



City of Portland Bureau of
Planning and Sustainability
 Sam Adams, Mayor | Susan Anderson, Director

DATE: November 5, 2009

TO: Planning Commission

FROM: Deborah Stein, District Planning Manager
 Julia Gisler, City Planner II

FOR COMMISSION STAFF USE ONLY

Reviewed by _____

PLANNING COMMISSION ITEM TITLE: *Schools and Parks Code Refinement Project* (Continued
 Hearing/Work Session/Recommendation)

PLANNING COMMISSION DATES:

BRIEFING: July 28, 2009

HEARING: September 22, 2009

WORK SESSION: November 10, 2009

DECISION: November 10, 2009 - recommendations on proposed school-related code amendments (if possible). An additional public hearing is currently scheduled for January 12, 2010 on proposed code amendments to recreational field regulations.

BPS CONTACT NAMES & NUMBERS: Deborah Stein, 503.823.6991; Julia Gisler, 503.823.7624

PARKS CONTACT NAMES & NUMBERS: Lisa Turpel, 503.823.6972; Brett Horner, 503.823.1674

On November 10, 2009, the Planning Commission will continue its review of the Schools and Parks Code Refinement Project. Materials that have been distributed at previous Planning Commission meetings are listed below. Joan Hamilton has also prepared summary minutes of both the briefing (July 28th) and the public hearing (September 22nd).

PREVIOUS MEETINGS & PROJECT MATERIALS

July 28th briefing:

- Public Review Report, April 28, 2009
- Planning Commission Issues Memo, July 23, 2009

September 22nd public hearing:

- Report to the Planning Commission, August 19, 2009
- Planning Commission Issues Memo, September 10, 2009
- Proposed Concepts for Recreational Field Use Regulations, Memo from Brett Horner, Strategy & Planning Manager, PP&R, September 10, 2009

November 10th continued hearing/work session:

Staff Memo, November 5, 2008, includes responses to questions and comments raised by Planning Commissioners at the September 22nd hearing. This memo also includes a matrix of code violation complaints for reference.

RESPONSES TO PLANNING COMMISSIONERS' QUESTIONS/CONCERNS

1. Addressing larger schools issues. Planning Commissioners asked how, and in what forum, the larger school issues that have been raised during this public process will be addressed. (Examples include but are not limited to equity issues and socio-economic implications of programmatic and facilities decisions made by school districts.)

Significant issues regarding equitable access for all Portlanders to quality educational opportunities have been raised by community members during this process. In brief, staff proposes to pursue a three-pronged approach to address these important challenges:

- **Through the zoning code:** issues directly related to measurable, physical impacts such as traffic, noise, and air quality are appropriately addressed through the zoning code.
- **Through intergovernmental agreements:** there are a number of issues that could be addressed through agreements between school districts and City government. Agreements could specify ways in which mutual consultation and problem resolution occur during consideration of any school decisions related to expansion, reconfiguration, closure or other significant facility changes, or any programmatic changes that have implications on community equity and prosperity. These agreements could ensure reciprocal consultation and problem resolution for any City decisions that may significantly affect or influence schools.
- **Through policy changes** to be considered in the Portland Plan and/or the comprehensive plan update: Policies could, for example, promote schools as multi-functional community hubs, provide direction regarding reuse of vacant schools, and direct City resources towards strategies to increase graduation rates. Establishing new policy direction will require significant public discussion in the years ahead.

Deborah Stein will briefly describe how school-related issues will be addressed in the Portland Plan and can answer questions.

2. Questions regarding past Portland Public Schools decisions. Planning Commissioners requested that a representative from Portland Public Schools be invited to answer questions regarding past decisions on school closures and reconfigurations.

A representative from Portland Public Schools has been invited to address these issues.

3. General information about the conditional use process. Planning Commissioners requested that Bureau of Development Services staff be invited to provide more information on how the conditional use process works, how planners apply the approval criteria, and what are some of the most common threshold triggers for schools and parks.

