The afternoon school peak is from 3:00 to 4:00 p.m.

Portland Public Schools works with Tri-Met to provide free bus passes to students in grades 9 through 12. Additionally, those students in grades 6 through 8 who live in the Jefferson cluster and more than one and a half miles from the school are eligible for free bus passes. These passes are heavily used by the students at Harriet Tubman Leadership Academy. Both of these measures reduce the number of vehicular trips generated by the school.

There was no school-related parking noted in the streets beyond N Flint Avenue. Neighborhood impacts from the school are minimal. Since the parking areas for the school are currently underutilized, it is expected that on-street parking will not extend beyond N Flint Avenue even with an increase in the number of students.

The intersections in the site vicinity operate well within capacity and will continue to operate acceptably with the addition of the maximum number of students that may be enrolled in the future. No significant neighborhood impacts are projected and no mitigation is recommended.

### Conclusions

Parents drop off and pick up students along the school frontage on N Flint Avenue and typically in the 15-minute restricted parking sections. Observations made during the morning and afternoon peak periods did not reveal any congestion or other traffic issues resulting from the drop-offs or pick-ups.

There are sidewalks in place on both sides of N Flint Avenue. In addition, there are marked crosswalks on N Flint Avenue, N Vancouver Avenue and N Williams Avenue, so there is a safe pedestrian path to and from the bus stops.

There is a striped southbound bike lane on N Vancouver Avenue and a striped northbound bike lane on N Williams Avenue. There are no striped bike lanes on N Flint Avenue. The street has a posted 20-mph school zone in effect from 7:00 a.m. to 5:00 p.m. and is 25 mph outside of these times. Traffic speeds are low and bicyclists can safely share the travel lane with other traffic.

The reported crash rates are low and are not indicative of any specific safety concerns. There were a number of crashes involving bicycles shown in the data, but this was reflective of the amount of bicycle traffic on N Flint Avenue and not indicative of any safety issues on the roadway. Crash severity was also low and reflective of the low travel speeds on N Flint Avenue.

There is transit service on N Vancouver Avenue and N Williams Avenue. Many of the students utilize public transit and free bus passes are provided to eligible middle-school age students and all high-school age students.

The study intersections of N Flint Avenue at N Russell Street and N Broadway Street at N Flint Avenue are functioning well within the City of Portland's level of service requirements and will continue to operate acceptably with the projected increase in enrollment.

While on-street parking on N Flint Avenue is heavily used during the afternoon, the parking areas are underutilized. The restricted-parking segments of N Flint Avenue and the school parking lots have additional capacity that could accommodate an increase in the number of students attending the school. In addition, on-street parking is typically limited to a short period of time as parents drop off or pick up the students from the school.

There was no school-related parking noted in the streets beyond N Flint Avenue. Neighborhood impacts from the school are minimal. Since the parking areas for the school are currently underutilized, it is expected that on-street parking will not extend beyond N Flint Avenue even with an increase in the number of students.

Based on the detailed analysis of the evaluation factors described in City of Portland Code section 33.815.105.D.1-2, the transportation system is capable of supporting the proposed use in addition to the existing uses in the area.

Based on the TIS information, Portland Bureau of Transportation notes no objection to approval subject to the following condition:

- Harriet Tubman Leadership Academy shall submit a separate TDM document to PBOT within 30 days of recording this land use decision. The TDM document shall have the same format as recent Portland Public School TDM plans submitted to PBOT.

With this condition, this criterion is met.

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

**Findings:** Responses from all review agencies note no concerns. Services are adequate to serve the proposed increase in enrollment through the addition of grades 9-12. The Water Bureau has responded that there are 3 existing metered services which provide water to this location. Two listed services are provided water from the existing 8" CI water main in N Page St, the third is provided from the existing from the existing 8" CI water main in N Flint Ave. The estimated static water pressure range for this location is 54 psi to 67 psi at the existing service elevation of 145 ft. The Police Bureau has responded with no concerns. The Bureau of Environmental Services has responded with no concerns. The Fire Bureau notes no concerns. This criterion is met.