Susan McKinney, Bureau Development Services, will present this information.

4. Portable classrooms (modular additions). Questions were raised about whether the addition of portables would trigger a conditional use review under the proposed code amendment.

A conditional use review is currently triggered when a school adds 1,500 sq. ft. or more of building area—this includes square footage of any 'portables'. Portables that equal or exceed 1,500 sq. ft. would continue to trigger a conditional use review under the proposed code amendment. Last year Portland Public Schools went through the following land use reviews to add portables:

- *Type II CU review for modular building installation at **Laurelhurst**. (This allowed Laurelhurst to add 8th graders and complete the K-8 conversion.)*

- *Type II CU review for modular building installation at **Rigler**. (This allowed Rigler to add 8th graders and complete the K-8 conversion. This also allowed Madison High School to return to its 9-12 configuration.)*
- *Type II CU review for modular building installation at **Scott**. (This allowed Scott to add 8th graders and complete the K-8 conversion. This also allowed Madison High School to return to its 9-12 configuration.)*

If needed, Susan McKinney can further address this issue.

5. Status of the code violation complaints. Clarification was requested about how many schools have code violation complaints filed against them.

BDS currently has code violation complaints on file for nine schools, the resolution of which is pending the outcome of this project. See attached matrix for details about these code violation cases.

Once this project is completed, BDS will resume processing the relevant cases as authorized under the updated Zoning Code. Concerns have been raised by citizens at both the briefing and the public hearing regarding the legality of a 'moving goal post'. Eric Engstrom has been working with the City's legal counsel on this issue. The City Attorney asserts that it is within the authority of the Bureau of Development Services Director to resolve the pending code complaints based on a revised Zoning Code.

Mike Liefeld, Code Compliance Services, Bureau of Development Services, and Susan McKinney, also of Bureau of Development Services, will be available for questions.

6. Transportation issues addressed through conditional use process. Transportation issues, such as on-street parking, student drop-off and pick-up, and neighborhood traffic are often the most significant impacts schools have on the surrounding neighborhood.

Kurt Krueger, Bureau of Transportation, will be available to answer any questions about how PBOT works with schools and neighborhoods as part of the conditional use process to resolve transportation issues.

7. Magnet schools. Because of the traffic impacts that may occur when a school draws students from outside of the neighborhood, the Planning Commission asked staff to look into the possibility of requiring magnet schools to undergo a conditional use review.

Planning and Sustainability staff, working with the Bureau of Development Services (BDS) and Bureau of Transportation (PBOT), discussed this idea and considered the following information and issues.

- *The Schools and Parks Conditional Use Code Refinement project addresses the difficulties of zoning code regulations that are not tied to building or land use reviews. BDS supports removing what they call "invisible changes" from the list of items that trigger a conditional use. "Invisible changes" are items with no effective mechanism for tracking and enforcing them, such as enrollment changes, grade changes, and programmatic changes. (Note that such changes may have significant implications on community health and vitality. Policies and intergovernmental agreements would be more appropriate avenues to address these implications rather than the zoning code.)*
- *Current regulations allow most program changes without a land use review. This proposal would add a new layer of regulations. In order to develop regulations many policy/implementation questions would have to be answered such as: what portion of a school building would have to be involved in a magnet program in order to trigger a CU? And, should it be a percentage of floor area, a percentage of the site, or an absolute number of students or square feet? Significant input and coordination with school districts, private schools, and community members would need to occur for the details of this type of regulation to be worked out.*
- *There are issues with PBOT's current role in the conditional use process. It is difficult for PBOT to enforce the transportation requirements of a conditional use approval, such as neighborhood parking, student drop-off/pick-up, and traffic circulation. PBOT would like to see individual schools take a more*

proactive role in managing transportation operations around their school – regardless of whether they have a conditional use or not. Individual schools may be more appropriate points of contact for enforcement issues for the community than PBOT.