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

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

**Findings:** The school use is an existing use established circa 1954. No new development is proposed. There are no anticipated impacts related to the additional grades and increase enrollment of the student body to 300. The operation and hours of the school will essentially remain unchanged, predominantly on weekdays from 8:00 AM until 4:00 PM. There are no anticipated late night operations nor any increase in odors related to the additional students. The school regularly maintains the school grounds, including litter patrol. Access to each school building is restricted and student use and activity monitored for safety concerns. For these reasons, the criterion is met.

- D. 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 located within the Eliot Neighborhood, which has a Neighborhood Plan, adopted by City Council in July 1993. The relevant policy in the *Eliot Neighborhood Plan* is Policy C, Community Services and Institutions. The applicant notes on page 28 of Exhibit A-1, project narrative, that this policy includes objectives for promoting high standards for the area's schools with an emphasis on excellence and reduction to zero percent school dropout rate among the neighborhood's students [Objective e]. The Harriet Tubman Leadership Academy for Young Women is a college preparatory school with a focus on preparing young women for careers in math, science and leadership. The school's programming is designed to encourage high achievement and foster the expectation of graduation from high school and continuation to higher education. Staff concurs with this analysis, and therefore this criterion is met.

**33.815.010 Purpose for Conditional Uses**

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

**33.815.105 Institutional and Other Uses in R Zones**

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

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

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

**Findings:** The school use has been on the site since circa 1954. It is located in close proximity to the Emanuel Hospital Campus. Lands to the west of the school are zoned EXd [Interstate 5 hwy] and IG1, Industrial. The residential area is directly east of the school campus, across N Flint Avenue. There will be no change to the number, physical size or changes to existing locations of the two uses [School, Medical Center] and thus no change in the overall residential appearance of the RHd zoned lands to the east of the school campus. This criterion is met.

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

**Findings:** The proposal is to add grades 9-12 to the existing school operations, with an enrollment of 300. The School District notes in the application that the 300 student level of enrollment is 55% of the maximum enrollment at the school during the past 10 years. Although the additional grades do increase the intensity of the school use, the resultant increase in enrollment is well below the historic maximums of the school when operating as the Tubman Middle School. No new development is proposed. Therefore the proposed additional grades will have no adverse impact on either the appearance or the function of the residential area zoned RHd directly east of the school site. This criterion is met.

**B. Physical compatibility.**

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

**Findings:** As discussed earlier in this Report and Recommendation, there is a designated Scenic Viewpoint on the City owned park adjacent to the Tubman School site. No new development is proposed, therefore this scenic resource will not be

impacted by the proposed additional grades to the existing school operations. For these reasons, this criterion is met.

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

**Findings:** No new development is proposed and no changes to the exterior façade of the existing buildings are proposed. The overall size of the school site will not change. These two factors result in no anticipated changes to the current level of compatible conditions of a school site which was established circa 1954 and the adjacent residential uses to the east. This criterion is not applicable.

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

**Findings:** Because no new development is proposed, there will be no changes to existing appearance or scale of the school campus, and therefore no mitigation is necessary. This criterion is not applicable.

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

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

**Findings:** The school use is an existing use established circa 1954. No new development is proposed. There are no anticipated impacts related to the additional grades and increased enrollment of the student body to 300. The operation and hours of the school will essentially remain unchanged, predominantly on weekdays from 8:00 AM until 4:00 PM. There are no anticipated late night operations nor any increase in odors related to the additional students. The school regularly maintains the school grounds, including litter patrol. Access to each school building is restricted and student use and activity monitored for safety concerns. For these reasons, the criterion is met.

**D. Public services.**

1. The proposed use is in conformance with the street designations of the Transportation Element of the Comprehensive Plan;
2. The transportation system is capable of supporting the proposed use in addition to the existing uses in the area. Evaluation factors include street capacity, level of service, and other performance measures; access to arterials; connectivity; transit availability; on-street parking impacts; access restrictions; neighborhood impacts; impacts on pedestrian, bicycle, and transit circulation; safety for all modes; and adequate transportation demand management strategies;

**Findings:** Findings regarding the transportation system can be found above in this Report. Rather than repeat those findings, staff refers the Hearings Officer to the findings under 33.815.100.B 1&2. To the extent that criterion is met, this criterion is also met.



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

**Findings:** Findings regarding the adequacy of public services can be found above in this Report. Rather than repeat those findings, staff refers the Hearings Officer to the findings under 33.815.100.B 3. To the extent that criterion is met, this criterion is also 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:** Findings regarding the applicable adopted Eliot Neighborhood Plan can be found above in this Report. Rather than repeat those findings, staff refers the Hearings Officer to the findings under 33.815.100.D. To the extent that criterion is met, this criterion is also met.

#### **Development Standards**

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

#### **CONCLUSIONS**

The applicant, Portland Public Schools, proposes to add grades 9-12 to the existing school operations at the Harriet Tubman Academy for Young Women. The school will operate with grades 6-12 with an approval of this request. No new development is proposed. The request meets all of the applicable approval criteria and therefore 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:

- Conditional Use to add grades 9-12 to the Harriet Tubman Academy for Young Women, subject to the following conditions:
  - A. Harriet Tubman Leadership Academy shall submit a separate TDM document to PBOT within 30 days of recording this land use decision. The TDM document shall have the same format as recent Portland Public School TDM plans submitted to PBOT.

**Procedural Information.** The application for this land use review was submitted on May 24, 2011, and was determined to be complete on Aug 12, 2011.

*Zoning Code Section 33.700.080* states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on May 24, 2011.

*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 waived, signed December 10, 2011. Unless further extended by the applicant, **the 120 days will expire on: August 12, 2012.**

**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](http://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 \$3,974.50 will be charged (one-half of the BDS 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 must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- *Unless appealed*, The final decision may be recorded on or after the day following the last day to appeal. This date will be noted in the Hearings Officer's decision.
- A building or zoning permit will be issued only after the final decision is recorded.

The applicant, builder, or a representative may record the final decision as follows:

- **By Mail:** Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- **In Person:** Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034  
For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

**Expiration of this approval.** An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun. Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