Staff Recommendation: *In consultation with BDS and PBOT, staff recommends that we not pursue special conditional use regulations for magnet schools as part of this code clarification project. However, we acknowledge that there is concern about the traffic impacts of schools that draw their students from outside of the neighborhood and encourage schools to work with the City, neighborhood and parents to ensure good transportation planning and management that limit negative impacts on the surrounding neighborhoods. These issues need to be addressed as part of the implementation of the Portland Plan.*

- 8. Testimony regarding recreational fields.** Planning Commissioners asked several questions regarding the testimony they received on the draft recreational fields concept. Staff will address these questions when the proposed amendments regarding recreational fields are brought back for a public hearing (currently scheduled for Jan. 12, 2010).

Brett Horner, Portland Parks & Recreation, will be available to answer questions.

Current Code Violation Complaints for Grade Changes

Prepared November 4, 2009

(Bureau of Planning & Sustainability w/ data supplied by Bureau of Development Services)

Schools in shaded rows would be subject to CU review under the proposed code amendments.

School	Number of Complaints	Description of Grade Changes	Status under proposed code amendments
1. Franklin High School	9 complaints filed Case opened 7/1/08	School year 2007-08: 8 th grade was added to the high school to create an 8 th grade academy.	School Year 2009-10: school returned to grades 9-12; 8 th grade was dropped. No current code violation.
2. Madison High School	13 complaints filed Case opened 4/14/08	School year 2008-09: 8 th grade was added to the high school because of lack of capacity at Rigler and Scott.	School Year 2009-10: school returned to grades 9-12; 8 th grade was dropped because capacity was added to Rigler and Scott. No current code violation.
3. Jefferson High School	14 complaints filed Case opened 4/9/08	School year 2007-08: grades 6, 7 and 8 were added to high school to create academy.	School Year 2009-10: grades 8-12. Boy's academy closed due to lack of enrollment. Process as Type II CU
4. Tubman Middle School (Harriet Tubman Leadership Academy for Young Women)	10 complaints filed Case opened 4/9/08	School year 2007-08: 9 th grade was added to a middle school to create a grade 6-8 school. School year 2008-09: 10 th grade was added to create a grade 6-10 school Plans to expand to 6-12 school.	School Year 2009-10: grades 6-10 Process as Type III CU
5. Ockley Green Middle School (Ockley Green Arts—Focus Option (K-8))	11 complaints filed Case opened 4/14/08	School year 2007-08: grades K-5 were added to a middle school (6-8) to create a K-8 school.	Proposed code amendments would allow grade changes between K-8 by right
6. Fernwood Middle School (Beverly Clearly (2-8) @ Fernwood Campus)	14 complaints filed Case opened 3/5/08	School year 2007-08: grades 2-5 were added to a middle school (6-8) to create 2-8 school.	School Year 2009-10: grades 2-8 Proposed code amendments would allow grade changes between K-8 by right
7. Roseway Heights Middle School (Roseway Heights K-8)	13 complaints filed Case open 9/2/08	School year 2007-08: grades K-5 were added to a middle school (6-8) to create K-8 school.	Proposed code amendments would allow grade changes between K-8 by right
8. Binnsmead Middle School (Harrison Park K-8)	10 complaints filed Case opened 9/2/09	School year 2007-08: Binnsmead Middle School merged with Clark Elementary School.	Proposed code amendments would allow grade changes between K-8 by right
9. Portsmouth Middle School (Clarendon @ Portsmouth K-12)	8 complaints filed Case opened 9/19/08	School year 2007-08: grades K-5 were added to middle school (6-8) to create K-8 school.	Proposed code amendments would allow grade changes between K-8 by right

Current Code Violation Complaints for Grade Changes

- There are currently 102 complaints filed on 9 Portland School District Schools regarding grade changes.
- If proposed code amendments were approved, 2 of the 9 schools would be required to go through a CU process.
- Currently there are 30 PPS schools that have transitioned, or are in the process of transitioning to a K-8 school.

November 5, 2009

Page 5