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

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

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

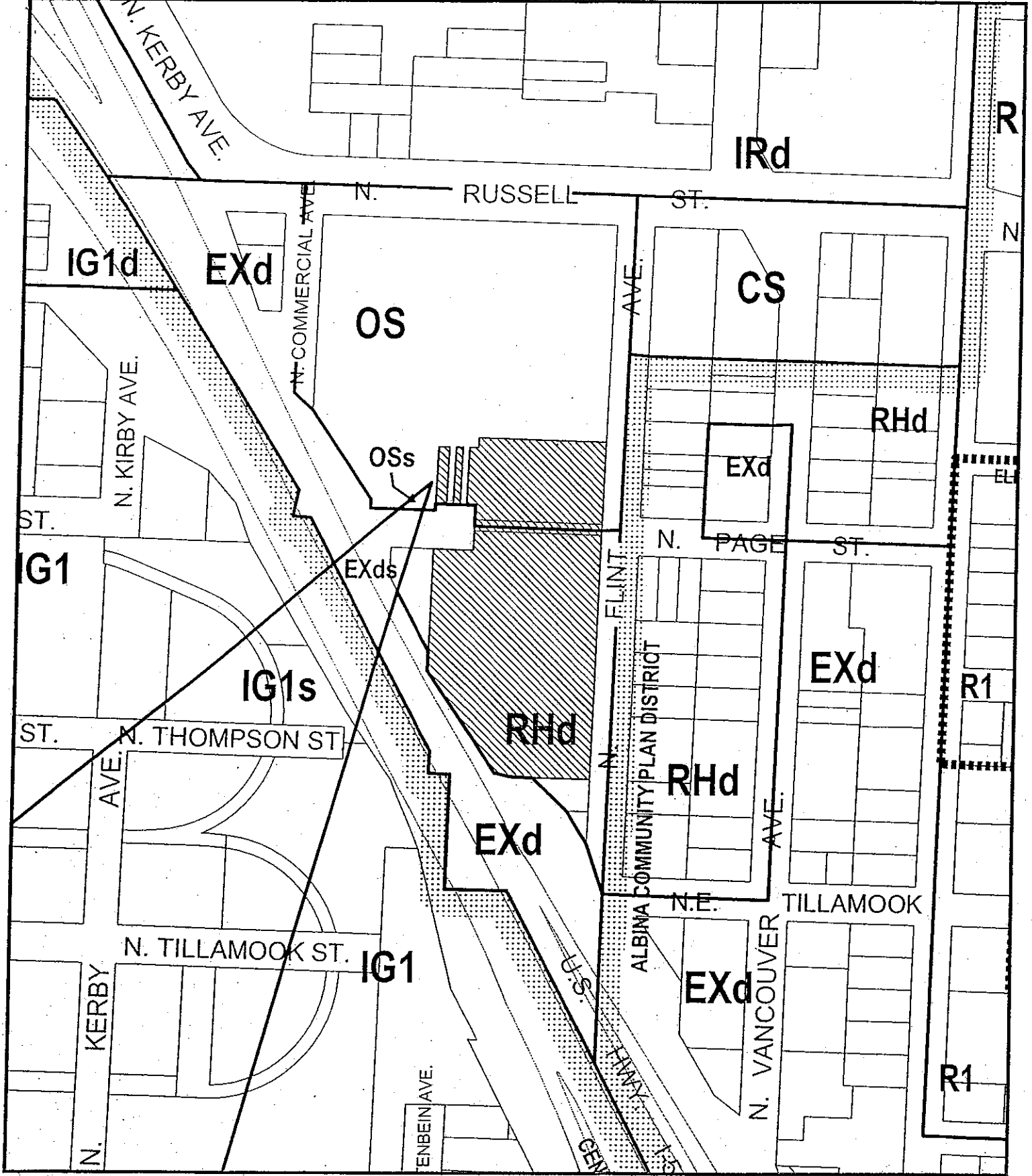
Planner's Name: Sylvia Cate

Date: September 23, 2011

**EXHIBITS**  
NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement:
  - 1. Project narrative, includes Traffic Impact Analysis and updated narrative
  - 2. Waiver of 120-day clock
- B. Zoning Map (attached):
  - 1. Existing Zoning
- C. Plans & Drawings:
  - 1. Site Plan (attached)
- D. Notification information:
  - 1. Request for response
  - 2. Posting letter sent to applicant
  - 3. Notice to be posted
  - 4. Applicant's statement certifying posting
  - 5. Mailing list
  - 6. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Bureau of Transportation Engineering and Development Review
  - 3. Water Bureau
  - 4. Fire Bureau
  - 5. Police Bureau
  - 6. Site Development Review Section of Bureau of Development Services
  - 7. Bureau of Parks, Forestry Division
- F. Letters: [None received]
- G. Other:
  - 1. Original LUR Application
  - 2. Site History Research
  - 3. Pre Application conference Summary notes
  - 4. Incomplete letter to applicant: June 16, 2011
  - 5. Scenic Resource Information

**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

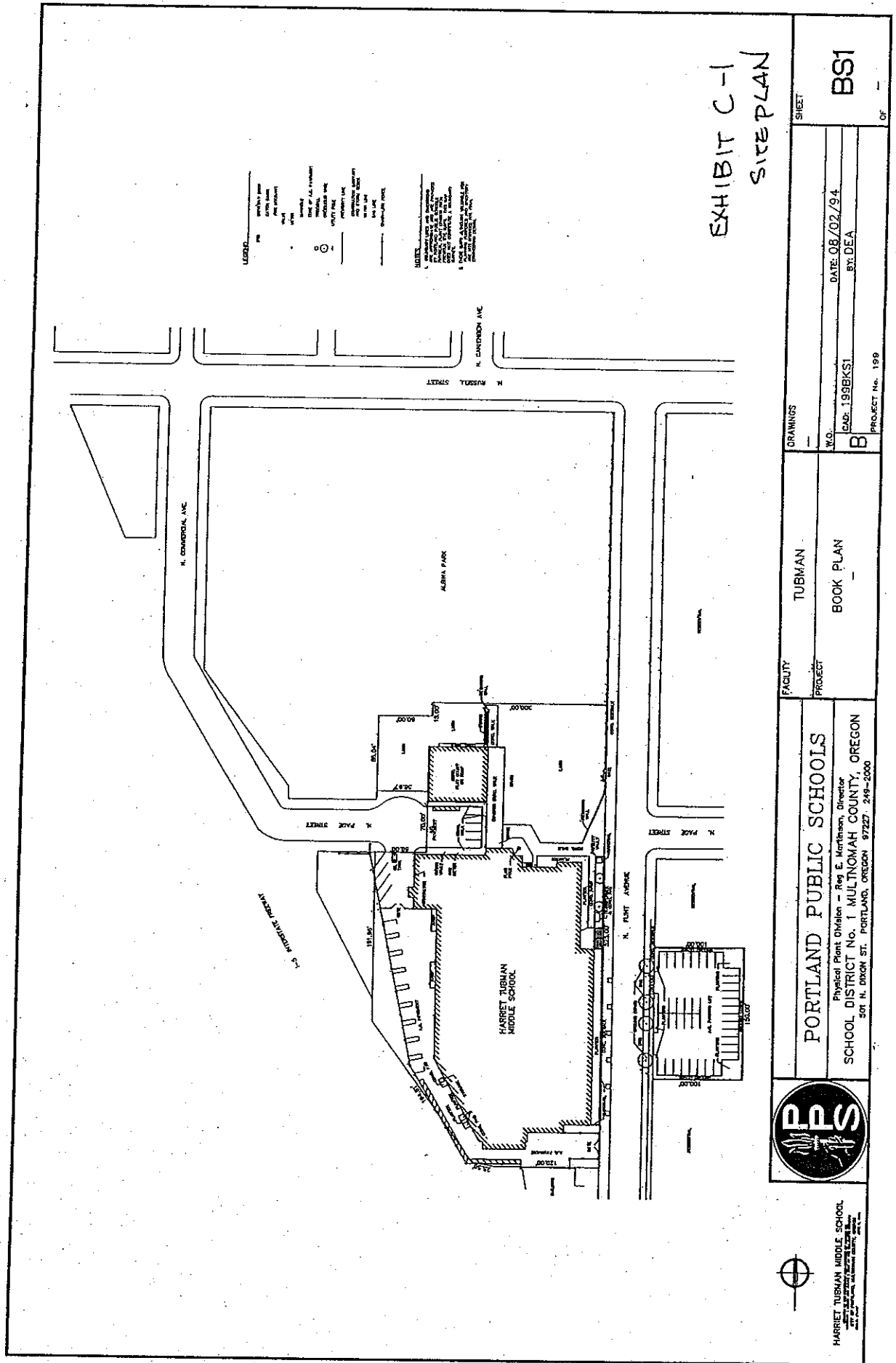


Site



NORTH

File No. LU 11-142587 CU  
 1/4 Section 2830  
 Scale 1 inch = 200 feet  
 State Id 1N1E27DB 3600  
 Exhibit B (May 27, 2011)




**LEGEND**

- - - - - Proposed  
 - - - - - Existing  
 - - - - - Easement  
 - - - - - Right of Way  
 - - - - - Utility Line  
 - - - - - Property Line  
 - - - - - Other  
 - - - - - Other

**NOTES**

1. ALL DIMENSIONS ARE IN FEET AND INCHES.  
 2. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.  
 3. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.  
 4. ALL DIMENSIONS ARE TO EXTERIOR UNLESS OTHERWISE NOTED.  
 5. ALL DIMENSIONS ARE TO INTERIOR UNLESS OTHERWISE NOTED.  
 6. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.  
 7. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.  
 8. ALL DIMENSIONS ARE TO EXTERIOR UNLESS OTHERWISE NOTED.  
 9. ALL DIMENSIONS ARE TO INTERIOR UNLESS OTHERWISE NOTED.

EXHIBIT C-1  
SITE PLAN

	<b>PORTLAND PUBLIC SCHOOLS</b> Physical Plant Division - Ray E. Mortenson, Director SCHOOL DISTRICT NO. 1 MULTNOMAH COUNTY, OREGON 501 N. BIRCH ST. PORTLAND, OREGON 97227 249-2000		FACILITY TUBMAN	DRAININGS -	SHEET <b>BS1</b>
	PROJECT <b>BOOK PLAN</b>		W.C. CAD: 199BK31	DATE: 08/02/94 BY: DEA	PROJECT No. 199

111-142587CU